

Council Reply to the Management Letter of Nexia Bt
By KUNSILL LOKALI HAZ-ZEBBUG

Related to the Financial Statements
for the Year ended 31 December 2020

1.11 ACCRUED INCOME – Noted

1.12 PETTY CASH RECONCILIATION – Noted

1.13 LES CHEQUES DATED 2007 – The Local Council sought direction from DLG. Attached you shall find the reply from DLG.

1.14 BUSINESS PLAN – Noted

1.15 FINANCIAL SITUATION INDICATOR – Noted

1.16 LEGAL LETTER – Noted

1.17 EXPECTED CREDIT LOSS – Noted

1.18 PRIOR YEAR ADJUSTMENT – Noted

2. OPENING BALANCES

The Council took note of the point mentioned by the auditors and will reclassify the amount of Eur487 between Urban Improvement Account so it will be in accordance with the financial statements.

3. INCOME

GOVERNMENT INCOME

3.1 – 3.2 The council accepted the audit adjustment as proposed by the auditors. Any invoices that need to be issued, will be issued in a timely manner.

Income from LES administration fees

3.17 and 3.18 A reconciliation will be performed to check where this difference is arising from.

Income from LESA and regional committees

3.19 and 3.2 These points are noted.

Custodial Receipts

3.21 and 3.22 These points are noted.

Joint Committee

3.23, 3.24 and 3.25 Guidance was sought with DLG. We were informed that a liquidator will be appointed and NAO is informed.

4. Expenditure

Petty Cash and Procurement Procedures

4.1 - 4.6 These points are noted.

Asset Insurance

4.7 – 4.9 The insurance policies will be revised to reflect the NBV of assets as included in the last audited financial statements.

6. Fixed Assets

6.1 – 6.6 Fixed Asset Register and Tagging of Fixed Assets - These points are noted.

Reconciliation of Financial Statements with Fixed Asset Register

6.7 and 6.8 The Council took note of the point mentioned by the Local Auditor and will investigate and reclassify accordingly.

Procurement Procedures on Fixed Assets Additions

6.9 – 6.10 This point relating to procurement procedures is noted.

Property, Plant and Equipment Schedule in the Unaudited Financial Statements 2020

6.11 – 6.12 Whilst the accountant confirmed that due to missing information the additions were allocated against PPE, the Council managed to obtain the documentation of the missing information after the approval of the unaudited financial statements.

Inventory

Stock list

7.1 – 7.3 Stock is made up of local council publications which are usually sold at cost price. A stock count will be performed. The only problem is that for the old publications that the local council has, no invoices can be found and therefore the per unit cost cannot be determined.

List of Unpresented Cheques

9.5 – 9.6 This point is noted.

Petty Cash Reconciliation

This point is noted.

Trade and other Payables

10.1 – 10.2 Supplier Statements

This point is noted.

10.3 – 10.4 Long- outstanding creditors

As rightly pointed out during the year in question, there were three long term creditors relating to court cases i.e Bonnici Bros., Media & Graphic and W M Environmental. On their own these amount to Eur331,938.38. Antoine Bartolo, Bugeja Paul, Cachia Mario, Davico, Do-it-All, Marvic & Sons Ltd, Med Design Micamed, Rita Xuereb, Sammut Concrete Supplies, Signmark are recurrent suppliers or contractors.

Debit balances in creditors' list

10.5 – 10.6 These points are noted.

Confirmation of trade creditors

10.7 – 10.10 This point is noted.

Payments on account & Accruals – 10.11 – 10.18 These points are noted.

With regards to the note of the intangible asset, we have amended the said note to reflect the straight-line method policy.

Contingent Liabilities Disclosure

15.3 Enclosed you shall find the Industrial Tribunal's decision re Case 3886/JB, whereby we were informed that Philip Gatt dropped all claims and that the case is cancelled.

15.4 and 15.5 These points are noted.

16 Budget

These points are noted.

17 Capital Commitments

This point is noted.

Kind Regards,



Paula M. Valletta

Executive Secretary



Ref.: DLG 37/2021

1 ta' Lulju 2021

Is-Segretarju Eżekuttiv
Kunsill Lokali Żebbuġ (Malta)
94, Triq Frans Sammut
Haż-Żebbuġ ŻBG 1905

Segretarju Eżekuttiv,

Niktiblek b'referenza għall-verifiki li saru mid-Dipartiment rigward ċekkijiet mhux imsarfa mill-Kunsill Lokali.

Gentilment ngħarrfek illi d-Dipartiment ikkonkluda r-rapport tiegħu, liema rapport qed jingħadda kopja tiegħu ma' din l-ittra. Qed issir ukoll referenza għal sezzjoni 3.1 ta' dan ir-rapport li qed isservi bhala gwida ta' kif il-Kunsill għandu jgħaraf jimxi.

A handwritten signature in blue ink, appearing to read 'C. Bugeja'.

Clare Bugeja
Direttur (Finance and Procurement Compliance)

LOCAL GOVERNMENT DIVISION

FINANCE AND PROCUREMENT COMPLIANCE DIRECTORATE



Compliance Review

Year 2007/2008 Stale Cheques – Ħaż-Żebbuġ Local Council

REPORT

Addressed to: Director General
Local Government Department

Prepared by: Director (Finance and Procurement Compliance)
Finance and Procurement Compliance Unit
Local Government Department

Report Date: 01/07/2021

Reference : FPCU01/2021

Version No: Version 2

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1.0 Introduction

1.1 Background Information

During the year 2014 the Local Governance Board was requested to investigate the existence of stale cheques dating back to year 2007/2008 at the Haż-Żebbuġ Local Council and the consequential allegation that such cheques were never deposited in the respective bank account. Allegations were submitted in year 2014 by the then newly appointed Executive Secretary, Ms Paula Valletta following the exit of the former Executive Secretary, Mr Christopher Formosa from the said post.

On 15th May 2014, the Local Governance Board made two primary recommendations, as follows:

1. Haż-Żebbuġ local council was directed to identify the holders of all stale cheques with the objective to retrieve related dues through the issue of fresh cheques.
2. The Local council was directed to obtain justifications from the external auditors with respect to the omission of such issue from their side.

During the year 2014, the newly appointed Executive Secretary also notified NAO's appointed External Auditors, who later proceeded with disclosing the matter in the yearly management letter forming part of the audited financial statements. The said issue has been raised in each subsequent years' management letter to date, recommending discussions with the Department of Local Government for a practical written recommendation. In their management letter, the external auditors recommended the insertion of such amounts in the Debtor's list until these are written off, through a double entry adjustment.

1.2 Objective and Scope

The overall objective of this review was to ascertain the state of facts pertinent to the undermentioned issues and to provide clear delineation of responsibilities:

1. The sequence of events prevalent to the case in question;
2. External Auditor's management letters during the time frame in question;
3. The recommendations submitted by Local Government Governance Board on the 15th May 2014;
4. Remedial Actions taken by the Executive Secretary – Post Recommendation
5. Areas of concern highlighted in External Auditor's Management Letter (on behalf of the National Audit Office) after the event was reported.

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The scope of this review excluded the following:

- Administrative Procedures adopted by the Local Governance Board on the issue;
- Information Technology and Software;
- HR Matters

This compliance review aimed to determine the facts, determine any irregularities committed and by whom and make recommendations on the basis of observations.

1.3 Methodology

A meeting was held on 11th June 2021 with the current Ħaż-Żebbuġ Executive Secretary in order to gather basic understanding of the sequence of events that took place back in year 2014 and to confirm the existence of the original stale cheques. Such understanding was complimented by the former's Ħaż-Żebbuġ Executive Secretary's declaration submitted to the Local Governance Board in year 2014.

The reviewer gathered a copy of all documentation available on the subject matter duly handed over by the current Ħaż-Żebbuġ Executive Secretary. The reviewer extracted pertinent management letters from year 2008 onwards, in order to determine whether any related issue was highlighted by external auditors prior to the identification of stale cheques.

It was not possible to obtain relevant communications by e-mail, Nominal Ledger reports issued from the local council's accounting software, fiscal receipts and others, as the reviewer was informed that the said accounting software and other systems crashed multiple times leading to the loss of data.

The matters raised in this report are those that came to the reviewer's attention during the course of the review and are not necessarily a comprehensive statement of all weaknesses that exist in the particular area especially due to the fact that the case in question dates back to years 2008 till 2014, implying that one cannot retrieve full documentary evidence.

1.4 Disclaimer

It is pertinent to point out that this report concerns an alleged irregularity committed in year 2007/2008 and perpetuated since then, thus this does not strictly fall within the remit of compliance.

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2.0 Observations

Ref	Observations	Delineation of Responsibility
2.1	<p>The reviewer examined all management letters issued by external auditors from financial year 2007 till year 2014. During this period there were three appointed external auditors, one superseding the other. It is imperative to note that all auditors commented on discrepancies between LES reports and the accounting records. In fact, the year 2007 and 2008 auditor qualified the report because of these issues and the fact that it was impossible to tally receipts against bank records, meaning that the year 2007 and 2008 external auditor refrained from issuing an unmodified audit opinion. As per year 2009 auditor's report, Year 2009 financial statements (year ended 31st March 2009) did not give a true and fair view of the Income and Expenditure of the council.</p> <p>The subsequent accounting practice adopted was as follows: Amounts receivable were carried at original invoice less provisions made for impairment of receivables. The practice adopted by the local council was to utilise a provision account for impairment of amounts receivable, when there was objective evidence that the Local Council will not be able to collect all amounts due according to the set original terms. The amount of provision is recognised in the Statement of Comprehensive Income.</p> <p>From management letters, the reviewer noted that, the external auditors routinely reconciled reports issued by LES with the Local Council's Receivables Account as per accounting software.</p> <p>It transpires that, in each management letter reviewed, external auditors notified the Executive Secretary of discrepancies and recommended related adjustments.</p>	<p>It is the role of the council to approve adjustments in financial statements, implying that it was also the council's obligation to instruct that discrepancies identified by external auditors are not only adjusted in accounting records but also investigated to determine the reason of such discrepancies.</p> <p>It was the former Executive Secretary's responsibility to safeguard the completeness of bank deposits of the council by ensuring that LES reconciliations are made, and discrepancies investigated on a timely basis.</p>

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	<p>There are reasonable indications that it was the practice for the council to approve the passing of adjustments without investigating further the reason of such discrepancies, possibly on the presumption that these were due to cancelled/annulled fines. In fact, the external auditors continuously recommended that the council prepares LES income reconciliations showing LES debtors, thus enabling the council to exercise closer control over LES debtors, as well as to keep a more effective trail of income.</p> <p>One would therefore conclude that discrepancies in the receivables amount in the LES were adjusted against the provision account, thus tallying amounts recorded in the financial statements with LES records. The implication of such adjustment was that any undeposited amounts could not be identified because the Council and Executive Secretary failed to investigate such discrepancies.</p> <p>Apart from the above, the external auditors routinely commented on the inadequacy of banking procedures, whereby both cash and cheque receipts were not being deposited on a timely basis as required by the Local Councils (Financial) Procedures.</p> <p>There is a risk that the amount of undeposited funds may amount to more than the amount of identified stale cheques being questioned in this report.</p>	
2.2	<p>During a meeting with the current Executive Secretary, the reviewer was presented with original stale cheques amounting to the value of €6,021.30 pertaining to LES dues dating from December 2007 to March 2008. The said cheques are still under the custody of the current Executive Secretary to date.</p> <p>A review of supporting documentation revealed that the probable reason for the non-depositing of cheques was a discrepancy in value of cheques held in the Bank of</p>	<p>The former Executive Secretary was responsible to maintain adequate internal controls to ascertain that the accounting, recording and financial operations are properly conducted.</p> <p>The former Executive Secretary was responsible to</p>

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	<p>Valletta deposit bag and the end of period LES report. Nevertheless, this cannot be confirmed with exact certainty due to lack of supporting documentation. Evidence of this discrepancy is a handwritten comment on the deposit bag. The reviewer spoke directly with the official who was, at that time, in charge of the receipt function. This official does not recall that any such discrepancy was ever identified.</p> <p>From preliminary understanding obtained during the meeting, the reviewer noted that it was the practice for deposit bags to be held in custody by the Executive Secretary in an unlockable safe. The actual deposit was done by the officer in charge of the receipt function, being the same officer who initially processed the receipt in LES and related administration, indicative of weak segregation of duties between primary functions. According to the current Executive Secretary, accounting records were updated by the accountant based on financial data submitted by the former Executive Secretary. There is no documentary evidence substantiating the above. There were no reconciliations between LES and accounting records.</p> <p>Local Councils Financial Procedures dictate the way banking is to be done. The reviewer noted that, in their management letter, External Auditors expressed concerns on security of cash and inadequate banking procedures, indicative of non-compliance with financial regulations.</p>	<p>ensure compliance with applicable financial regulations.</p>
2.3	<p>The current Executive Secretary, Ms Valletta reported the existence of the questioned year 2007/2008 stale cheques in year 2014, upon her appointment as Executive Secretary, after having discovered them in a local council office drawer. There is documentary evidence that indicates that such receipts were inputted and processed through the LES system when received and LES receipt issued to the client. Nevertheless,</p>	<p>It was the duty of the current Executive Secretary to at least attempt the retrieval of dues, duly evidenced by means of letters and e-mails. These dues are now time barred.</p>

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cheques were not deposited in the bank account. Adjustments to the accounting records were done retrospectively, as stated in section 2.1 of this report. A review of the former Executive Secretary's declaration as per Local Governance Report dated 15/05/2014 (ref number 006/2014), revealed that this officer stated that he was unaware of this issue. One can therefore conclude that, between 2008 and 2014, this officer did not attempt to rectify the discrepancy in deposit bags or cash the cheques by requesting replacement cheques.

In year 2014, the Local Governance Board recommended that the new Executive Secretary attempts the retrieval of such dues by requesting replacement cheques directly from the clients. The Current Executive Secretary did not forward any documentary evidence, such as e-mails or letters, implying that the Board's direction was not followed up and implemented. It is understood that, remedial action by means of a telephone call was attempted for one cheque but not the others.

Article 57(2) of the Traffic Regulation Ordinance (Chapter 65 of the Laws of Malta), stipulates a prescription period of 8 years from date due for the renewal of the relative license, implying that in year 2014, when the governance board submitted their recommendations, the 8 year period had not yet elapsed and recovery of funds at that point was still reasonably possible, even when considering that an LES receipt was issued to the client.

Article 57 (2) : Proceedings for the collection of any civil debt incurred by virtue of sub article (1) shall be barred by the lapse of the

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	<i>period of eight years from the date due for the renewal of the relative license.</i>	
2.4	<p>During the year 2014, the newly appointed Executive Secretary also notified NAO's appointed External Auditors, who later proceeded with disclosing the matter in the yearly management letter forming part of the audited financial statements. The said issue has been raised in each subsequent years' management letter to date, recommending discussions with the Department of Local Government for a practical written recommendation. In their management letter, the external auditors recommended the insertion of such amounts in the Debtor's list until these are written off, through a double entry adjustment.</p>	<p>With respect to the external auditor's recommended adjustments, it is the council's remit to approve this adjustment in the financial statements.</p> <p>It was the current Executive Secretary's responsibility to seek a timely direction on the subject matter.</p>
2.5	<p>It is pertinent to note that, according to Ms Valletta, the Local Governance Board never asked for her deposition during the enquiry process and was never asked to present any supporting documentation including evidence of original stale cheques. There are reasonable indications that the Board heavily relied on the declaration submitted by the previous Executive Secretary when conducting their verifications.</p> <p>It transpires that, the Board's statement indicating lack of adequate vetting by the external auditor is unfounded as management letters disclose contradicting evidence, as detailed in section 2.1 of this report.</p>	<p>The Board was ethically obliged to investigate the case based on documentary evidence.</p>

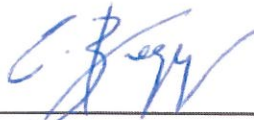
3.0 Overall Conclusion

3.1 In terms of adjustments to financial statements:

In their management letter, the external auditors recommended the insertion of such amounts in the Debtor's list until these are written off, through a double entry adjustment. Such an adjustment, which should be duly approved by the council, would rectify the financial reporting side of the matter.

3.2 In terms of the Public Administration Regulations and Local Government Regulations:

There are reasonable indications of gross negligence in the administration of funds by the council between 2007 and 2014. Based on available documentation, the said gross negligence resulted in the financial loss of €6,021.30 to LES.



Ms Clare Bugeja
Director
Finance and Procurement Compliance Directorate
Local Government Division

Date: 1st July 2021

Report perused and authorised for release by:



Mr Natalino Attard
Director General
Local Government Division

Date: 1 July 2021

TRIBUNAL INDUSTRIJALI

Kaz Nru. 3886/JB

Fil-Kwistjoni tax-Xoghol

bejn

Philip Gatt KI 160073M

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Kunsill Lokali Zebbug (Malta)

dwar tkeccija mill-impjieg allegata li hi ngusta

Chairman : Is-Sur John Bencini B.A. (Hons) Lic.Phil., M.O.M.

DIGRIET

It-Tribunal,

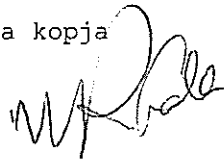
wara li ra l-messagg elettroniku mibghut mill-Avv. Ishmael Psaila, f'isem ir-rikorrent, datat 9 ta' Gunju, 2021, li bih qiegħed icedi t-talbiet tieghu;

jiddikjara li, fic-cirkostanzi, mhux ser ikompli jiehu konjizzjoni tal-kaz u jordna li dan jigi kkancellat minn fuq il-lista.

Illum : 16 ta' Gunju, 2021

Iffirmat : Is-sur John Bencini
Chairman

Vera kopja



Mary Rose Galea
A/Segretarja