



The Members  
Kirby Muxloe Parish Council

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## **Kirby Muxloe Parish Council: Public Interest Report - audit of accounts for the years ended 31 March 2016 - 31 March 2022**

Dear Councillors

We are the auditors appointed to audit Kirby Muxloe Parish Council's (the Council's) accounts for the years ended 31 March 2016 to 2022.

### **Introduction**

Paragraph 1(1) of Schedule 7 of the Local Audit and Accountability Act 2014 (the Act) requires us to consider whether, in the public interest, we should make a report on any matter coming to our notice during our audit and relating to the Council, so that it can be considered by the Council and brought to the public's attention.

In exercise of this duty, we have decided to issue this public interest report (PIR) relating to extensive delays by the Council in providing information to us that we consider necessary for the purpose of our statutory functions. In accordance with Section 22 of the Act, we have wide powers of access to documents, information and explanations for the purpose of the exercise of our statutory functions.

In this case, we have formed the view that this information is necessary for the purposes of deciding objections to the Council's accounts for the years ended 31 March 2016 to 2022 made under Section 27 of the Act. We have formed the view that the making of a PIR that institutes a formal process under Schedule 7 of the Act is a reasonable and proportionate response to the extensive delays by the Council in providing information required from it.

We would emphasise that this PIR relates solely to the Council's failure to provide information required under Section 22 of the Act and, when we receive the information necessary for the purposes of deciding the objections that we are considering, we will determine whether to take any formal audit action in respect of the objections made.

Under Paragraph 3(1) of Schedule 7 of the Act, we have a duty to send a copy of this report to the Secretary of State. We may also send a copy to anybody we think appropriate. We are therefore supplying a copy of this report to:

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15 Westferry Circus,  
Canary Wharf, London  
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- the Secretary of State, Department for Levelling Up Housing and Communities;
- the Member of Parliament for Charnwood;
- the Chief Executive of Blaby District Council;
- Moore, the Council's external auditor for the years ended 31 March 2023 and 2024;
- the Council's internal auditor;
- the National Audit Office;
- Smaller Authorities' Audit Appointments Ltd;
- Public Sector Audit Appointments Ltd;
- the National Association of Local Councils;
- the Leicestershire and Rutland Association of Local Councils;
- the Objector to the Council's accounts for the years ended 31 March 2016 to 31 March 2022;  
and
- local and regional media organisations.

### **The statutory framework**

There are distinctive features of local government audit:

- a local government auditor has a range of special powers including under Section 24 and Schedule 7 of the Act:
  - a power to issue a public interest report; and
  - a power to make an application to the court for a declaration that an item of account is contrary to law;
- local government electors have a right to make objections to an authority's accounts under Section 27(1) of the Act concerning matters where the auditor could issue a public interest report or make an application to court;
- on receipt of an objection that complies with statutory requirements, a local government auditor must under Section 27(3) of the Act decide whether to consider the objection. An auditor may decline to do so if, in particular:
  - the objection is frivolous or vexatious;
  - the cost of considering the objection would be disproportionate to the sums involved; or
  - the objection repeats an objection already considered;
- if a local government auditor decides to consider an objection they may:
  - issue a public interest report;
  - make an application to court for a declaration that an item of account is contrary to law;  
or
  - recommend to the authority that it takes action in response to the objection.

To facilitate their work, local government auditors have wide powers of access to documents and information. Under Section 22 of the Act they may:

- obtain access to any document relating to an authority and that they consider necessary for the purpose of their statutory functions;
- require various people, including members or officers and those responsible for a document relating to an authority, to provide such information or explanation as the auditor thinks is necessary for the purposes of their statutory functions;
- require such people to meet the auditor to give information or an explanation;
- where a document is in an electronic form, require such people to produce the document in a form in which it is legible and can be taken away;
- obtain access to, inspect and check the operation of, any computer and associated apparatus or material which the auditor thinks is or has been used in connection with the document; and
- require various people, including those by whom or on whose behalf the computer is or has been used or a person in charge of, or otherwise involved in operating, the computer, associated apparatus or material, to give the auditor reasonable assistance that the auditor needs.

### **History of objections and public interest reports**

The Council has had a history of objections by local government electors. Arising from their consideration of those objections, external auditors have issued two public interest reports:

- on 1 May 2013 covering seven distinct areas and making 19 recommendations (see Appendix A); and
- on 7 August 2015 covering eight distinct areas and making six recommendations (see Appendix B).

A local government elector has subsequently made objections to the Council's accounts for the years ended 31 March 2016 to 31 March 2022.

We were originally appointed as auditor of the Council's accounts for the years ended 31 March 2018 and subsequent years, but deferred consideration of the objections relating to those years pending determination of the objections for the earlier years by our predecessors. We were subsequently appointed as auditor for those years in place of our predecessor and decided to consider the objections made for all years alongside one another as, in our view, this would be the most efficient and effective approach.

In response to information brought to the auditor's attention, we issued a public interest report on 25 March 2022 covering five distinct areas and making eight recommendations (see Appendix C).

### **Our consideration of objections**

Having carefully considered the correspondence received from the objector and our duties under Section 27 of the Act, on 10 May 2023 we wrote to the Council:

- identifying the objections that we had decided to consider. We decided to consider objections in respect of 22 of the 52 different matters raised in the objections received;
- providing reasons for our decision not to consider other objections; and
- requesting the provision of documents and information relevant to our consideration of the objections that we had decided to consider.

## The Council's response

Following receipt of our letter of 10 May 2023, the Council, as it was entitled to do, sought its own legal advice. Pending receipt and consideration of that advice, it did not provide any information to us.

Ultimately, the Council accepted that it had an obligation to provide the information requested but indicated that significant resources would be needed in order to do so. We issued our second request for information to the Council on 25 August 2023. Since then, it has not provided the information within the original and revised timescales that we have agreed and, although it has committed to various timetables for provision of the information, those timetables have not been achieved.

On 22 November 2023, the Chair of the Council wrote to us to indicate that the Clerk and Council advised that the information could not be collated for us until March 2024. We carefully considered the Council's representations about the reasons for the delay and wrote to the Council on 13 December 2023 requesting a clear indication of:

- the timescale on which it considered it feasible to provide the documents and information that we require for the purposes of the exercise of our functions; and
- details of the steps it intended to take to achieve that timescale.

Within that letter, we also explained that if the Council did not provide the documents and information within a reasonable time, we would consider what further action to take, which could include:

- making a recommendation requiring a public response under paragraph 2 of Schedule 7 of the Act; and
- making a Public Interest Report under paragraph 1 of Schedule 7 of the Act.

In previous correspondence with the Council, including within email correspondence on 6 June 2023 and in our second formal information request letter issued on 25 August 2023, we had also explained that:

- the information is required under Section 22 of the Act;
- it is for us, not the Council, to decide what information is required and compliance is not optional;
- failure to comply is an offence under Section 23 of the Act; and
- Section 23 provides that a person who without reasonable excuse obstructs the exercise of Section 22 powers or fails to comply with any requirement of an auditor made under that section is guilty of an offence and liable on summary conviction to a fine.

We were informed that at a full Council meeting on 18 January 2024, the Council had made the following resolutions:

*“The timescale which it considers feasible to provide the documents and information that you require for the purposes of the exercise of your functions*

- *The timescale of 28th March was deemed realistic, although Council anticipate that all documents and information will be provided in advance of this. To date, Council have prepared almost 25% of the requested documents and information and therefore to avoid prolonging the procedure, propose to forward this to you, which they recommend doing when a further 25% is complete, resulting in this being provided in four separate parts.*

*Details of the steps it intends to take to achieve that timescale*

- *Council's part time members of staff will increase their working hours to assist with this task, resulting in a total of an additional 4.5 hours per week."*

In March 2024, we received a number of documents relating to five of the 24 headings of information that we had requested (i.e. 13 of the 44 items requested). We have received no further information since, but were made aware that the Clerk/Responsible Financial Officer (RFO) would be concentrating on the year end procedures prior to the proposed meeting to approve the 2023/24 Annual Governance and Accountability Return scheduled for 6 June 2024.

### **Our view**

Under Section 22 of the Act, the Council has a statutory duty to provide the information we have requested. It has yet to do so. The Council's stated reasons do not affect its obligation to provide us with the information.

We have carefully considered the arguments advanced by the Council for the continuing delays in providing information. In the context of the most recent delays, we are aware that the Clerk/RFO has had two unplanned periods of absence from work this year and another member of staff has returned from a long period of absence. We are now in a position where the Council has not provided us with a revised date by which it is targeting the provision of information.

Furthermore, in our view, the reasons advanced by the Council for delays in providing us with information are not compelling. We have therefore set a revised date of 20 July 2024 by which the information should be provided.

The Council as a corporate body has a responsibility to:

- put in place alternative arrangements to ensure that it can comply with its statutory duties; and
- monitor delivery against timetable that it has agreed.

Most of the information that we have requested comprises documents that will have been prepared by or held by the Council and that we anticipate would be routinely held in an accessible format. In our view, the Council's inability to adhere to a timetable for provision of the requested information is indicative of significant weaknesses in its management of information.

Our experience echoes the findings of the Information Commissioner who has upheld 22 complaints against the Council, many in relation to its failure to provide information requested under the Freedom of Information Act 2000 within statutory timetables.

We are keen to secure determination of the objections that we have decided to consider, minimising additional costs that fall on the Council.

In our view, even if the objector made the decision to withdraw the objections to the accounts, we would still consider issuing this PIR on the basis of the Council's failure to adhere to a timetable for provision of the requested information.

### **Our recommendation**

We recommend that the Council:

- agrees to a plan to deliver the remainder of the information that we have requested (or provide confirmation that the Council does not hold such information) **no later than 20 July 2024**;
- monitors its delivery against that timetable;
- undertakes a review of its information management arrangements to ensure that it is readily able to extract information it holds for any purpose, including providing information to its external auditor and responding to requests under the Freedom of Information Act 2000; and

- agrees and implements an action plan stemming from its review of its information management arrangements.

The Council should be aware that if this revised date for compliance with our information request is not met, we will consider whether to refer the matter to the Police who could consider whether proceedings under Section 23 of the Act would be appropriate.

### Consideration of this report

Under Schedule 7 of the Act, the Council has a statutory duty:

- as soon as practicable to publish on its website this report and a notice identifying the subject matter of the report and details of where and when the report may be inspected and copied;
- as soon as practicable to send a copy of this report to all councillors;
- to allow inspection of this report without payment and provide a copy on payment of a reasonable sum;
- to consider the report at a Council meeting held within one month from today's date unless we agree to extend that period;
- to publish on its website a notice stating the date, time and place of the Council meeting, that it is to consider this report and the subject matter of this report;
- not to exclude the report under Section 1(4)(b) of the Public Bodies (Access to Meetings) Act 1960;
- at the Council meeting to decide whether action is required in response to the report and, if so, what action;
- as soon as practicable after the Council meeting to notify us of the Council's decisions; and
- as soon as practicable after the Council meeting to publish on its website a notice containing a summary of its decisions that has been approved by us.

Yours sincerely



PKF Littlejohn LLP

cc Ms Rachel Atkinson, Clerk/RFO, Kirby Muxloe Parish Council  
 Rt Hon Michael Gove MP, Secretary of State for Levelling Up, Housing and Communities  
 Rt Hon Edward Argar MP  
 Moore Chartered Accountants  
 Ms Emma Harding, Hames Partnership, Internal Auditor  
 Ms Julia Smith, Chief Executive, Blaby District Council  
 Mr Gareth Davies, Comptroller and Auditor General, National Audit Office  
 Ms Annie Child, Chief Executive, Smaller Authorities' Audit Appointments Ltd  
 Mr Tony Crawley, Chief Executive, Public Sector Audit Appointments Ltd  
 Mr Jonathan Owen, Chief Executive, National Association of Local Councils  
 Mr Jake Atkinson, Chief Executive, Leicestershire and Rutland Association of Local Councils  
 The Objector to the Council's accounts for the years ended 31 March 2016 to 2022  
 Mr G Oliver, Editor, Leicester Mercury  
 Editor, Leicester Times  
 News Editor, BBC Radio Leicester  
 Editor, East Midlands Today  
 Editor, Central News