

# Public Interest Report

Yaxham Parish Council

December 2017



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# Summary

## Introduction

Public Sector Audit Appointments Limited (PSAA) appointed Mazars LLP as the external auditors of Yaxham Parish Council (the Council) for 2016/17. As appointed auditors, we have a duty to consider whether to issue a report in the public interest when a matter comes to our attention which we believe the Council should consider or the public should know about.

This report constitutes a public interest report under Schedule 7 of the Local Audit and Accountability Act 2014 (the Act). The Act requires the Council to consider this public interest report at a public meeting within one month of the date of this report. The full requirements of Schedule 7 are included as the annex to this report, and the Council should ensure that it complies with all requirements.

## Background

On 3 August 2017 the Council terminated the contract of its Responsible Financial Officer (RFO) and launched an internal investigation.

The Council's internal investigation found that during 2016/17 the former RFO was reimbursed £60 for an internal audit that she had arranged in 2015/16 but the Council suspected that the invoice and the internal audit report that the former RFO provided to support the reimbursement were forged. On 29 August 2017 the Council called in Norfolk Constabulary to investigate this and several other concerns regarding the Council's finances.

We co-operated fully with Norfolk Constabulary and the Council who jointly investigated a possible fraud by the former RFO. For this reason we were unable to issue a certificate of closure for the 2016/17 audit and

consequently the Council were unable to comply with the statutory requirement to publish an audited annual return by 30 September 2017. On 21 October 2017 the former RFO admitted to forging the invoice from the 2015/16 internal auditor and the associated internal audit report. There was no evidence of any other fraud.

## Reasons for this report

The Council is responsible for the use of public funds raised by compulsory taxes. It is accountable to electors as taxpayers and users of council services for how it uses these funds. This accountability is secured primarily by the preparation of an annual return which:

- summarises its financial position;
- provides assertions in respect of governance and internal controls to protect public funds; and
- includes a report by an internal auditor who has examined records and tested internal controls.

We have issued this report because we believe it is in the public interest to know that an officer responsible for preparing an annual return has committed fraud. Although the value of the fraud was small, one of the Council's key sources of assurance had been compromised through the deliberate forging of an internal audit report.

# Findings and recommendations

## 1. Internal Audit

Parish councils are required by Regulation 5(1) of the Accounts and Audit Regulations 2015 to *'undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.'*

Internal auditing is an independent, objective assurance activity designed to improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes. The purpose of internal audit is to review and report to the Authority on whether its systems of financial and other internal controls over its activities and operating procedures are effective.

The internal audit function must be independent from the management of the financial controls and procedures of the Authority, which are the subject of review. Accordingly, the Council should formally approve the appointment of the internal auditor and not rely on an RFO to make the appointment. However, in September 2016 rather than finding someone with internal audit experience to recommend to the Council the former RFO asked around friends and relatives before ultimately signing the internal audit report herself using a false name.

In 2016/17 the former RFO again appointed an internal auditor without seeking council approval. Although in this case the internal auditor has confirmed that she undertook the internal audit and the signature on the 2016/17 internal audit report is genuine, the internal auditor's independence was compromised by undertaking the work at the former RFO's request, without any Council approval or written terms of engagement.

## 2. Internal control

An adequate system of internal control is essential to prevent and detect fraud and error. The Accounts and Audit Regulations 2015 require parish councils to conduct an annual review of the effectiveness of the system of internal control and prepare an annual governance statement and in common with many others the Council relied on reporting by the Internal Auditor to conduct this review. In the previous section we have noted how internal audit was compromised thus reducing this assurance.

In September 2016 a cheque was signed based on a false invoice from an internal auditor who did not exist and the former RFO's assertion that she had paid this invoice and needed reimbursement from the Council. The Council's financial regulations permit an RFO to pay for services on their personal debit or credit card and reclaim the amount paid from the Council. However, standard practice is that this only happens for small, emergency purchases such as postage and stationery and the fact that it had been used for an internal auditor the Council had not appointed should have prompted challenge when the invoice was presented for payment.

Moreover, council minutes in September 2016 did not provide clear evidence that the 2015/16 annual return was approved and we were unable to find minutes referring to either the 2015/16 or 2016/17 internal audit reports or the 2015/16 external audit report. Councillors were unaware that our 2015/16 opinion had been qualified. The 2015/16 annual return was approved in September 2016 but the minutes of the meeting do not refer to the annual return at all and the RFO was not present at the meeting or at the meeting in November 2016 to explain the qualification in our audit report dated 31 October 2016 and the remedial action planned. The 2016/17 annual return was approved in June 2017 but minutes did not refer to the internal audit report contained within.

After the 2016/17 annual return was approved in June 2017 the Council also alleges that the former RFO changed an answer to the Annual Governance Statement before submitting the annual return to us for audit. The former RFO maintains that the amendment reflects the Council's assertion at the meeting and she was merely correcting her initial error in ticking the wrong box. The Annual Governance Statement is intended to represent the Council's conclusion from its annual review of internal control and not the views of an employee so if the answer had been changed rather than simply corrected the Annual Governance Statement

should have been re-approved. The dispute over the Council's assertion at the meeting illustrates the need for fuller minute taking.

### **3. Summary and conclusions**

Corporate governance underpins how parish councils operate. Without strong corporate governance arrangements fraud and error can go undetected and also the Council will be unable to ensure that they effectively direct and control the provision of services to residents. Public bodies and their management share responsibility for discharging their responsibilities for governance, accountability and transparency.

The Council acted swiftly and decisively once it became aware of the issues that led to the former RFO's dismissal. On 1 November 2017 experienced and independent officers were appointed to the roles of RFO, clerk and internal auditor. The Council also carried out a thorough review in August 2017 and called in Norfolk Constabulary to ensure that losses were restricted to the internal audit payment.

However, during 2016/17 there was a lack of challenge and oversight that allowed the issues in this report to go undetected. In particular, the Council should have:

- formally appointed the internal auditors, agreeing a letter of engagement, after being assured of their independence and experience;
- required the former RFO to present internal and external audit reports to the Council so that remedial action could be agreed;
- ensured that key approvals such as the approval of the 2015/16 annual return in September 2016 were explicitly minuted;
- challenged the former RFO as to why in September 2016 she paid the internal auditor and claimed reimbursement rather than asked for the cheque to be paid directly to the internal auditor; and
- in the absence of any of the above, sought direct confirmation from the internal auditor that the service had been provided and the former RFO had paid their invoice before signing the cheque to the former RFO.

### **4. Recommendations**

As the Council have acted to address the weaknesses above we have not made any statutory recommendations under Schedule 7 of the Local Audit and Accountability Act. However, we recommend that in future the Council challenges its RFO to demonstrate that adequate internal audit has taken place, recommendations in internal and external audit reports have been acted upon and any expenses the RFO seeks to recover are appropriate. The Council should also update its financial regulations to reflect the improvements in control implemented in 2017/18.

# Annex 1: Extract of the Local Audit and Accountability Act (2014)

## SCHEDULE 7 REPORTS AND RECOMMENDATIONS

### 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.

### Written recommendations

2(1)A local auditor of the accounts of a relevant authority may make a written recommendation to the authority relating to the authority or an entity connected with it, so that the recommendation can be considered under this Schedule.

(2)A recommendation may be made during or at the end of an audit.

(3)A recommendation must be sent at the time it is made—

(a)to the Secretary of State,

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

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

(d)where the relevant authority is a clinical commissioning group, to the National Health Service Commissioning Board, and

(e)where the relevant authority is—

(i)a functional body,

(ii)an entity connected with a functional body, or

(iii)the London Pensions Fund Authority,

to the Greater London Authority.

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

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

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

(5) Sub-paragraph (4)(a) applies regardless of whether the recommendation is in fact made.

(6) In this Act “related authority”, in relation to a connected entity, means the relevant authority with which the entity is connected.

### 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,

(c) where the relevant authority is a clinical commissioning group, to the National Health Service Commissioning Board, and

(d) where the relevant authority is—

(i) a functional body,

(ii) an entity connected with a functional body, or

(iii) the London Pensions Fund Authority,

to the Greater London Authority.

(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.

(4) If a relevant authority to which a report is sent under this paragraph is a health service body, it must take the report into consideration as soon as is reasonably practicable after receiving it.

(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.

(6) If a relevant authority to which a report is sent under this paragraph is the Greater London Authority, it must, if required by that paragraph to do so, take the report into consideration in accordance with paragraph 6.

### 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 sub-paragraph 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;
  - (b) in the case of a clinical commissioning group, it publishes the notice or report in such manner as it thinks is likely to bring the notice or report to the attention of—
- (i) persons who live in the area of the group, and

- (ii) persons who do not live in the area of the group but for whom the group is responsible;
  - (c) in the case of special trustees for a hospital, they publish the notice or report in such manner as they think is likely to bring the notice to the attention of persons to whom services are provided at that hospital.
- (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.
- (2) This paragraph does not apply to a relevant authority which is itself a connected entity, subject to sub-paragraph (3).
- (3) This paragraph applies to the Mayor's Office for Policing and Crime where a local auditor has made a report or recommendation relating to the Commissioner of Police of the Metropolis regardless of whether the Office is a connected entity or was such an entity at the time to which the report or recommendation relates.
- (4) This paragraph does not apply to—
- (a) the Greater London Authority (but see paragraph 6), and
  - (b) health service bodies.



(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.

(7)Where the relevant authority is a police and crime commissioner or the Mayor's Office for Policing and Crime, the authority must, before the end of the period of one month beginning with the day on which the report or recommendation was sent to the authority, 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 sub-paragraph.

(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).

### Consideration of report or recommendation: Greater London Authority

6(1)This paragraph applies if—

(a)a local auditor has made a public interest report relating to the Greater London Authority ("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.

(2)This paragraph does not apply where a local auditor has made a report or recommendation relating to the Commissioner of Police of the Metropolis regardless of whether the Commissioner is connected with the Authority or was so connected at the time to which the report or recommendation relates.

(3)The London Assembly (“the Assembly”) must consider the report or recommendation at a meeting.

(4)The Mayor of London (“the Mayor”) must attend the meeting.

(5)At the meeting, the Assembly must decide what recommendations to make to the Mayor about the decisions to be made under sub-paragraph (6).

(6)Having considered the report or recommendation, and the Assembly’s recommendations under sub-paragraph (5), the Mayor 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.

(7)The Mayor and the Assembly must comply with sub-paragraphs (3) to (6) before the end of the period of one month beginning with the day on which the report or recommendation was sent to the Authority.

(8)If the local auditor is satisfied that it is reasonable to allow more time for the Mayor or the Assembly to comply with sub-paragraphs (3) to (6), the auditor may extend or further extend the period of one month mentioned in sub-paragraph (7).

(9)This paragraph does not affect any duties (so far as they relate to the subject-matter of a report or recommendation sent to the 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.

### Bar on delegation of functions relating to meetings

7(1)If a relevant authority is a local authority operating executive arrangements, the authority’s functions under paragraph 5 are not the responsibility of an executive of the authority under those arrangements.

(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).

(4)Any functions of the Mayor of London under paragraph 6 must be exercised by the Mayor personally.

(5)Section 54 of the Greater London Authority Act 1999 (discharge of London Assembly functions by committees etc) does not apply in relation to any function of the London Assembly under paragraph 6.

### 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.
- (7) If the London Assembly is required to hold a meeting under paragraph 6, the Greater London Authority must publish on its website a notice in compliance with sub-paragraphs (3) and (4).
- (8) The agenda supplied to the members of the London Assembly for the meeting must be accompanied by a copy of the report or recommendation (as the case may be).
- (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).

(2) Part 5A (access to meetings and documents) of the Local Government Act 1972 applies to a meeting of the London Pensions Fund Authority under paragraph 5 as if the Authority were a principal council.

(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