

The Members of Kirby Muxloe Parish Council

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## **KIRBY MUXLOE PARISH COUNCIL: Public interest report in relation to the Annual Governance and Accountability Returns (AGARs) for the years ended 31 March 2016, 2017, 2018, 2019, 2020, 2021 and 2022**

Dear Members

We are the auditors appointed to carry out a limited assurance review of the AGARs of Kirby Muxloe Parish Council (the Council) for the years ended 31 March 2016, 2017, 2018, 2019, 2020, 2021 and 2022. In exercise of our power under Paragraph 1 of Schedule 7 of the Local Audit and Accountability Act 2014 (the 2014 Act), we have decided to issue this Public Interest Report so that matters may be considered by the Council and brought to the attention of the public.

### ***Background***

The Council has been the subject of previous Public Interest Reports issued on 1 May 2013, 7 August 2015, 25 March 2022 and 5 June 2024 on various matters related to its governance.

Under section 27 of the 2014 Act, local government electors have the right to object to the Council's accounts asking that we exercise our formal powers, including the power to issue a Public Interest Report. A local government elector exercised their right to object on multiple grounds to the Council's AGARs for the years ended 31 March 2016, 2017, 2018, 2019, 2020, 2021 and 2022. We decided to consider some of those objections and made enquiries of the Council to assist us in deciding those objections.

In some instances we have been unable to substantiate or rebut the assertions made by the objector because the Council:

- provided information but did not show how it relates to our specific requests for information; or
- answered fully our requests for clarification.

As a result of our consideration of the objections we have decided to issue this report. It details the matters that we believe that should be considered by the Council and makes recommendations under the following headings:

- Management of Council meetings;
- Financial management;
- Other aspects of corporate governance;
- Provision of information to members of the public;
- Appointment of a consultant;
- Consideration of audit findings;
- Councillor training; and
- Engagement with objectors.

### **Management of Council meetings**

The business of the Council is conducted through meetings of the Council and its Committees. Appropriate preparation for, management of and recording of the outcome of those meetings are cornerstones of good governance.

We found that:

- the Council could not demonstrate that decisions related to matters of which there was notice, as required by the Council's Standing Orders;
- the Council had not consistently published minutes on its website in a timely fashion. Although there is no statutory duty to do so, in our view website publication promotes transparency and demonstrates compliance with the Information Commissioner's model publication scheme;
- minutes do not consistently include reasons supporting decisions. Where grounds to support a decision are not included in agenda papers but reported at a meeting, in our view, transparency is advanced by including such grounds in the minutes;
- taken together the Council's minutes and agenda papers do not consistently record sufficient information to allow it to demonstrate that it has only excluded the press and public from meetings when it has a statutory power to do so;
- the Council has not demonstrated that it complied with public procurement legislation, specifically in relation to the application of the aggregation principle; and
- the Council cannot demonstrate that it is consistently considering and making representations to the planning authority in respect of planning applications received.

### **We recommend that the Council:**

- **ensures that decisions relate only to matters of which notice has been given;**
- **publishes minutes on its website on a timely basis;**

- **includes in minutes details of grounds in support of decisions advanced orally at meetings;**
- **include in minutes sufficient information to support the grounds for exclusion of the press and public, where such information is not available from the agenda papers;**
- **puts in place structured arrangements so that it can evidence compliance with applicable public procurement legislation; and**
- **puts in place structured arrangements so that it can evidence its consideration of planning applications and support the representations it makes to the planning authority.**

### **Financial management**

The Council is responsible for the management of funds raised by taxation. The operation of effective systems of financial management is necessary for it to demonstrate its stewardship of public funds.

We found that:

- the Council did not explicitly demonstrate compliance with applicable legislation when setting its annual precept. In particular, we found no documented consideration of the adequacy of reserves;
- the Council did not consistently record the powers on which it was relying to incur expenditure, including the general power under section 137 of the Local Government Act 1972, in respect of which it is obliged to maintain a separate account; and
- despite specific information requests that we made of the Council, the Council was unable to demonstrate the completeness of its asset register that provides a list of its fixed assets.

We recommend that the Council:

- **explicitly records the determination of the amounts required by section 49A of the Local Government Finance Act 1992 in determining its precept;**
- **records the powers on which it is relying to incur all expenditure;**
- **maintains an account of expenditure incurred under section 137 of the Local Government Act 1972; and**
- **puts in place arrangements so that it can document the completeness and accuracy of its asset register.**

### **Other aspects of corporate governance**

Good governance is not just about financial management but about other elements of the governance of the Council.

We found that:

- on occasions the Council completed its Annual Governance Statement, a public-facing statement of its own corporate governance, without sufficient enquiry. The relevant *Practitioners' Guides* issued by the Joint Panel on Accountability and Governance provide that

an authority must have sufficient evidence to support a 'Yes' assertion in the Annual Governance Statement. As a result, while the Council reported in its Annual Governance Statement that it had undertaken an annual review of internal control, there was insufficient documentary evidence to support such a review. It was therefore not possible to demonstrate the rigour of such a review;

- the Council's system of risk management is not sufficiently developed. It is a mandatory requirement of the Practitioners' Guide that risk management arrangements are considered at least annually by the full Council. Based on our work that has not consistently been the case, although we acknowledge that the Council has a risk management schedule dated 2017/18 and we have seen evidence that it was reviewed and confirmed in 2019/20. We note that, although the Council resolved at this year's annual parish council meeting to consider risk management at a later meeting, this has not yet occurred;
- although the Council periodically reviews its Standing Orders and Financial Regulations, the Council does not undertake a regular review of the extent of compliance with those Standing Orders and Financial Regulations; and
- in instances the Council did not provide answers to specific information requests that we made in connection with deciding the objections that we were considering.

**We recommend that the Council:**

- **receives and considers documentary evidence to support the completion of its Annual Governance Statement and evidences its annual review of internal control;**
- **establishes and embeds a risk management system, including a risk register detailing risks, mitigations and planned actions received and reviewed by the Council at least annually;**
- **undertakes an annual review of its compliance with its own Standing Orders and Financial Regulations; and**
- **puts in place structured arrangements to facilitate complete answers to information requests made by its external auditors.**

**Provision of information to members of the public**

The Council has statutory duties to provide information to members of the public:

- under the Freedom of Information Act 2000;
- in response to Subject Access Requests under the Data Protection Act 2018; and
- during the inspection of the Council's accounting records under section 26 of the Local Audit and Accountability Act 2014.

The Council also has a duty under Section 20 of the Freedom of Information Act 2000 to adopt and maintain a publication scheme, which is approved by the Information Commissioner's Office. Such a scheme specifies the classes of information the authority commits to publishing and how it will make that information available.

The Council has faced difficulties in discharging its statutory duties or demonstrating that it has done so:

- the Council has advised us that it has been the subject of 216 Freedom of Information requests. Since 1 April 2016, the Information Commissioner's Office has made 21 decisions in respect of complaints under the Freedom of Information Act 2000 against Kirby Muxloe Parish Council. 15 of those complaints were upheld in full or in part, including four since 1 April 2022. This suggests that the Information Commissioner's Office has upheld complaints in relation to 7% of the Freedom of Information Act requests received;
- the Council failed to comply with a Data Subject Access Request on a timely basis and as a result the Information Commissioner's Office asked the Council to take action to prevent a recurrence. We understand that the Council subsequently agreed an action plan with the Information Commissioner's Office;
- the Council has received multiple requests for access to accounting records under section 26 of the 2014 Act. We would emphasise that we have no role in adjudicating specific requests for access to such information. However, the Council has not provided us with records that demonstrate that it has consistently considered such requests over multiple years and, where appropriate, provided access to the requisite information; and
- although the Council has advised us that it now regularly reviews its website, it has not provided evidence that it is publishing on its website the information that it states in its Publication Scheme is so published.

**We recommend that the Council:**

- **reviews and as necessary updates its arrangements for meeting its statutory duties in relation to provision of information; and**
- **maintains the records necessary for it to demonstrate that it has done so.**

### **Appointment of a consultant**

Clear, transparent arrangements for recruitment and procurement instil trust in public bodies.

We note that the Council:

- engaged an individual to serve as temporary Clerk and subsequently as a consultant to provide services relating to Freedom of Information Act requests, data protection and related matters;
- did so without any competitive recruitment or procurement process. We recognise that the Council identified an issue that in its view required an urgent solution. However, such urgency does not detract from the value of a competitive recruitment or procurement basis once the initial urgency has passed; and
- did not explicitly delegate functions to the appointee.

We would emphasise that the focus of our enquiries is the actions of the Council rather than the consultant. We have made no enquiries in that regard.

**We recommend that the Council:**

- **clearly documents the reasons for not adopting competitive appointment or procurement processes;**
- **considers competitive recruitment or procurement processes following any period when such processes are considered inappropriate on grounds of urgency; and**
- **explicitly documents any delegation, having satisfied itself that it has a power of delegation.**

**Consideration of audit findings**

Key elements of good governance include:

- prompt consideration of reports and recommendations from the Council's external auditor;
- agreeing actions in response to such reports and recommendations; and
- monitoring implementation of agreed actions.

From our review of the documents provided by the Council, we could not identify a structured approach to consideration of external audit reports and recommendations, in particular those contained in the public interest reports referred to above, agreeing actions and monitoring implementation of agreed actions.

We note that the Council did consider the Public Interest Report that we issued on 25 March 2022 and, in respect of a recommendation contained within it, resolved to engage with the Leicestershire and Rutland Association of Local Councils regarding a comprehensive review of the Council's internal control, governance and accountability arrangements. The Council has advised us that it has been in contact with the Leicestershire and Rutland Association of Local Councils in this regard but our understanding is that no review has yet been undertaken.

**We recommend that the Council:**

- **adopts a structured approach to the consideration of audit findings, including:**
  - **preparation of an action plan, with assigned actions, responsibilities and dates; and**
  - **regular monitoring of progress against the action plan; and**
- **commissions a comprehensive review of the Council's internal control, governance and accountability arrangements.**

**Councillor training**

Councillors have significant responsibilities. They operate in a complex statutory environment. Appropriate training to discharge their responsibilities is therefore appropriate.

There is an enhanced need for such training in the circumstances of the Council, including:

- its role as a charity trustee;
- ongoing engagement with the Information Commissioner's Office; and

- ongoing objections to the Council's AGARs.

The Council has not developed an approach to training its members that is proportionate to its needs.

**We recommend that the Council:**

- **develops a training programme, based on an assessment of the circumstances of the Council as a whole and the needs of individual councillors, possibly with the assistance of the Leicestershire and Rutland Association of Local Councils; and**
- **regularly reviews the training needs of the Council.**

#### **Engagement with objectors**

We recognise that the exercise of public rights to object to local authority accounts has the potential to lead to tension between an objector and a local authority. Clear, transparent arrangements for dealing with objectors reduce that risk.

**We recommend that the Council adopts and publishes a communications strategy that includes its arrangements for engagement with objectors.**

#### ***Consideration of this report***

Under Schedule 7 of the 2014 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.

Under Paragraph 3(1) of Schedule 7 of the 2014 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:

- the Secretary of State for Housing, Communities and Local Government;
- the Monitoring Officer for Blaby District Council;
- the Chief Executive of the Leicestershire and Rutland Association of Local Councils;
- the Council's current appointed external auditors, Moore UK;
- Public Sector Audit Appointments;
- Smaller Authorities' Audit Appointments Ltd; and
- the objector to the Council's AGAR for the years ended 31 March 2016, 2017, 2018, 2019, 2020, 2021 and 2022.

Kind regards

A handwritten signature in black ink that reads "PKF Littlejohn LLP". The "PKF" is on the left, "Littlejohn" is in the middle, and "LLP" is on the right, all in a cursive style.

For and on behalf of PKF Littlejohn LLP