



The Members
Kirby Muxloe Parish Council
Parish Council Office
Station Road
Kirby Muxloe
Leicester
LE9 2EN

Sent by email: clerk@kirbymuxloeparishcouncil.org.uk

DDI:
+44 (0)20 7516 2200

Email:
sba@pkf-l.com

Date:
5 June 2024

Ref:
RP/47131/SAAA/LE0134

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:

 **PKF Littlejohn LLP**
15 Westferry Circus,
Canary Wharf, London
E14 4HD

T: +44 (0)20 7516 2200
www.pkf-l.com

- 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

Report in the public interest

Kirby Muxloe Parish Council

Audit 2011/12



Contents

Introduction	2
Background	3
Accounting statements	5
Internal control	7
Non-compliance with laws, regulations and codes of practice	8
Public rights in the audit process	10
Risk management	11
Internal audit	12
Trust funds	13
Conclusion	14
Recommendations	15

Introduction

1 I am the auditor jointly appointed with Clement Keys to audit the accounts of Kirby Muxloe Parish Council for the year ended 31 March 2012. I have a duty to report in the public interest about something I believe that the Council should consider or the public should know about. I have decided to issue a report about the Council's governance for the year ended 31 March 2012.

2 The Parish Council must consider the report in public at a Council meeting held within one month of receiving it. At that meeting the Council must decide what action to take in response to my report.

3 I have a power to send a copy of this report to any person I see fit. I am therefore sending copies to:

- a. The objectors and other correspondents;
- b. The Council's internal auditor;
- c. The Chief Executive of Blaby District Council;
- d. The National Association of Local Councils; and
- e. The Leicestershire and Rutland Association of Local Councils.

4 I am also sending a copy to the Council's incoming auditors, Grant Thornton (UK) LLP, so that they can take my report into account in the conduct of their audits.

Background

5 The Council is responsible for the use of public funds raised by compulsory taxation. It is accountable to citizens as taxpayers and users of Council services for how it uses those funds.

6 That accountability is secured in part by the preparation of an Annual Return:

- a. Summarising its financial performance; and
- b. Giving assurances that it has a robust system of internal controls in place to protect public funds.

7 For the year ended 31 March 2012, the Council adopted that Annual Return on 7 June 2012.

8 Accountability also involves an annual external audit by auditors appointed by the Audit Commission. Reflecting the size of the Council, that audit involves limited procedures and does not result in a ‘true and fair view’ opinion on the Council’s accounting statements, as would be given in the case of a larger public body or a company.

9 Local government electors have a right to inspect councils’ accounts and to make ‘objections’, asking auditors to exercise their formal powers. Auditors have a duty in undertaking their audits to take into account information brought to their attention.

10 Seven local government electors exercised their right to object to the Council’s accounts. The objections covered a total of 17 areas. The objectors and others also raised other issues with me.

11 My role is not to adjudicate on the wisdom or otherwise of what the Council has done. The Council is a democratically elected body and, within the constraints imposed by the law, has significant freedom of action.

12 But the Council has a duty to conduct its affairs in the right way – so that it complies with the law, complies with its own procedures, accounts for its resources, protects the resources entrusted to it and, vitally, can be seen to have done so.

13 Transparency about governance provides reassurance to citizens. And it protects councillors and officers of the Council from allegations of impropriety.

14 I am concerned that the Council has, in many areas, failed to establish and secure the standards of governance and accountability that citizens have the right to expect.

15 In the remainder of this report, I consider the assurances which the Council gave the public on 7 June 2012 about:

- a. Its accounting statements;
- b. Internal control;
- c. Non-compliance with laws, regulations and codes of practice;
- d. Public rights in the audit process;
- e. Risk management;
- f. Internal audit; and
- g. Trust funds.

16 My findings and conclusions, based on enquiries into the specific matters raised with me, complement but do not replicate the findings of the independent investigation into the running of the Council. This was commissioned by the Council following the outcome of the parish poll of 14 May 2012 and the results were reported to the Council on 29 April 2013.

Accounting statements

17 The Council has a duty to prepare accounting statements in accordance with 'proper practices' and include those in its Annual Return.

18 In the annual governance statement the Council stated that it had approved accounting statements that had been prepared in accordance with proper practices.

19 For parish councils 'proper practices' require simplified accounting statements comprising a one page proforma. The Council can elect to prepare this on either an 'income and expenditure' basis (reflecting income and expenditure relating to the year) or a simpler 'receipts and payments' basis (reflecting money received and paid in the course of the year).

20 The Council cannot demonstrate that it has approved accounting statements prepared in accordance with proper practices:

- a. It elected to move from preparing its accounting statements on an 'income and expenditure' basis for the year ended 31 March 2011 to a 'receipts and payments' basis for the year ended 31 March 2012, even though it maintained its accounting records on an 'income and expenditure' basis. It has not provided evidence to support the adjustments that it made to the numbers from its accounting system in producing its accounting statements. Nor has it in its accounting statements for the year ended 31 March 2012 appropriately restated its financial position at the start of the financial year or its financial performance for the previous year;
- b. A key means of validating the integrity of the Council's accounts is the preparation of a 'bank reconciliation' which explains the difference between the cash recorded in the Council's accounting statements and that reported in its bank statements. Whilst the Council prepared a bank reconciliation and submitted it for audit, it did not respond to the recommendations of its internal auditor relating to the preparation of a bank reconciliation;
- c. The Council does not have a comprehensive asset register to support the fixed assets, including land and buildings, included within the accounting statements and is therefore unable to demonstrate the completeness and accuracy of the figures reported;
- d. The Council reported in its accounting statements that the value of its fixed assets and other long term assets had

remained unchanged in the course of the year despite recording in its accounting records that it had incurred capital expenditure. The Council provided me with explanations about capital expenditure relating to different items to those recorded in the accounting records; and

- e. Whilst the Council's internal auditor was able to provide assurances to the Council about accounting for Value Added Tax (VAT) within its accounting system and to Her Majesty's Revenue and Customs, the Council cannot demonstrate that it has appropriately accounted for VAT within its accounting statements.

Internal control

21 The Council is responsible for establishing and maintaining an effective system of internal control. Such a system comprises procedures and checks to ensure that the Council conducts its business to secure its objectives, comply with its obligations, safeguard its assets and prevent and detect fraud and corruption. The Council has a duty to undertake an annual review of the effectiveness of the system it has established.

22 In its annual governance statement the Council stated that it had an effective system of internal control and had undertaken a review of its effectiveness.

23 However, in my view the Council was not in a position to make this statement because:

- a. It did not operate adequate systems of control over the maintenance of its accounting records and preparation of its accounting statements;
- b. It did not operate a formal system to match invoices received to orders raised;
- c. It did not have appropriate arrangements to deal with non-routine transactions such as recovery of salary overpayments;
- d. It did not have effective mechanisms to specify projects or control the volume of additional work awarded to existing contractors; and
- e. It did not have a process for weighing the benefits against costs for major commitments.

Non-compliance with laws, regulations and codes of practice

24 The Council is established by statute. It must comply with the law and have regard to applicable codes of practice.

25 In its annual governance statement the Council stated that it had taken reasonable steps to satisfy itself that there had been no instances of non-compliance with laws, regulations or codes of practice that could have a significant effect on the ability of the Council to conduct its business or its finances.

26 However, in my view the Council was not in a position to make this statement. There is no evidence that the Council conducted a thorough review.

27 Moreover, I have identified instances of actual or potential non-compliance:

- a. The Council did not comply with the requirements of the Freedom of Information Act 2000 relating to the provision of information to members of the public. As a result it received a decision notice from the Information Commissioner upholding a complaint against it (and indeed has subsequently received three further such notices);
- b. In a number of instances the minutes of the Council or its Committees do not record explicit agreement to incur expenditure or make payments;
- c. There is insufficient evidence to demonstrate that the Council passed the necessary resolutions to exclude members of the public from meetings of committees;
- d. The Council entered into a major financial commitment without an explicit reference on the agenda that such a proposal was to be considered; and
- e. The Council made a grant under the mistaken impression that it could only rely on section 137 of the Local Government Act 1972 which allowed the Council to incur expenditure for which it otherwise did not have powers up to a specified ceiling. As the Council subsequently established, it could not rely on this power as it had another power on which it could rely which did not set a limit on the expenditure that could be incurred.

28 To provide a framework for its financial administration the Council adopts a set of Financial Regulations with which it and its staff must comply.

However, I am concerned that these have not been appropriately maintained and enforced:

- a. In response to my enquiries the Council was not able to demonstrate unambiguously what Financial Regulations were in force at what date and at which meeting of the Council they were adopted. It subsequently advised me that the Financial Regulations posted on the Council's website in March 2013 were not the correct version; and
- b. The Council did not enforce its own Financial Regulations in relation to a contract which prohibited sub-contracting without specific consent.

Public rights in the audit process

29 The Council is legally obliged to give members of the public the right to inspect its accounts and supporting records on reasonable notice during a 20 working day period specified by the auditor.

30 In its annual governance statement the Council stated that it had provided such an opportunity.

31 However, the Council in practice constrained the periods of time allowed to inspect the accounts to one hour or less per individual. Some of my correspondents believed that they were, as a result, not allowed to exercise their rights effectively.

32 I recognise that there was an unusual number of requests for access to the accounts and supporting information during the inspection period and that placed additional demands on the Council. Whilst ultimately only the courts could adjudicate as to the lawfulness of the Council's actions, in my view the Council may not have complied with its statutory duties. The Council has a duty to be accountable – and to be seen to be accountable. Limiting the time for inspection in the way that it did was inconsistent with the principles of public accountability.

Risk management

33 Central to good governance is the identification, assessment, mitigation and monitoring of risks.

34 The Council stated in its annual governance statement that it had carried out an assessment of risks and had taken appropriate steps to mitigate those risks.

35 However, the Council's internal auditor reported in the same Annual Return that the Council had not assessed significant risks or reviewed the adequacy of arrangements to manage those risks.

36 I am concerned that there is no evidence of either a comprehensive assessment of risks or of consideration of the contradiction between the internal auditor's report and the Council's annual governance statement. The findings of my work, detailed elsewhere in this report, lead me to conclude that the Council's arrangements for identification, assessment, mitigation and monitoring of risks were not sufficiently developed.

Internal audit

37 The Council has a statutory duty to arrange for an internal audit of the Council. Such a review of the Council's systems and procedures is an essential part of the system of internal control. Appropriate consideration of the internal auditor's findings and recommendations is one of the means by which the Council demonstrates its commitment to good governance.

38 In its annual governance statement the Council stated that it took appropriate action on all matters raised in the internal auditor's reports.

39 For the year ended 31 March 2012 the internal auditor produced two reports – the short pro forma report included in the Annual Return and a longer report identifying and categorising risks.

40 The longer report, identifying and categorising weaknesses in control, was vital evidence to assist Council members in adopting the accounting statements and approving the annual governance statement. The Council has confirmed that this report, although received, was not made available to Council members at that time, impeding their ability to discharge those important governance responsibilities.

41 I am concerned that, although the Council has asserted that it considered the report and implemented an action plan in response to the findings, there is no evidence from the minutes that the Council as a body endorsed the proposed actions or monitored their implementation.

Trust funds

42 Many councils act as sole managing trustees, especially of charities established for recreational purposes. Acting as sole trustees they are bound by charity law and the terms of charitable trusts. They therefore need to distinguish trust property from other local authority property and decision making as trustee from decision making as a local authority.

43 In its accounting statements and annual governance statement the Council stated that it did not serve as a trustee. However, these statements were inaccurate.

44 Moreover, I am not satisfied that the Council has discharged its responsibilities as sole trustee. I have established that:

- a. The Council is sole trustee of the Recreation Ground charity;
- b. It did not maintain separate accounts for the charity; and
- c. It did not in consequence consider whether an audit or independent examination of the charity was required.

Conclusion

45 Parish councils are relatively small organisations operating in a complex environment. Things do not always work perfectly and it is unreasonable to expect them to.

46 However, I have identified a number of significant weaknesses in the Council's governance across the broad range of areas covered by the Council's annual governance statement. In respect of each of those areas the Council needs to agree corrective action and monitor its implementation.

47 My greatest concern is not that there were weaknesses but that the Council made important assertions to the public that there were none. It did so without sufficient enquiries and in instances in the face of evidence to the contrary.

48 The annual governance statement is a key means by which the Council is accountable to the public. But making inaccurate statements without appropriate enquiry undermines that accountability.

49 Some councillors have told me that they feel that the actions of some members of the public undermine their ability to conduct the business of the Council. I am concerned that the representations received from the Council have similarly focussed on the conduct of individuals. In many cases the representations did not address the substantive governance responsibilities of the Council or the specific questions that I posed.

50 In an environment characterised by challenge and conflict it is even more important for the Council to conduct its business in the right way and to take seriously its ability to demonstrate to the public that it has done so.

Recommendations

51 I therefore make the following recommendations to the Council:

Accounting statements

- R1** Strengthen arrangements for maintenance of accounting records and preparation of accounting statements, considering the need for external support.
- R2** Agree a programme for the preparation of the annual accounting statements (including the preparation of a bank reconciliation and, as necessary, making adjustments in respect of opening balances and comparative figures) and monitor its implementation.
- R3** Prepare and keep up to date a comprehensive asset register linking fixed assets to supporting title documents.

Internal control

- R4** Match invoices to orders prior to payment.
- R5** Review arrangements for scoping projects and controlling the volumes of additional work awarded to contractors.
- R6** Introduce formal evaluation of the benefits and costs of proposals for significant proposed expenditure.

Non-compliance with laws, regulations and codes of practice

- R7** Review arrangements for compliance with the Freedom of Information Act 2000.
- R8** Review arrangements for preparation of agendas and minutes so that:
 - proposals to incur expenditure are clearly identified;
 - decisions to incur expenditure are recorded; and
 - resolutions to exclude the public are minuted.
- R9** Review arrangements for seeking external advice, including on the powers on which the Council is relying when making decisions.
- R10** Establish robust arrangements for maintaining, promulgating and monitoring compliance with the Council's Financial Regulations.

Public rights in the audit process

- R11** Establish revised arrangements for allowing the exercise of public rights to inspect the Council's accounts.

Risk management

R12 Introduce a formal process for risk identification, assessment, mitigation and monitoring.

Internal audit

R13 Consider all findings of the Council's internal auditor before approving the annual governance statement included in the Annual Return.

R14 Agree actions for implementation of internal audit recommendations and monitor their implementation.

Trust funds

R15 Clearly identify in agendas, minutes and accounting records when the Council is acting in its capacity as sole trustee.

R16 Make accurate returns to the Charity Commission in respect of the Recreation Ground charity including, if necessary, accounts including the report of an auditor or independent examiner.

General

R17 Establish a formal process for the Council as a body to consider all relevant information to support the annual governance statement included in the Annual Return prior to its adoption.

R18 Establish the training needs for councillors and officers to discharge their governance responsibilities and allocate appropriate resources to allow these to be met.

R19 Agree an action plan in response to the recommendations in this report and in the report prepared following the independent investigation and monitor its implementation at each meeting of the Council.



Stephen Warren
District Auditor

1 May 2013

Appendix B



Kirby Muxloe Parish Council

Audit of accounts 2013/14
Report in the public interest

Last updated 7 August 2015

Contents

Introduction	1
Background	1
Relevant history of the Council	1
Main conclusions	2
Recommendations	3
Detailed findings	4
Elections	4
Meetings, agendas and minutes	5
Authorisation of actions	6
Members expenses	7
Freedom of Information Act	8
Trust issues	8
Appointment of clerk	9
Public Challenge	9
Appendices	
A Appendix	11

Introduction

This report is produced under section 8 of the Audit Commission Act 1998 ('the Act') and is therefore a 'report in the public interest'. The Council is required to hold a meeting to consider the report in public, within one month of publication, and to make a public response. The report has been produced both to highlight issues which arose in the 2013/14 financial year and to comment on the considerable improvements which have been made since a previous Report in the Public Interest published on 1 May 2013.

In producing this report, we have been mindful of the fact that the period on which we are reporting concluded more than fifteen months ago and that there have been significant changes in the Council's membership, and a new clerk, since then. While it is important for us to express our concern about some of the issues which arise during 2013/14 on the public record by making this report, we are at the same time mindful of the challenges faced and the considerable efforts made by those who served as councillors during that year and more recently.

Background

Kirby Muxloe Parish Council ('the Council') is part of the district of Blaby, in the county of Leicestershire. It serves a population of 4,500 and its annual precept in 2013/14 was £114,251. The Council is also corporate trustee of two charitable trusts – the Kirby Muxloe Recreation Ground Trust and the Kirby Muxloe Community Centre Trust.

Grant Thornton UK LLP was appointed as the Council's external auditor with effect from the 2012/13 audit year. The Council's previous auditor, Mr Stephen Warren of the Audit Commission, published a report in the public interest on 1 May 2013 as part of his audit of the Council's 2011/12 accounts. This commented on a range of very significant governance issues including non-compliance with laws and regulations, internal control, risk management, internal audit and the trustee role. It made 19 recommendations for improvement.

Mr Warren's report was issued as a result of his consideration of a number of objections to the accounts made by local electors under section 15 of the Act. We received further objections as part of the 2012/13 audit which asked us to produce a further report in the public interest and to seek a declaration from the court that certain items of account were unlawful. We dismissed these objections, partly because of the limited opportunity which the Council had had to take remedial action following the publication of Mr Warren's report. We did, however, refer to a number of the concerns raised in the objections in writing our limited assurance report on the Council's 2012/13 Annual Return.

We have now also received objections from three local electors as part of the 2013/14 audit. Having carefully considered the issues raised, we have concluded that it is appropriate for us to issue a new report in the public interest in relation to some of the issues raised. This also provides an opportunity for us to comment on the Council's progress on the issues raised in the previous public interest report.

Relevant history of the Council

The Council has had a troubled recent history and many of the issues raised in the previous report in the public interest reflect this.

In June 2013, shortly after the publication of Mr Warren's report, most of the existing councillors resigned from office. This left the Council unable to operate due to inquoracy. As a result, Blaby District Council exercised its powers under section 91 of the Local Government Act 1972 to make 'emergency' appointments to the Council. The seven appointees were all

from outside Kirby Muxloe and included the Deputy Leader of Blaby District Council, who was subsequently appointed as Chair of the Parish Council.

The appointed councillors faced a wide range of challenging issues including investigating a range of allegations about the actions of the then-clerk and previous councillors. The Report in the Public Interest also set out a range of actions needed. Each of the appointed councillors was given particular areas of responsibility. A number of issues were also referred to the police for further investigation although we understand that no prosecutions have resulted. When the appointments were made, it was assumed that the major problems could be overcome within about three months but it quickly became apparent from the range and complexity of issues that this timescale would not be possible.

The Council asked the District Council later in 2013 to make further appointments under Section 91 as it was continuing to encounter problems with quoracy, as a result of further resignations. Seven further appointments were made in March 2014 – this time from Kirby Muxloe residents.

As a result of the resignation of a further member, the Council declared a vacancy for a member on 27 March 2014. Nominations were received and a by-election was held on 19 June 2014. This is the only election which has been held since the resignations of June 2013, as the number of nominations received for the 'routine' elections in May 2015 was fewer than the number of seats available. This process did, however, see further changes in membership with the original appointees from outside the parish no longer in post, but continuity has been provided from among the second group of appointees.

As well as the member changes, there were changes at officer level. The previous substantive clerk was suspended pending disciplinary action in July 2013. An experienced acting clerk was appointed and was in post through to September 2014. The substantive clerk was dismissed in May 2014 and the Council commenced a recruitment process which resulted in a new substantive clerk taking up post in October 2014.

Main conclusions

The Council has made some significant progress in very difficult circumstances since the publication of the previous Report in the Public Interest in May 2013, thanks to the effort and commitment of the various councillors and officers through this period. Making the degree of improvement required inevitably takes time, however, and during 2013/14 there were some issues with the Council's governance which merit inclusion in this report. We are, however, conscious of the overall circumstances and have reflected this in our assessment. Particular issues within 2013/14 included:

- while we recognise the justification for this, by not declaring vacancies and thus prolonging the terms of the district council appointees, the Council has not complied with legal requirements and has, in theory at least, denied the local electorate the chance to elect councillors.
- there were examples of failings in basic governance processes, which were at least partly explained by the circumstances faced, including giving proper notice of issues to be discussed and individual councillors taking actions on behalf of the Council.
- progress in improving processes for compliance with the Freedom of Information Act was initially slow

- appropriate arrangements were not put in place in the sensitive area of councillors' expenses payments
- the Council has not succeeded in engaging effectively with some local residents who wished to exercise their statutory rights to inspect the accounts and supporting documents and make objections, although we recognise this is a two-way process.

Good progress has, however, been made across a range of other areas. We have taken the opportunity in this report to provide an assessment of progress against the recommendations made in the previous Report in the Public Interest. Many of the issues are addressed in the body of the report as they were raised by the objectors, but commentary is included on all the previous recommendations in the appendix.

Recommendations

In recognition of the process of continuous improvement which is underway, we have only included recommendations within this report where there is further action which the Council needs to take. These actions are in relation to:

- improving arrangements for paying councillors' expenses
- complying with statutory requirements in relation to this report
- ensuring that all decisions and actions are appropriately authorised
- ensuring a good level of recording of the reasons for any potentially contentious decisions
- handling public challenge through the objection process.

Detailed findings

Elections

The Council has not complied with legal requirements with respect to declaring councillor vacancies and triggering the holding of elections. As a result, the appointees remained in post for far longer than envisaged by the legislation under which they were made and local residents have not had the opportunity to elect councillors. We recognise, however, that there were mitigating circumstances and that compliance with legal requirements may have been unhelpful in some respects and in particular in seeking to resolve the issues which the appointees inherited.

Like other parish councils, Kirby Muxloe is on a cycle of elections every four years, with elections falling due in 2011, 2015 and every four years thereafter. Elections only need to be held, however, if the number of nominations exceeds the number of places available, and in practice this has not been the case at the Council in recent years and the Council has been operating with unfilled vacancies.

When most of the existing councillors resigned on 6 June 2013, the Council was left unable to operate as its meetings could not be quorate. This situation is anticipated by the legislation and Section 91 of the Local Government Act 1972 gives the relevant district council the power to make 'emergency' appointments to parish councils to enable them to conduct their business. Blaby District Council made seven such appointments in July 2013, following them with a further seven in March 2014. All but two (who resigned) of the appointees have remained in post until May 2015.

The legislation does not expressly state the period of time for which appointments made under section 91 should last, but we obtained legal advice that it is clear from the overall construction of the legislation that appointments under section 91 are intended only to span the period of time taken for a council to declare a vacancy and for that vacancy to be filled through nomination and (if necessary) elections, with elections required to be held within 60 days of notification of the vacancy. In this case, however, the appointments have lasted through to the elections due in May 2015, a period (for the initial appointees) approaching two years.

While the appointments were made by the District Council, it is the Parish Council which is responsible for declaring vacancies, and which therefore did not comply with legal requirements, although some parish councillors have expressed the view that, as the District Council made the appointments, there was also an onus on it to ensure that legal requirements were fulfilled subsequently.

In mitigation, both the Parish Council and the District Council have expressed the view that it would not have been helpful for vacancies to be declared, nominations invited and possibly elections to be held in around September 2013 under the normal timescale. There was a fear that initiating an election process could have led to previous members returning to office, when some of these were seen as being in part responsible for the problems which the appointees were seeking to address. It was the District's intention for the appointees to have a longer opportunity to improve the governance of the Parish Council, before 'handing it back' to democratically elected members, and it is clear that the appointees have acted accordingly. Furthermore, the declaration of a vacancy in March 2014, which led to the by-election in June 2014, was seen as an initial step towards restoration of democracy.

Further appointments were made by the District Council under section 91 in March 2014 as a result of the Parish Council continuing to have difficulties in achieving quoracy, and again these appointments have endured through to the May 2015 elections. In this case, the appointments were of people living within Kirby Muxloe, and since their appointment there has been a

gradual transfer of responsibilities such as committee chairmanships to these local members as part of a planned transition.

On balance, we recognise that compliance with the legal requirements would have been likely to hinder rather than help the restoration of the Parish Council to its normal functioning and that the Parish and District Councils faced exceptional circumstances. Nevertheless, the removal of the right to elect representatives is not a step to be taken lightly and we therefore consider it appropriate to draw attention to it in this report.

Meetings, agendas and minutes

The previous report in the public interest expressed concerns about the Council's processes for calling, holding and minuting its meetings. Particular concerns were:

- entering into a major financial commitment without reference in the agenda that such a proposal was to be considered
- examples of a lack of explicit recording in the minutes of the authorisation of expenditure or making of payments.

Similar issues were raised by one of the objectors to the 2012/13 and 2013/14 accounts. Particular examples include:

- publication of very summarised agendas in advance of meetings, such as that for the meeting on 26 March 2014. The interim clerk explained to us that he was reluctant to publish full agendas because this led to a large number of queries and criticisms from some local residents which in turn led to meetings being cancelled at short notice for procedural reasons, but this does not excuse non-compliance with a fundamental legal requirement.
- failure to specify on the agenda that important decisions were to be made, such as the approval of a large number of revised policies, including new standing orders and financial regulations adopted on 12 February 2014 or agreement in principle to sell or lease trust land to the County Council on 22 April 2014.

We have been assured that this issue has now been addressed and we are not aware of any more recent examples of only summary agendas being published.

In reviewing various issues raised by the objectors, we have noted that there have been occasions on which business has been conducted in closed session where this may not have been justified. There is a presumption in law that all business should be conducted in public session, other than where the public interest requires otherwise, as set out in the Public Bodies (Admissions to Meetings) Act 1960. We recognise that there have been many issues for which it was entirely appropriate for discussions to be in closed session, such as the employment issues regarding the former clerk. There have been other occasions, however, where in our view, issues should have been discussed in open session – this would not only have improved overall transparency but may have also reduced the number of issues raised with us by the objectors, who were not aware of discussions which had taken place in closed session. Examples include:

- discussions regarding the overall approval for paying travel expenses to councillors at a meeting on 30 October 2013 – there is in our view no reason for this to be in closed session and indeed given the sensitivity of councillors expenses, it is a decision which members of the public need to be aware of.
- two other less significant items also on 30 October 2013 – confirmation that the interim clerk was the Responsible Financial Officer of the Council and a discussion in relation to the Council's Broadband service.

Where issues are discussed in closed session, transparency can still be improved by including within the public minutes a summary of the issues discussed in closed session, without disclosing any confidential information. This was not the practice during 2013/14, with no record in the public minutes of what items were discussed after the meeting had resolved to go into private session. We note that this has improved during 2014/15.

One specific concern raised by objectors was the Council's failure to comply with statutory requirements to consider the previous Report in the Public Interest in a public meeting within one month of receipt. While the report was due to be discussed at the meeting on 3 June 2013, the nature of that meeting meant that the statutory requirement was not in the event met. Section 11 of the 1998 Act allows auditors to extend the period during which the meeting may be held, and we did grant an extension of 3 months following a request from the Council. In the event, the meeting was not held until 25 March 2014, almost 11 months after the report was published. We referred to this in our limited assurance report on the 2012/13 Annual Return but as it represents a breach of an unambiguous statutory requirement, it merits inclusion in this report.

Another specific concern raised with us is the integrity of the Council's minutes. In order to demonstrate the completeness and validity of the record of the Council's proceedings (and those of its committees), it is important that a systematic referencing system is used, that all minutes are properly approved and signed at the next available meeting and that a clear master set is kept by the Clerk. There were examples during 2013/14 where the referencing system did not operate correctly, with numbers not used in sequence or duplicated, and slightly different versions of the same minutes in circulation. While we have been provided with explanations, it does cast some doubt on whether minutes were in all cases produced promptly and properly approved in the normal way. We recognise, however, that this issue has now been addressed and hence we make no recommendation for improvement.

Recommendation

R1 The Council should ensure that it meets statutory requirements in respect of the holding of a public meeting and provision of a response in respect of this second Report in the Public Interest.

Authorisation of actions

One of the basic rules under which parish councils operate is that, while actions and decisions can be delegated to an individual officer such as the clerk, the same is not true of councillors – individual councillors cannot lawfully act on behalf of the Council.

A number of examples have been drawn to our attention by one of the objectors where individual appointees appear to have acted on behalf of the Council, in some cases incurring expenditure in the process. In mitigation, in most if not all cases, it appears that the Council had resolved to delegate authority to the individual member and there was subsequent reporting back to the Council on the actions taken. Furthermore, councillors have informed us that in practice all councillors were well aware of what each other was doing, and the issue appears to be more one of the informal nature of these arrangements.

Examples of which we are aware include:

- the engagement of solicitors to advise the Council in relation to employment issues and trust issues, in both cases by individual members after a general resolution in a Council meeting that solicitors should be engaged.
- negotiating with another firm of solicitors to provide an additional service to the Parish Council in lieu of a reduction in a disputed invoice. Again the negotiations were authorised by the Council in advance but it is clear from the timings that agreement was reached by the individual councillor without any reference back to the Council.

Recommendations

R2 The Clerk and all councillors should ensure that all decisions are taken by the appropriate grouping of members (Council or committee) with no decision-making by individual members, and that implementation of agreed actions is the responsibility of the Clerk.

Members expenses

The Council paid expenses totalling £776 in total to three members in 2013/14. Further payments of £682 were paid in 2014/15. While the Council has powers to pay such expenses, we have three concerns about the payments in 2013/14:

- the Council appears to have misunderstood the legal limitations on the duties for which expenses can be paid. The regulations specify the types of councillor duties for which expenses can be paid, primarily attendance at meetings of the Council or its committees. There is also the ability for councils to define other duties as 'approved' for expenses purposes, but these can only be duties which are in connection with the discharge of the functions of the authority, which is a legal term which has a narrower definition than that understood by the Council, which took it to refer to doing anything in connection with being a councillor. It is therefore likely that some of the duties for which expenses were claimed did not qualify. However, there is no evidence that this was anything other than a misunderstanding of the regulations and we are also aware that there were other qualifying duties within the year for which no claims were made.
- there was no standard documentation for making claims and different councillors claimed at different mileage rates. Of the two main members who claimed, one used a Blaby DC form and claimed at 45p per mile, while the other used a different form and claimed at 46.9p. It is clearly important for standard documentation to be available and standard rates paid, given the sensitivity of members expenses.
- the Council did not comply with the statutory requirement to publish information on the expenses paid in the year. The regulations require this information to be published as soon as reasonably practicable after the year end.

Recommendations

R3 The Council should compile an expenses policy which clarifies the duties for which expenses can be claimed, in accordance with the statutory powers, and includes standard documentation.

R4 The Council should publish details of expenses paid each year as soon as possible after the year-end.

Freedom of Information Act

Because of its history and circumstances, the Council has been subject to an unusual volume of requests for information made under the Freedom of Information Act. During 2013/14 it was issued with a Decision Notice by the Information Commissioner relating to failure to meet its statutory responsibilities, while a further three followed during 2014/15 but relating to requests originally made in 2013/14. The failings identified were in relation to both late responses and withholding of information.

The Council acknowledged that it needed to improve its performance and this was one of the justifications for increasing the working hours for the new clerk. It has also pointed out that the level and complexity of requests at Kirby Muxloe has been considerable for a Council of Kirby Muxloe's size. The new clerk has been working hard to improve the Council's performance and has liaised with the office of Information Commissioner. Whilst we recognise this improvement, there was a clear failure to meet statutory responsibilities during 2013/14 which merits inclusion in this report.

Trust issues

The Council is trustee of two charities:

- the Kirby Muxloe Recreation Ground Trust, for which it is sole trustee
- the Community Centre Trust, for which it is custodian trustee and which is therefore run by its own separate management committee.

The previous report in the public interest commented that the Council had failed to differentiate between its actions as the Council and its actions as trustee and this continued as an issue in 2013/14. For example:

- until November 2013, there were no separate meetings of either of the trusts, and all matters relating to the trusts were discussed in Council meetings
- transactions relating to the trusts appeared in the Council's accounts, such as the income of £1,270 from the County Council in respect of car parking spaces on trust land.

It is important for the different roles and separate legal status of the Council and the trusts to be clear, because the Council may have different responsibilities, interests and priorities when it is acting as trustee compared with those when it is operating as the Parish Council. This need is particularly acute when there are issues which plainly affect the bodies differently, such as any proposed transactions between them.

The Council has made good progress in addressing these issues, both through seeking to gain a greater understanding of the trusts and the relevant legal requirements and by improving its arrangements for dealing with trust issues, holding separate trust meetings with separate agendas and minutes.

However, maintaining separation can present practical difficulties and the Council needs to continue to be vigilant, especially when handling contentious issues, one example of which is the proposal to formally dispose of a small area of trust land to the school following the cancellation of the previous invalid leases entered into in 2010.

Appointment of clerk

Two of the Objections referred to the process for appointing a new substantive clerk, partly because of the salary level compared with the previous clerk and partly because the person appointed is the daughter of the then chairman. Both of these factors made this decision sensitive and worthy of particular audit consideration.

The first documented discussion on the appointment of a new clerk was in a closed session of the Council meeting on 17 January 2014. A decision was taken that the salary offered would be higher than the norm for a parish of the Council's size. The National Association of Local Councils publishes a payscale for clerks with ranges based on the parish's turnover. The Council decided that, in view of the recent history of the Council and the number of FOIA requests, it was appropriate to pay a higher rate and therefore used the LC3 payscale, which is normally for councils with a turnover of £250,000 to £750,000. It was also decided that the working hours should be greater than those of the previous substantive clerk, increasing from 30 to 37 hours per week.

It was also decided that the job specification would include a requirement for the clerk to have a degree and to hold the CiLCA (Certificate in Local Council Administration) qualification to level 7. This qualification (level 7) is only held by a small proportion of parish clerks and the minutes do not record any specific reasons for requiring it. The then-chair of the Staffing Committee, who oversaw the process, has informed us that level 7 was considered important because only councils with a clerk having level 7 are able to make use of additional legal powers under the Localism Act, which the Council believed it would need to use if its discussions about it taking on responsibility for running the village library came to fruition.

The recruitment process followed was in line with normal practice. The job was advertised twice as the Council decided that the initial applications were not of sufficient quality. In the event, only one candidate, who was previously the clerk of a neighbouring parish, was shortlisted and interviewed. All councillors other than the chair, who took no part in the process, were involved in the process, with all available councillors forming the interview panel on 22 July 2014.

In our view, the process followed was appropriate and there is no evidence of any favouritism or other distortion of the process. However, the way it was recorded was deficient in that, as noted above, the reasons for including CiLCA level 7 in the person specification were not recorded, and further detail would also have been helpful in recording other factors taken into account in, for example, increasing the working hours. Recording such detail is vital for decisions where the Council can foresee that there could be some form of challenge.

Recommendations

R5 When taking decisions which are likely to be subject to subsequent 'challenge', the Clerk should ensure that the minutes are sufficiently detailed to identify the specific factors which have been taken into account in reaching the decision.

Public Challenge

As noted above, the Council has been subject to considerable public challenge, in the form of objections to the accounts, Freedom of Information Act requests and other correspondence, over recent years. There is no doubt that this form of challenge has greatly increased the Council's costs, through increased audit fees, and has meant additional demands on staff and councillors' time.

The objectors have expressed concern to us that they have at times felt that the Council's behaviour towards them has, as a result of comments made in meetings and the compilation and drawing to their attention of a vexatious requests policy (which has not yet been invoked) been intimidatory.

The Council has also expressed concerns about the behaviour of the objectors as well as the costs and disruption to the Council.

As a public body, the Council needs to ensure that it seeks to engage more effectively with the objectors to resolve issues without the need for expensive and time-consuming objections. We recognise, however, that this is a two-way process which requires willingness on the part of the objectors to engage with the Council.

Recommendation

R6 The Council should continue to seek to engage with the objectors more effectively to reduce the need for objections to be made.

A Appendix

Progress on issues from 2013 Report in the Public interest

<p>R1 Strengthen arrangements for maintenance of accounting records and preparation of accounting statements, considering the need for external support.</p>	<p>The Council's immediate response was to appoint the Interim Clerk, who remained in post until a new substantive clerk was appointed with effect from November 2014. There has been a considerable improvement in the standard of the Council's accounting records.</p> <p>A new accounting system was implemented during 2013/14.</p>
<p>R2 Agree a programme for the preparation of the annual accounting statements (including the preparation of a bank reconciliation and, as necessary, making adjustments in respect of opening balances and comparative figures) and monitor its implementation.</p>	<p>Following the appointment of the interim clerk, the accounting records for 2012/13 were reviewed and revised accounting statements prepared, resulting in the submission of a revised Annual Return in February 2014. This did still include some errors and misclassifications but none of these were significant.</p> <p>The accounts and annual return for 2013/14 were prepared promptly, with the Annual Return approved on 6 May 2014. Again there were a small number of minor errors.</p> <p>Bank reconciliations are routinely prepared and are considered by each Council meeting.</p>
<p>R3 Prepare and keep up to date a comprehensive asset register linking fixed assets to supporting title documents.</p>	<p>An asset register with links to title deeds and clarity on which assets belong to trusts rather than the Council was produced early in 2015.</p>
<p>R4 Match invoices to orders prior to payment.</p>	<p>All invoices are examined for accuracy and matched with orders where appropriate.</p>
<p>R5 Review arrangements for scoping projects and controlling the additional work awarded to contractors.</p>	<p>There are no formally documented arrangements but the basic requirements for incurring expenditure are specified in Financial Regulations. We are not aware of any recent examples of poorly-scoped or out-of-control projects but the Council needs to ensure robust arrangements are place for any</p>

	future major projects.
R6 Introduce formal evaluation of the benefits and costs of proposals for significant proposed expenditure.	As above.
R7 Review arrangements for compliance with the Freedom of Information Act 2000 (FOIA).	Compliance with FOIA has remained an issue, with the Council subject to four Decision Notices, but the new substantive clerk has been working hard to improve performance and there have been no further Decision Notices since August 2014.
R8 Review arrangements for preparation of agendas and minutes so that: <ul style="list-style-type: none"> • proposals to incur expenditure are clearly identified • decisions to incur expenditure are recorded; and • resolutions to exclude the public are minuted. 	There have been issues with agendas and minutes during 2013/14, as noted elsewhere in this report, but the standard has now improved significantly with more specific agendas and more detailed minutes.
R9 Review arrangements for seeking external legal advice, including on the powers on which the Council is relying when making decisions.	The Council has stated that, in order to clarify applicable legal powers, it seeks advice from the Leicestershire and Rutland Association of Local Councils or its national equivalent. No specific new arrangements are in place for seeking external legal advice, but this should be a rare event and the basic requirements are covered by Financial Regulations.
R10 Establish robust arrangements for maintaining, promulgating and monitoring compliance with the Council's Financial Regulations	Financial Regulations have been revised on a number of occasions in the past two years. Primary responsibility for compliance with Financial Regulations on a day-to-day basis lies with the Clerk, with the Finance Committee having an oversight.
R11 Establish revised arrangements for allowing the exercise of public rights to inspect the Council's accounts.	The Council has improved its arrangements although there were difficulties in coping with the volume of requests for information during the inspection period of the 2013/14 accounts.
R12 Introduce a formal process for risk identification, assessment, mitigation and monitoring.	A risk register is now in place and is available on the website.
R13 Consider all the findings of the Council's internal auditor before approving the annual governance statement included in the Annual	The internal auditor's report was considered while approving the annual governance statement for 2013/14 on 6 May 2014.

Return.	
R14 Agree actions for the monitoring of internal audit recommendations and monitor their implementation.	No formal process is in place for monitoring implementation of internal audit recommendations.
R15 Clearly identify in agendas, minutes and accounting records when the Council is acting in its capacity as sole trustee.	A separate meeting of the Council acting as trustee was held once in 2013/14, on 26 November, and meetings have been more regular in 2014/15. A separate cost centre has been set up in the Council's accounting system for 2014/15 to enable both receipts and payments relating to the charity to be separately identified.
R16 Make accurate returns to the Charity Commission in respect of the Recreation Ground charity including, if necessary, accounts including the report of an auditor or independent examiner.	Returns were submitted on time for both 2012/13 and 2013/14, with no requirement to submit full accounts because the turnover was below the £10,000 threshold. In both cases, the only transactions included on the return were the rent income from the County Council in respect of car parking spaces at the library. As noted above, the Council is now seeking to separately identify payments relating to the charity and will include this in future annual returns.
R17 Establish a formal process for the Council as a body to consider all relevant information to support the annual governance statement included in the Annual Return prior to its adoption.	No formally documented process is in place but we are satisfied that appropriate information was reviewed in approving the annual governance statement for 2013/14.
R18 Establish the training needs for councillors and officers to discharge their governance responsibilities and allocate appropriate resources to allow these to be met.	The Council plans to provide a comprehensive training programme for councillors after May 2015, on the basis that there was little point in providing significant training to members who had been appointed only temporarily.
R19 Agree an action plan in response to the recommendations in this report and in the report prepared following the independent investigation and monitor its implementation at each meeting of the Council.	As noted elsewhere in this report, formal consideration of the Report in the Public Interest was delayed, but progress on implementation of the recommendations, and those of the report prepared by Wilkin Chapman and Goolden (WCG), has been considered by the Council on a number of occasions. In addition, WCG supplied the Council with an assessment of progress in March 2014.

Appendix C



FAO: The Members of Kirby Muxloe Parish Council

c/o Ms Rachel Atkinson
Town Clerk
Kirby Muxloe Parish Council

Sent via email clerk@kirbymuxloeparishcouncil.org.uk

DDI:
+44 (0)20 7516 2200

Email:
sba@pkf-l.com

Date:
25 March 2022

Ref:
RP/47131/SAAA/LE0134

Kirby Muxloe Parish Council: Public Interest Report for the year ended 31 March 2021

Introduction

As auditors appointed to undertake an assurance engagement in respect of the Annual Governance and Accountability Return (AGAR) of Kirby Muxloe Parish Council (the Council) for 2020/21, we are required:

- under Paragraph 1 of Schedule 7 of the Local Audit and Accountability Act 2014 (the Act), to consider whether, in the public interest, to report on any matter coming to our notice and relating to the Council or an entity connected with the Council, so that it can be considered by the Council or brought to the public's attention; and
- under paragraph 5.3 of the Code of Audit Practice issued by the Comptroller and Auditor General, where any representations are made to us or information provided that is relevant to the assurance engagement, or relevant matters otherwise come to our attention, to consider whether the matter needs investigation under our additional powers and duties, including our power to issue a public interest report.

We have received representations in our capacity as appointed auditor that we have considered and undertaken such further enquiries as we consider necessary.

We have formed the view that our findings taken together indicate that there are weaknesses in the governance of the Council that, taken together, warrant a public interest report (PIR). This letter constitutes a PIR under Schedule 7 of the Act.

Background

We note that the Council has previously been subject to PIRs regarding failures in governance and accountability. These were issued by an officer of the Audit Commission in respect of 2011/12 and by Grant Thornton UK LLP in respect of 2013/14.

PKF Littlejohn LLP, Chartered Accountants. A list of members' names is available at the above address. PKF Littlejohn LLP is a limited liability partnership registered in England and Wales No. OC342572. Registered office as above. PKF Littlejohn LLP is a member firm of the PKF International Limited family of legally independent firms and does not accept any responsibility or liability for the actions or inactions of any individual member or correspondent firm or firms.

PKF Littlejohn LLP
15 Westferry Circus,
Canary Wharf, London
E14 4HD
T: +44 (0)20 7516 2200
www.pkf-l.com

We further note that the previous auditors (Grant Thornton UK LLP) are still considering objections raised by local electors in respect of the Annual Returns for 2014/15, 2015/16 and 2016/17. As appointed auditors for the years 2017/18 onwards, we have also received a significant number of objections to the AGARs for the years 2017/18, 2018/19, 2019/20 and 2020/21.

Until the previous auditors have completed their work on the years for which they have not yet certified completion of the audit, we are unable to complete our additional work in respect any of the objections to AGARs raised with us; however, we believe that the representations that we have received concerning matters that are ongoing warrant consideration in advance of completion of the audits for earlier years.

Confidential business

As a general principle, meetings of the Council are open to the public; however, Section 1(2) of the Public Bodies (Admission to Meetings) Act 1960 recognises that there are circumstances where this will not be appropriate:

A body may, by resolution, exclude the public from a meeting (whether during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings; and where such a resolution is passed, this Act shall not require the meeting to be open to the public during proceedings to which the resolution applies.

The form and content of local council minutes are not prescribed in legislation; however, they should include resolutions passed by the Council. In the view of the National Association of Local Councils, minutes should be 'informative and relevant, yet concise'. Comprehensive, concise and unambiguous minutes provide clarity about the decisions made by the Council and the basis on which the decisions were made.

We are concerned that:

- resolutions to exclude members of the public and the reasons for their exclusion, as required by Section 1(2) of the Public Bodies (Admission to Meetings) Act 1960 are not clearly recorded in minutes of the Council. In some cases, for example in relation to employment matters, the reason is evident from the subject matter being discussed, but in others it is not; and
- minutes of the portions of meetings from which the public are excluded are inadequate and do not clearly record resolutions passed by the Council.

Recommendation 1: We recommend that the Council adopts and applies clear standards for the minuting of meetings, including in particular:

- resolutions for exclusion of the public; and
- recording resolutions adopted when the public are excluded.

Transparency and accountability

Transparency is an underlying principle of local government. There is no statutory requirement to publish agendas and agenda papers on the Council's website and the Council has not published agenda papers, although it now publishes agendas. In our view, consistent with the principles of transparency and accountability, there would be advantages in publishing agenda papers.

Recommendation 2: We recommend that the Council routinely publishes agenda papers on its website.

Freedom of Information Act 2000

The Council is required by the Freedom of Information Act 2000 to adopt and maintain a Publication Scheme that specifies the information that it publishes or intends to publish and the manner in which it is, or is intended to be, published.

The Council has adopted such a Scheme; however, it faced difficulties in loading information on its website and is not in a position to confirm that all information that it stated would be published on its website has been so published.

Recommendations 3 and 4: We recommend that the Council:

- undertakes a systematic review to confirm that information that it specified in its Publication Scheme would be available on its website is so available; and
- repeats this exercise annually.

Determination of Council Tax precept

The Council has a power to issue a 'precept' request to Blaby District Council. The effect of the precept is to include an element within the Council Tax for properties within the Council's area to fund the Council's activities.

Local government finances are conducted on an annual basis with a conscious decision required either to plan for an increase in or use of reserves. This is reflected in section 49A of the Local Government Finance Act 1992, which specifies the calculations that the Council must perform in order to determine the precept. Essentially, in setting its precept, the Council is required to calculate:

- its estimated expenditure for the next year plus an allowance for contingencies;
- the reserves which it is appropriate to raise for meeting estimated future expenditure;
- its estimated non-precept income for the year; and
- the reserves held which it is prudent to use in the year.

In determining its precept for 2020/21, the Council has not performed these calculations. Whilst it has estimated expenditure and other income, it has not made determination of the reserves that it would be appropriate to raise or prudent to use, having regard to the estimated level of reserves at the end of the financial year. The items specified in legislation are not set out in the relevant agenda papers or minutes.

Recommendations 5 and 6: We recommend that in future the Council:

- in determining its annual precept, consciously considers its level of reserves; and
- in the agenda papers and minutes, sets out the specific items to support the determination of the precept specified in applicable legislation.

Consultation on planning applications

Although the Council does not determine planning applications, it may make observations on planning applications to Blaby District Council. Planning applications are often subject to differing views and are sometimes contentious.

In consequence, it is important that the Council can demonstrate that it has systematically considered planning applications on which it has been consulted and that, where it has expressed a view on an application, this has been communicated to Blaby District Council. The Council does not currently have a systematic mechanism in place for doing so.

Recommendation 7: We recommend that the Council establishes a register in which it records:

- each planning application on which it is consulted;
- the date of the Council's consideration of each planning application;
- the view that the Council took; and
- the date of communication of the view to Blaby District Council.

Overall view

In conclusion, it is our view that we have seen evidence that there are multiple governance issues that suggest that there are deficiencies in the Council's overall governance arrangements.

Recommendation 8: We recommend that the Council engages with the Leicestershire and Rutland Association of Local Councils (LRALC) with a view to arranging for LRALC to carry out a comprehensive review of the Council's internal control, governance and accountability arrangements.

Next steps

The Act requires the authority to consider this public interest report at a public meeting within one month of the date of this letter. The requirements of Schedule 7 are attached, and the authority should ensure that it complies with all requirements regarding publicity of the report, consideration at a meeting and publicity of decisions taken at that meeting. The Council must:

- in accordance with paragraph 4(2) of Schedule 7 of the Act, as soon as practicable publish the report;
- in accordance with paragraphs 4(2) and 4(7) of Schedule 7 of the Act, publish on its website a notice identifying the subject matter of the report and stating that any member of the public may inspect the report and make a copy of it or any part of it between the times and at the place or places specified in the notice;
- in accordance with paragraph 4(3) of Schedule 7 of the Act, as soon as practicable after receiving the report, supply a copy to each of its members;
- in accordance with paragraph 4(5) of Schedule 7 of the Act, ensure that any member of the public may inspect the report without payment, make a copy of the report, or any part of it, and be supplied with a copy of the report, or any part of it, on payment of a reasonable fee;
- in accordance with paragraph 5(5) of Schedule 7 of the Act, consider the report at a meeting held before the end of a period of one month beginning today;

- in accordance with paragraph 5(6) of Schedule 7 of the Act, at that meeting to consider whether the report requires the Council to take any action and, if so, what action;
- in accordance with paragraphs 8(1) to 8(4) of Schedule 7 of the Act, give notice on its website of the meeting at which it is to consider the report before the beginning of the period of eight days ending with the day of the meeting;
- in accordance with paragraph 10 of Schedule 7 of the Act, as soon as practicable after the meeting notify us of the decisions made by the Council and publish on its website a notice that we have approved containing a summary of the decisions made by the Council.

This report gives rise to additional fees payable by the Council, for the additional work involved in reviewing the representations received, the information provided to us by the Council and in the production of this report.

We have a duty to send a copy of this report to the Secretary of State and the power to send a copy to anybody we think appropriate. We are therefore sending a copy to:

- Secretary of State – Department of Levelling Up, Housing and Communities (DLUHC)
- National Audit Office
- Smaller Authorities' Audit Appointments Ltd
- Monitoring Officer of Blaby DC
- LRALC
- Grant Thornton UK LLP

Yours faithfully



PKF Littlejohn LLP

cc Secretary of State – DLUHC, National Audit Office, Smaller Authorities' Audit Appointments Ltd, Monitoring Officer of Blaby DC, LRALC, Grant Thornton UK LLP

Extracts of Schedule 7 of the Local Audit and Accountability Act 2014:*Public interest reports*

1 (1) A local auditor of the accounts of a relevant authority must consider whether, in the public interest, the auditor should make a report on any matter coming to the auditor's notice during the audit and relating to the

authority or an entity connected with the authority, so it can be considered in accordance with this Schedule or brought to the public's attention.

(2) A report under sub-paragraph (1) is referred to in this Act as a public interest report.

(3) A public interest report may be made during or after the end of an audit.

(4) A local auditor must notify a relevant authority's auditor panel (if it has one) as soon as is reasonably practicable after making a public interest report relating to the authority or an entity connected with it.

(5) A local auditor may recover from a relevant authority—

(a) the reasonable costs of determining whether to make a public interest report relating to the authority or an entity connected with it, and

(b) the reasonable costs of making a public interest report relating to the authority or an entity connected with it.

(6) Sub-paragraph (5)(a) applies regardless of whether the report is in fact made.

Supply of public interest reports

3 (1) If a local auditor makes a public interest report arising out of the audit of the accounts of a relevant authority, the auditor must send the report to—

(a) the authority, and

(b) where the report relates to an entity connected with the authority, to that entity and to any other relevant authority with which the entity is connected.

(2) The local auditor must also send the report—

(a) to the Secretary of State,

(b) where the relevant authority is itself a connected entity, to its related authority or authorities,

...

(3) A report required to be sent under sub-paragraph (1) or (2) must be sent as soon as is reasonably practicable after it is made.

...

(5) If paragraph 5 applies to a relevant authority to which a report is sent under this paragraph, it must, if required by that paragraph to do so, take the report into consideration in accordance with that paragraph.

...

Publicity for public interest reports

4 (1) This paragraph applies to a relevant authority if a local auditor has made a public interest report relating to the authority or an entity connected with it.

(2) As soon as is practicable after receiving the report, the relevant authority must publish the report and a notice that—

(a) identifies the subject matter of the report, and

(b) unless the authority is a health service body, states that any member of the public may inspect the report and make a copy of it or any part of it between the times and at the place or places specified in the notice.

(3) As soon as is practicable after receiving the report, the relevant authority must supply a copy of the report to—

(a) each of its members (if it has members), and

(b) its auditor panel (if it has one).

(4) Sub-paragraph (3)(a) does not apply in relation to a parish meeting.

(5) From the time when the report is received, the relevant authority, unless it is a health service body, must ensure that any member of the public may—

(a) inspect the report at all reasonable times without payment,

- (b) make a copy of it, or any part of it, and
- (c) be supplied with a copy of it, or any part of it, on payment of a reasonable sum.
- (6) The local auditor may—
 - (a) notify any person the auditor thinks fit of the fact that the auditor has made the report, and
 - (b) supply a copy of it or any part of it to any person the auditor thinks fit.
- (7) A notice or report required to be published under this paragraph must be published—
 - (a) if the authority has a website, on its website;
 - (b) otherwise, in accordance with sub-paragraph (8).
- (8) A relevant authority publishes a notice or report in accordance with this subparagraph if—
 - (a) in the case of an authority other than a health service body, it publishes the notice or report in such manner as it thinks is likely to bring the notice or report to the attention of persons who live in its area;
- ...
- (9) Nothing in this paragraph affects the operation of paragraph 9.

Consideration of report or recommendation

- 5 (1) Subject to sub-paragraphs (2) and (4), this paragraph applies to a relevant authority if—
- (a) a local auditor has made a public interest report relating to the authority or an entity connected with it, or
 - (b) a local auditor has made a recommendation relating to the authority or an entity connected with it.
- ...
- (5) The relevant authority must consider the report or recommendation at a meeting held before the end of the period of one month beginning with the day on which it was sent to the authority.
- (6) At that meeting the relevant authority must decide—
- (a) whether the report requires the authority to take any action or whether the recommendation is to be accepted, and
 - (b) what, if any, action to take in response to the report or recommendation.
- ...
- (8) If the local auditor is satisfied that it is reasonable to allow more time for the relevant authority to comply with sub-paragraph (5) or (7), the auditor may extend or further extend the period of one month mentioned in that subparagraph.
- (9) This paragraph does not affect any duties (so far as they relate to the subject matter of a report or recommendation sent to a relevant authority) which are imposed by or under—
- (a) this Act,
 - (b) sections 114 to 116 of the Local Government Finance Act 1988 (functions and reports of finance officers),
 - (c) section 5 of the Local Government and Housing Act 1989 (functions of monitoring officers), or
 - (d) any other enactment.
- (10) The Secretary of State may by regulations provide for this paragraph to apply with modifications in relation to a relevant authority specified, or of a description specified, in the regulations.
- (11) The Secretary of State may by regulations provide for any provisions of the following that do not otherwise apply to a meeting of a relevant authority under this paragraph to apply (with or without modifications) to such a meeting—
- (a) the Public Bodies (Admission to Meetings) Act 1960;
 - (b) Part 5A of the Local Government Act 1972 (access to meetings and documents);
 - (c) Schedule 12 to that Act (meetings and proceedings of local authorities).
- ...

Bar on delegation of functions relating to meetings

- 7 ... (2) If a relevant authority is a local authority within the meaning of section 101 of the Local Government Act 1972 (arrangements for discharge of functions), that section does not apply to its functions under paragraph 5.
- (3) The functions of a parish meeting under paragraph 5 are to be exercised by the parish meeting itself (and not by its chairman on behalf of the parish meeting).

...

Publicity for meetings

8 (1) If a relevant authority is required to hold a meeting under paragraph 5, it must publish a notice in compliance with sub-paragraphs (2) to (4).

(2) The notice must be published—

(a) if the relevant authority has a website, on its website;

(b) otherwise, in such manner as the authority thinks is likely to bring the notice to the attention of persons who live in its area.

(3) The notice must—

(a) state the time and place of the meeting,

(b) indicate that the meeting is to be held to consider a local auditor's report or recommendation (as the case may be),

(c) if the meeting is to be held to consider a report, describe the subject matter of the report, and

(d) if the meeting is to be held to consider a recommendation, set out the recommendation or, where this is not reasonably practicable, describe its subject matter.

(4) The notice must be published before the beginning of the period of 8 days ending with the day of the meeting.

(5) The agenda supplied to the members of the relevant authority for the meeting must be accompanied by a copy of the report or recommendation (as the case may be).

(6) Sub-paragraph (5) does not apply in relation to a parish meeting.

...

(9) This paragraph applies in addition to any provision made in relation to the relevant authority in question by or under the Public Bodies (Admission to Meetings) Act 1960, the Local Government Act 1972 or any other enactment.

Access to meetings and documents

9 (1) Where a public interest report or a recommendation is to be considered under paragraph 5 by a relevant authority to which the Public Bodies (Admission to Meetings) Act 1960 applies, the report or recommendation is not to be excluded from the matter supplied under section 1(4)(b) of that Act (supply of agenda etc to newspapers).

...

(3) Sub-paragraphs (4) to (6) apply in relation to the consideration under paragraph 5 or 6 of a public interest report or a recommendation by a relevant authority to which Part 5A (access to meetings and documents) of

the Local Government Act 1972 applies.

(4) Information contained in the report or recommendation is not to be treated as exempt information for the purposes of that Part.

(5) The report or recommendation is not to be excluded—

(a) from the documents open to inspection under section 100B(1) of that Act (public access to agenda and reports before meetings), or

(b) from the matter supplied under section 100B(7) of that Act (supply of agenda etc to newspapers).

(6) Part 5A of the Local Government Act 1972 has effect in relation to the report or recommendation as if section 100C(1)(d) of that Act (public access to copies of reports for six years after meeting) were not limited to so much of the report or recommendation as relates to an item during which the meeting was open to the public.

(7) Information contained in a public interest report or a recommendation is not to be treated as exempt information for the purposes of any Act or instrument made under an Act that applies in relation to exempt information within the meaning of Part 5A of the Local Government Act 1972.

(8) References in this paragraph to a public interest report or a recommendation include any report on the report or recommendation.

Publicity for decisions under paragraph 5 or 6

10 (1) As soon as is practicable after making decisions under paragraph 5(6) or (7) or 6(6), a relevant authority must—

(a) notify the authority's local auditor of those decisions, and

(b) publish a notice containing a summary of those decisions which has been approved by the auditor.

(2) The notice under sub-paragraph (1)(b) must be published—

(a) if the relevant authority has a website, on its website;

(b) otherwise, in such manner as the authority thinks is likely to bring the notice to the attention of persons who live in its area.

(3) The notice required by sub-paragraph (1)(b) in relation to a meeting need not summarise any decision made while the public were excluded from the meeting—

(a) as the result of a resolution under section 1(2) of the Public Bodies (Admission to Meetings) Act 1960 (protection of public interest),

(b) under section 100A(2) of the Local Government Act 1972 (confidential matters), or

(c) as the result of a resolution under section 100A(4) of that Act (exempt information).

(4) If sections 100C and 100D of the Local Government Act 1972 (availability for inspection after meetings of minutes etc) apply in relation to a meeting under paragraph 5 or 6, the notice required by sub-paragraph (1)(b) must indicate the documents in relation to the meeting that are open for inspection in accordance with those paragraphs.

(5) This paragraph applies in addition to any provision made in relation to the relevant authority by or under the Public Bodies (Admission to Meetings) Act 1960, the Local Government Act 1972 or any other enactment.