



AUDIT COMMITTEE MEETING

AGENDA

15 August 2019

**14 White Street
Brookton, WA 6306**

3.15	pm	COMMENCEMENT OF MEETING
4.00	pm	CLOSURE OF MEETING



NOTICE OF MEETING

AUDIT COMMITTEE MEETING

15 August 2019

**14 White Street
Brookton, WA 6306**

Dear Councillor, Resident or Ratepayer,

Notice is hereby given that the Audit Committee Meeting of the Brookton Shire Council will be held on 15 August 2019 in the Council Chambers at the Shire Administration Centre commencing at 3.15 pm.

The business to be transacted is shown in the Agenda.

Ian D'Arcy
CHIEF EXECUTIVE OFFICER
9/08/2019

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1.08.19 DECLARATION OF OPENING / ATTENDANCE

2.08.19 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

3.08.19 PUBLIC QUESTION TIME

4.08.19 CONFIRMATION OF PREVIOUS MINUTES

That the minutes of the Audit Committee meeting held in the Shire of Brookton Council Chambers, on 20 June 2019 be confirmed as a true and correct record of the proceedings.

5.08.19 DECLARATIONS BY MEMBERS AND OFFICERS

6.08.19 ACCOUNTING FOR WORK BONDS, BUILDING BONDS AND HIRE BONDS – OAG POSITION PAPER 1.

File No:	ADM 0117
Date of Meeting:	15/08/2019
Location/Address:	N/A
Name of Applicant:	N/A
Name of Owner:	N/A
Author/s:	Vicki Morris – Deputy Chief Executive Officer
Authorising Officer:	Ian D’Arcy – Chief Executive Officer
Declaration of Interest:	The author & authorising officer have no interest in this matter.
Voting Requirements:	Simple Majority
Previous Report:	N/A

Summary of Item:

The Office of the Auditor General (OAG) have recently issued (1 July 2019) a WA Local Government position Paper 1 regarding the accounting treatment of work bonds, building bonds and hire bonds.

The matter has arisen because several Local Governments have treated bond monies in different ways and more notably a metropolitan local government held bond monies in their Trust fund and retained all the interest earned.

This report is recommending that the Shire of Brookton write to the Auditor General and the Department of Local Government outlining the increase in red tape implications for the proposed treatment of bond monies. A copy of the Department’s position paper is included as **Attachment 6.08.19A** to this report.

Description of Proposal:

As a result of several audits by the OAG, a number of inconsistencies in the treatments of bond monies across the local government sector in WA have been identified.

The OAG identified that there has been significant variation in the accounting treatment for money taken as bonds for items such as the hire of halls and the like.

The OAG have advised that local governments that hold bond money such as work bonds, building bonds and hire bonds that they should not, for accounting purposes, be placing such money into Trust accounts. Such money, according to the OAG, should be in the municipal fund and recognised on the statement of financial position in the annual report and interest, if any earned, should be paid back to the person entitled to the money.

Background:

The Shire of Brookton takes “bonds” primarily for the hire of facilities, the community bus and other recreational activities such as the Gym.

As part of the hire or membership conditions, the Shire takes money called a “bond” to ensure that the cost of any loss or damage to the facility or equipment etc. is able to be recouped from the hirer.

This is in addition to the regular fees charged to hire the facility etc. as determined by the Shire fees and charges schedule. The Shire holds such money in its Trust fund until the money is to be refunded. The Shire recognises that this money is not Shire money and cannot be used for any purpose except as a “bond”.

The WA Accounting manual for Local Government & the Local Government Act 1995 sections 6.6, 6.7 & 6.8 – all refer to a “Trust Fund”.

The fund basis of accounting and reporting by local governments provides a separation of the various operating activities and financial segments for a local government’s financial operations normally by program of activity or by divisions of its municipal fund operations.

Local governments may act as trustees whereby the local government has legal custody of the resources without controlling them. That is, the local government is unable to deploy those resources to meet the objectives of its governing body.

Trust funds are required to be held in a separate bank account as these funds do not belong to the local government and are held in trust on behalf of other parties.

The Shire of Brookton treats bond money in the same way as trust funds; recognising that the money does not belong to the Shire and shall at some point in time will be refunded back to the persons who have paid the bond.

However legal advice obtained by the OAG is suggesting that to hold bond money in a trust account is unlawful and that such funds be placed into the Municipal Fund.

Consultation:

Consultation has been conducted with the Finance staff on this matter and the Shire’s auditors have been provided with an email summary of the issues that the Shire notes.

Statutory Environment:

Local Government Act 1995;

Local Government (Financial Management) Regulations 1996

Local Government Amendment (Auditing) Act 2017

Relevant Plans and Policy:

There are no relevant plans or policies relating to this matter.

Financial Implications:

The Shire of Brookton places bond money in the Trust fund and it is a non-interest bearing account.

Risk Assessment:

There are significant risks in this process. The placement of bond money into the Municipal fund will create a time delay risk for the customer. It will significantly slow the process for bonds to be refunded and it will require more structure and polices to ensure that there is no misappropriation or fraud of such funds. It is also contrary to the *intent* of the Local Government Act 1995 and is in direct conflict with the budget financial process and the accounting for such funds as income initially.

Moreover the ability of the CEO to approve payment of such funds from the municipal fund is a direct contravention of the Local Government Act 1995 and puts the CEO at risk of being accused of fraud and potential embezzlement.

Community & Strategic Objectives:

This proposal generally aligns with the Shire of Brookton Corporate Compendium – Auditing and Financial Management.

Comment

The Shire's auditors have advised that it is likely that unless the Shire of Brookton has moved the bond money to the municipal fund, that the Shire will receive a material non-compliance notice in the 2019/2020 financial year. This changes the way the Shire currently processes bond monies.

Shire staff accept that the different treatment of bond money is problematic across the industry but it appears that there is a contrary view in this matter. The proposed solution as suggested by the OAG increases red tape significantly for all parties.

It is accepted that the State Solicitor General has advised that to do otherwise is contrary to section 6.9 of the Local Government Act 19958 however the suggested treatment is also contract to other sections of the Local Government Act 1995 and this in itself is problematic and contradictory.

From an administrative perspective if bond money was held in the Municipal Fund, the Shire would have to create:

1. An income and expense account (IE Code)to be created for all such bonds is in an Local Government adopted budget (how would we estimate the cash asset given bonds are determined on what activities are undertaken by an individual or group) &
2. Grant a delegation (which is contrary to the Local Government Act 1995) granted by the Council to the CEO to expend such funds without having to present to Council a list of repayments on a monthly basis.

This would resolve the matter. However such a process is clearly outside the current framework for Local Government.

In addition, under the current recommendation, the timely payment of monies owing to debtors is likely to be delayed because to expend funds from the Municipal Fund where no budget allocation (as a cash or cash equivalent) has been made, will require the Shire to take a list of refund bonds back to Council for absolute majority decision to expend the funds from the Municipal Fund. This could, in essence, mean a delay to the customer of 6 weeks.

Bond money held by the Shire is not “public” funds to be expended on programs or activities as operations, but rather money held as security over a facility or equipment and as such the retention of interest by a Local Government contrary to the intention of the bond payment.

OFFICER’S RECOMMENDATION

That the Audit Committee;

- 1. Note the WA Local Government Position paper 1 – Accounting for work bonds, building bonds and hire bonds from the Office of the Auditor General;***
- 2. Write to the Auditor General expressing the Shire’s concerns relating to the treatment of such monies; &***
- 3. Writes to the Department of Local Government outlining the increase in potential red tape that this matter will have for a large number of local governments across Western Australia.***

Attachments

Attachment 6.08.19A

Accounting for work bonds, building bonds and hire bonds

Western Australia local government position paper 1
1 July 2019



The purpose of this OAG position paper is to inform local government entities that moneys held as bonds, such as work bonds, building bonds and hire bonds should not, for accounting purposes, be regarded as Trust Fund moneys in terms of the *Local Government Act 1995 (Act)*. Consequently, these moneys should be held in the Municipal Fund, recognised on the statement of financial position in the annual financial report and interest, if any, earned on those moneys would therefore not need to be paid to the person entitled to the moneys in accordance with section 6.9(3)(a) of the Act.

Summary of the issue

Since assuming responsibility for the annual financial audits of local government entities in accordance with the Local Government Amendment (Auditing) Act 2017, we have noted significant variation in the accounting treatment for bond moneys. These include:

- Some entities hold bond moneys in the Municipal Fund and therefore retain any interest income on those moneys.
- A small number of entities hold bond moneys in the Trust Fund and, in accordance with section 6.9(3)(a) of the Act, repay interest together with the principal amount to the developer/hirer.
- Some entities hold bond moneys in the Trust Fund but retain any interest earnings as revenue of the entity.
- Some entities hold bond moneys in the Trust Fund, and in a non-interest bearing account.

Section 6.9(1) of the Act states:

A local government is to hold in the trust fund all money or the value of assets —

- that are required by this Act or any other written law to be credited to that fund; and
- held by the local government in trust.

Section 6.9(3)(a) states:

Where money or other property is held in the trust fund, the local government is to —

- in the case of money, pay it to the person entitled to it together with, if the money has been invested, any interest earned from that investment.

OAG position

We have obtained independent legal advice that, unless agreements between developers/hirers and the entity require bond moneys to be held in the Trust Fund, they should not be held in the Trust Fund.

There are no provisions in the Act or any other written law that specify that work bonds, building bonds and hire bonds are to be credited to, or held in, the Trust Fund, and these moneys are not held in trust. Consequently, section 6.9 of the Act is not applicable to these funds, and they should be held in the Municipal Fund.

We recommend however that separate accounting records should be maintained for these moneys, as one of the control measures to ensure they are used for the correct purpose.

As section 6.9(3)(a) of the Act is only applicable to moneys held in the Trust Fund, any interest earned while the moneys are in the Municipal Fund, can be retained by the entity.



However, if entities have in the past held bond moneys (or any other moneys) in the Trust Fund, section 6.9(3)(a) of the Act applies. Therefore, if an entity has held moneys in the Trust Fund, invested it and not paid interest to the person entitled to it, the entity should assess:

1. whether it can practically identify past interest earned on the moneys, and who is owed that interest
2. whether it can practically pay those persons entitled to the interest, as required by section 6.9(3)(a) of the Act.

Cash in Lieu of Public Open Space

By contrast to bonds, we have noted for example that section 154 of the *Planning and Development Act 2005* requires Cash in Lieu of Public Open Space to be held in the Trust Fund. Consequently, section 6.9 of the Act is applicable to any such moneys held by a local government. As a result, any interest earned on those moneys should be paid to the person entitled to it, in accordance with section 6.9(3)(a) of the Act.

Recognition in the annual financial report

Because moneys held as bonds, such as work bonds, building bonds and hire bonds should be held in the Municipal Fund, they should be recognised as an asset (Cash and Cash Equivalents) in the Statement of Financial Position, with a corresponding liability to recognise that the moneys are owed to developers/hirers.

Interest earned on the work bonds, building bonds and hire bonds while the moneys are in the Municipal Fund, should be recognised as revenue in the Statement of Comprehensive Income.



7.08.19	STATUS UPDATE ON AUDIT ACTIONS
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File No:	ADM 0117
Date of Meeting:	15/08/2019
Location/Address:	N/A
Name of Applicant:	N/A
Name of Owner:	N/A
Author/s:	Vicki Morris – Deputy Chief Executive Officer
Authorising Officer:	Ian D’Arcy – Chief Executive Officer
Declaration of Interest:	The author & authorising officer have no interest in this matter.
Voting Requirements:	Simple Majority
Previous Report:	N/A

Summary of Item:

The status update of actions identified by the OAG and arising from the Management letters is present to the Audit Committee for review.

Description of Proposal:

The Status report of the actions and activities identified by the OAG and as highlighted in the Management Letter is presented to the Committee for information and notation.

Background:

The OAG have presented two management letter to the Shire.

The first listed a number of activities and action to be taken arising from the financial audit in 2018/2019 financial year.

The second letter from the pre-audit for the 2018/2019 financial statements included one additional new item for consideration.

The OAG will be checking on progress of the identified audit matter when they return to Brookton in late September early October 2019 for 2018/2019 financial audit.

Consultation:

Consultation has been conducted with the Audit Committee in June 2019 and the CEO and MIRS on the status of activities identified.

Statutory Environment:

- Local Government Act 1995*
- Local Government (Financial Management) Regulations 1996*
- Australian Accounting and Auditing Standards*

Relevant Plans and Policy:

There is no applicable policy for this matter.

Financial Implications:

Actions requiring budgetary cosdneire4ation have been included in the 219/2020 annual financial budget and other procedures and processes have been identified as part of the normal process within the function of an area (e.g. documented procedures).

Risk Assessment:

The only risk is that the Shire has not fully satisfied the identified actions within a timely manner.

Community & Strategic Objectives:

This proposal generally aligns with the Shire of Brookton Corporate Compendium – Auditing and Financial Management.

Comment

This is the status listing that will be presented to every Audit Committee meeting and will be updated when progress has been made or new initiatives or activities have been identified by the OAG.

This status report will be the Audit Committees reference to ensure that actions are undertaken.

OFFICER'S RECOMMENDATION

That the Audit & Risk Committee;

- 1. Note the Status report and the contents therein as presented in Attachment 7.08.19A.***

Attachments

Attachment 7.08.19A

Black – No changes from previous reports

Yellow – Updates from previous report

Blue – Additions from latest Audit & Risk Committee meetings

Date of Meeting	No	Item Title	OAG Finding	Officers Status Update	Assigned to	Estimated Due Date	Complete
30 June 2019	1	Caravan park Collection of money	Collection of money is taken after hours or on weekends with no authority for park bookings.	No action to date	CEO	Dec 2019	0%
20 June 2019	2	Purchasing Polices & Procedures	No documented procedures over the authorisation & payments of accounts.	Completed – New purchasing policy adopted by Council November 2018	DCEO	Completed	100%
20 June 2019	3	Review of Risk Register	Review of the Risk Register and Risk Management Plan	Discussed & progressed	Senior Mgt Team	April 2020	50%
20 June 2019	4	Asset Management Plan Review	Noted the review of the asset management plan	Currently being updated	MIRS/CEO	30 Dec 2019	25%
20 June 2019	5	Review of Financial management systems	No Regulation 5 review done	Regulation 5 relates to the Shire being satisfied that its financial processes are reviewed in line with its risk register.	DCEO	30 Dec 2019	0%
20 June 2019	6	Unsupported Software	Unsupported IT software	Tender for IT Management is out the market for consideration	DCEO	30 Sept 2019	25%
20 June 2019	7	User Access Management	No logging in process for reviews of system changes	All reviewed except for front counter	DCEO	30 Sept 2019	85%
20 June 2019	8	IT Security Policy	Lack of an IT security policy	Policy for IT security developed and adopted by Council 16/8/2018. Must interface with IT Management.	DCEO	31 Oct 2019	50%
20 June 2019	9	Business Continuity management	The Shire does not have a business continuity plan.	Part of the Risk management plan & IT Tender Plan (samples reviewed)	DCEO	31 Oct 2019	20%
20 June 2019	10	Management of Third party IT services	IT requires upgrading to support Shire software.	Tender for IT Management out in the marketplace includes upgrades for software.	DCEO	30 Sept 2019	25%

Shire of Brookton, Audit Committee Agenda 15 August 2019.

20 June 2019	11	Management of Issued infringements	No process and no register of infringements issued by the Shire. No process to follow up on infringements in place.	No action to date	DCEO	30 September 2019	5%
13 December 2018	12	Cash & Cheque Collections	Process for cash collection and checking needs review	Completed – process reviewed	DCEO	Completed	100%
13 December 2018	12	Physical Security of Cash	Process for security of cash and cash float (Front desk)	Completed	DCEO	Completed	100%
13 December 2018	14	Finance Procedures documented & updated	Major finance procedures documented and updated. Payroll and Rates process currently undergoing review.	Completed	DCEO	Completed	100%

8.08.19 FUTURE MEMBERSHIP OF THE AUDIT & RISK COMMITTEE

File No:	ADM 0117
Date of Meeting:	15/08/2019
Location/Address:	N/A
Name of Applicant:	N/A
Name of Owner:	N/A
Author/s:	Vicki Morris – Deputy Chief Executive Officer
Authorising Officer:	Ian D’Arcy – Chief Executive Officer
Declaration of Interest:	The author & authorising officer have no interest in this matter.
Voting Requirements:	Simple Majority
Previous Report:	N/A

Summary of Item:

The Office of the Auditor General (OAG) have recommended that the composition of Local Government Audit Committees include independent members to ensure that the community can be satisfied that the audit and risk functions are being reviewed with some independence and independent oversight.

This report is to note the recommendation of the OAG and to recommend that when the Shire reviews its composition of its committee membership before the October 2019 election that the Audit and Risk Committee Terms of Reference and its membership reflect the proposed independence.

Description of Proposal:

The primary purpose of a Local Government's audit committee is to provide oversight of the financial reporting processes, the audit process, the Shire's system of internal controls and compliance with legislation and regulations.

Many of the metro councils have Audit Committee's that include at least one (1) independent member who provides a level of comfort to the community that there is another independent person overseeing the functions of the Audit Committee.

In addition to the oversight role, the Audit Committee should also review significant accounting and reporting/compliance issues and understand the potential impact on financial statements and the Council's potential risk.

An understanding of how management develops internal interim financial statements is necessary to assess whether reports are complete and accurate. The Audit committee should review the results of audits with both management and external auditors (OAG) including all matters that fall under auditing compliance regulations or legislation.

Controls over financial reporting, information technology security and operational matters fall under the remit of the Audit Committee.

The OAG (as appointed by the State Government for all Local Government external auditing) should be providing all information directly to the Audit Committee and not to management.

The Audit Committee should meet separately with the OAG to discuss matters that the committee or auditors believe should be discussed privately. The Audit Committee should also review the proposed audit schedules and audit approaches and handle the coordination of the audit effort with internal auditing staff.

The Shire's internal audit role is primarily to report to the CEO on the adequacy and effectiveness of internal control processes and procedures. The Audit Committee can provide input into such an audit if the CEO so desires. However, the role of the internal auditor differs from that of the external auditors primarily where the external auditing role is to determine if the annual financial statements of the Shire are free from material misstatement.

In general terms, many local governments advertise for expressions of interest from members of the public who are sufficiently qualified to sit on Audit Committees. Such members may have accountancy, legal or governance and risk backgrounds. While Audit Committee should have a diverse range of experience and expertise, it is imperative that the Audit Committee members are knowledgeable and conversant in the language of finance, accounting and risk management.

It is recommended that the Council consider such issues when determining the membership and competency of its Audit Committee and that the terms of reference reflect the importance of this committee and its role in managing the financial risks of the Shire.

Background:

The Council was verbally advised of this matter by the Shire's Auditors (Jordan Langford-Smith and Xuan Ong) when they were at the Shire for the final financial audit last year.

For smaller local governments the increased oversight of the financial and compliance aspects of Council (including the OAG process) has meant that the importance and role of the Audit Committee has been elevated.

It is no longer considered to be "just another Council Committee" and its role is emerging as significant and important in the governance and oversight of the activities of the Shire including the area of risk management.

The reason for such independence is also important in reassuring the community that there is indeed independence over the financial matters of the Shire and that they can be satisfied that the committee is not biased one way or another.

Consultation:

None at this stage – this is the first report to highlight the opportunities to review the membership of the Audit Committee into the future.

Statutory Environment:

Local Government Act 1995;

Local Government (Financial Management) Regulations 1996

Relevant Plans and Policy:

There is no applicable policy for this matter. This matter is compliance orientated as a result of the OAG auditing regime for local government and as identified by the Department of Local Government, Sport and Cultural Industries.

Financial Implications:

Nil

Risk Assessment:

The risk's arising from the membership of the Audit Committee are minimal.

Community & Strategic Objectives:

This proposal generally aligns with the Shire of Brookton Corporate Compendium – Auditing and Financial Management.

Comment

Principally, the matter of the membership of the Audit Committee is for Council to consider after the October 2019 elections.

The terms of reference and the membership matters may be debated by the Council at this time but bearing in mind the recommendation from the Shires external auditors (the OAG) it is prudent for the Council to have due regard to this matter in advance.

To this end, it is suggested that a draft terms of reference and the proposal for the membership of the Audit Committee be the subject of discussion by Council at its next available CBF.

OFFICER'S RECOMMENDATION

That the Audit Committee;

- 1. Note the recommendation by the Auditor General (OAG) for independent membership to be considered for the Shire of Brookton Audit Committee into the future and;*
- 2. Review the Terms of reference for any future Audit Committee prior to the October 2019 election; and*
- 3. Note the contents of this report.*

9.08.19	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
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10.08.19	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING
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11.08.19	CLOSURE OF MEETING
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