

## Final External Auditor Report and Certificate 2020/21 in respect of Groby Parish Council LE0106

Page 1 of 4

### Respective responsibilities of the body and the auditor

Our responsibility as auditors to complete a **limited assurance review** is set out by the National Audit Office (NAO). A limited assurance review is **not a full statutory audit**, it does not constitute an audit carried out in accordance with International Standards on Auditing (UK & Ireland) and hence it **does not** provide the same level of assurance that such an audit would. The UK Government has determined that a lower level of assurance than that provided by a full statutory audit is appropriate for those local public bodies with the lowest levels of spending.

Under a limited assurance review, the auditor is responsible for reviewing Sections 1 and 2 of the Annual Governance and Accountability Return in accordance with NAO Auditor Guidance Note 02 (AGN 02) as issued by the NAO on behalf of the Comptroller and Auditor General. AGN 02 is available from the NAO website – <https://www.nao.org.uk/code-audit-practice/guidance-and-information-for-auditors/>.

This authority is responsible for ensuring that its financial management is adequate and effective and that it has a sound system of internal control. The authority prepares an Annual Governance and Accountability Return in accordance with Proper Practices which:

- summarises the accounting records for the year ended 31 March 2021; and
- confirms and provides assurance on those matters that are relevant to our duties and responsibilities as external auditors.

### External auditor report 2020/21

On 26 September 2021, we issued a report detailing the results of our limited assurance review of Sections 1 and 2 of this authority's Annual Governance & Accountability Return for the year ended 31 March 2021. We explained that we were unable to certify completion of the review at that time. We are now in a position to certify completion of the review.

The external auditor report given in Section 3 of the Annual Governance & Accountability Return requires amendments as follows:

Except for the matters reported below, on the basis of our review of Sections 1 and 2 of the Annual Governance and Accountability Return (AGAR), in our opinion the information in Sections 1 and 2 of the AGAR is in accordance with Proper Practices and no other matters have come to our attention giving cause for concern that relevant legislation and regulatory requirements have not been met.

### Public Interest Report issued April 2023

Local government electors for the Council's area made objections to the Council's accounts for the year ended 31 March 2021 and raised certain other matters with us in relation to the years ended 31 March 2020, 2021 and 2022. We identified those such matters that warranted further enquiries on our part and considered them before completing our work. The authority will receive an invoice in relation to this additional work.

As a result of our consideration of the objections and the other matters, we identified weaknesses in the arrangements in place for the governance of the Council in relation to some of the matters raised with us. We determined that, taken together, those matters were of sufficient significance to warrant us making a public interest report so that the matters can be considered by the Council and brought to the public's attention; and the making of a public interest report was a proportionate response and in the public interest. Where relevant to the 2020/21 AGAR, we have included those matters in this report as well. Our resulting recommendations are being actioned by the Council during 2023/24

Tel: +44 (0)20 7516 2200 • [www.pkf-l.com](http://www.pkf-l.com)

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

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.

## Final External Auditor Report and Certificate 2020/21 in respect of Groby Parish Council LE0106

Page 2 of 4

### Publication of minutes and details of decisions made under delegated authority

Local authorities are publicly accountable for their decisions. The Council has a duty to publish:

- minutes of the meetings of the Council and its Committees (in accordance with the Model Publication Scheme); and
- details of decisions made by officers under delegated authority (in accordance with Regulation 8 of the Openness of Local Government Bodies Regulations 2014).

We are concerned that:

- from 2016 to 2022, the Council did not publish minutes of its committees with no delegated authority; and
- the Council did not publish details of decisions made by its Clerk under delegated authority in 2020, despite explicit delegation to the Clerk in March 2020 at the outset of the Covid-19 emergency.

We recommend that the Council ensures that it complies fully with its obligations on publication of minutes and details of decisions taken under delegated authority.

### Consideration of the Annual Governance and Accountability Return

Annually the Council is required to consider and approve an AGAR that is subsequently published. The AGAR is a key means by which the Council demonstrates its accountability for public funds and deserves appropriate scrutiny prior to approval. The Council's Standing Orders require the circulation of the draft AGAR at least 14 days before the meeting at which it is to be considered. The Council's AGAR for the year ended 31 March 2020 was considered at the meeting of the Council on 27 August 2020. However, the draft AGAR was only circulated to members of the Council three days prior to the meeting, rather than the required 14 days.

We are concerned that the Council proceeded to approve the AGAR in any event rather than defer approval of the AGAR to a subsequent meeting.

We recommend that the Council ensures that it consistently complies with the specified period for circulation of the draft AGAR to members before approval of the AGAR.

### Appointment of officers

Section 112 of the Local Government Act 1972 empowers the Council to appoint officers for the discharge of its functions. These officers include the Council's Clerk and Responsible Finance Officer (RFO).

Section 101 of the Local Government Act 1972 empowers the Council to delegate its functions to a Committee or an officer but not to an individual member or members of the Council.

We are concerned that the Council did not properly appoint officers of the Council:

- the Council purported to appoint a Data Protection Officer at an informal meeting attended by the Council's Clerk and certain members held on 17 June 2020. However, this meeting was not a properly constituted meeting of the Council or of a Committee acting under delegated authority nor was there any written decision of the Clerk acting under delegated authority. No action was subsequently taken for the Council to approve the appointment retrospectively;
- the Council purported to appoint the Data Protection Officer as Acting Clerk/RFO. We are advised that the decision was taken by two councillors acting other than through a Council or a Committee meeting. This decision was not taken by the Council or a Committee acting under delegated authority. No action was subsequently taken for the Council to approve the appointment retrospectively;
- the Council purported to appoint a Clerk/RFO from 24 August 2020. However, this appears to have been based on a decision made by individual members acting other than through a Council or a Committee meeting. This decision was not taken by the Council or a Committee acting under delegated authority. The Council subsequently ratified the temporary appointment at its meeting on 14 September 2020.

## Final External Auditor Report and Certificate 2020/21 in respect of Groby Parish Council LE0106

Page 3 of 4

We recognise the exceptional circumstances of Covid-19 and the Council's urgent need to address the issues it was facing; however:

- we are concerned that the Council failed to avail itself of the option for members to attend meetings virtually. The Council highlighted concerns about the security of its chosen video conferencing platform. Given the availability of multiple video conferencing platforms, we do not find this a convincing explanation; and
- we are concerned about the failure to regularise appointments on a timely basis.

We recommend that the Council ensures that:

- all decisions are made by the Council, a Committee acting with delegated authority or an officer acting with delegated authority; and
- in the event of identification of failure to secure the required authority of the Council, a Committee or an officer, prompt retrospective approval is sought.

### Entering into compromise agreements with former employees

The Council has a power to enter into agreements with third parties to settle any actual or potential claims against it. Prior to 2019, the Council identified overpayments to former members of staff and in January 2019 instructed solicitors to seek recovery from them. In February 2019, the Council received legal advice casting doubt on the success of any action to seek recovery. In March 2020, the Council's solicitors sent letters to two former members of staff seeking recovery.

The two former members of staff alleged that the Council had breached a statutory requirement and indicated that they intended to take legal action against the Council. In June 2020, the Council agreed to enter into compromise agreements with the two former members of staff as a result of which neither the Council nor the two former members of staff would pursue the claims. In our view, the overpayments being sought by the Council were relatively small in the context of the uncertainty surrounding recovery and the potential legal costs that the Council might incur in seeking recovery and resisting any claim by the two former employees. In our view, the decision to compromise the claims against the Council by agreeing not to seek recovery was capable of being a lawful decision.

We are, however, concerned by the decision making process:

- there is no evidence that the Council considered the legal advice from February 2019 prior to the dispatch of letters by its solicitors to the two former employees;
- the Council did not obtain legal advice before deciding to enter into compromise agreements;
- there is no recorded decision of the Council or the Council's Clerk acting under delegated authority to authorise entering into the agreements;
- given the availability of alternative video conferencing platforms for meetings of the Council, the Council's expressed concerns about the security of its chosen video conferencing platform are not a convincing reason for not convening a Council meeting to consider the proposed compromise with the two former members of staff; and
- subsequently there was insufficient urgency in convening a meeting to approve the compromise of the claims by the two former members of staff.

We recommend that the Council ensures that it follows appropriate processes for considering any compromise agreements including:

- seeking, considering and acting on appropriate legal advice; and
- ensuring appropriate decisions by the Council, a Committee with delegated authority or an officer with delegated authority.

**Final External Auditor Report and Certificate 2020/21 in respect of  
Groby Parish Council LE0106**

Page 4 of 4

Other matters not affecting our opinion which we draw to the attention of the authority:

**Groby Community Interest Company (Groby CIC)**

In 2013, a community interest company, Groby CIC, was established to manage land acquired by the Council. The Council agreed to transfer the title to the land to Groby CIC and to retain a shareholding in the company.

We are concerned that:

- the transfer of the title to the land agreed by the Council and Groby CIC has yet to take place. This exposes the Council to the risk of claims in respect of the land; and
- the record keeping in respect of the Council's interest in Groby CIC has been weak.

We recommend that the Council:

- expedite the transfer of the legal title to the land to Groby CIC; and
- ensure that it maintains accurate records of its interest in Groby CIC.

**External auditor certificate 2020/21**

We certify that we have completed our review of Sections 1 and 2 of the Annual Governance & Accountability Return, and discharged our responsibilities under the Local Audit and Accountability Act 2014, for the year ended 31 March 2021.



**PKF Littlejohn LLP**

**10/05/2023**