

Final External Auditor Report and Certificate 2022/23 in respect of Potto Parish Council NY0451

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Respective responsibilities of the auditor and the authority

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 2023; and
- confirms and provides assurance on those matters that are relevant to our duties and responsibilities as external auditors.

External auditor's limited assurance opinion 2022/23

On 26 September 2023, 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 2023. 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.

1. The AGAR was not fully or accurately completed before submission for review. Please ensure that amendments are corrected in the prior year comparatives when completing next year's AGAR:
 - a. The Council has stated that expenditure amounting to £2,160 that was not paid for before the year end has been incorrectly included in the bank reconciliation and the expenditure figures in Section 2. The Council prepares its accounts on a cash basis and cannot choose to accrue for an item of expenditure. The correct figures for Boxes 6, 7 and 8 for 2022/23 are £14,001, £10,179 and £10,179 respectively.
 - b. The Council is the custodian trustee of the Village Hall and the Village Hall Management Committee are the managing trustees. We note that the Council has responded 'N/A' to Assertion 9 of the Annual Governance Statement, which is the correct response as it is not the sole managing trustee. The Council has however left Boxes 11a and 11b of the Accounting Statements blank. It should have responded 'No' and 'N/A' respectively.
 - c. As the custodian trustee, the Council's asset register should include the Village Hall as a charity asset held by the authority as trustee at a nil value, i.e. with the value excluded from the total of the Council's assets as shown in Box 9 of the AGAR. We have reviewed the Council's asset registers as at 31 March 2022 and 31 March 2023 and found that the Village Hall was not included on either of them. The Council must ensure that the Village Hall is included in its asset register at nil value, since it is the custodian trustee. The Council's

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2022/23 AGAR shows that the Box 9 figures for 2022/23 and the prior year correctly exclude any value for the Village Hall; however, the Box 9 figure for 2022/23 incorrectly excludes an asset listed on the asset register as 'Queen Elizabeth II Memorial Project' valued at £3,500. The correct figure is £10,794.

2. The Council's annual review of its internal control arrangements is a mandatory requirement of Assertion 2. The Practitioners' Guide includes the following:

"1.1 The Accounts and Audit Regulations 2015 require smaller authorities, each financial year, to conduct a review of the effectiveness of the system of internal control and prepare an annual governance statement in accordance with proper practices in relation to accounts.

1.2 This guide represents the proper practices in relation to accounts those smaller authorities need to follow in preparing their annual governance statement.

1.3 The purpose of the annual governance statement is for an authority to report publicly on its arrangements for ensuring that its business is conducted in accordance with the law, regulations and proper practices and that public money is safeguarded and properly accounted for.

1.4 Smaller authorities prepare their annual governance statement by completing Section 1 of the Annual Governance and Accountability Return. This is in the form of a number of statements, known as assertions, to which the authority needs to answer, 'Yes' or 'No'. This guide follows the order of Section 1 of the Annual Governance and Accountability Return and sets out the actions that authorities need to have taken either during the financial year or after the financial year-end to answer 'Yes' to each assertion.

1.5 The authority needs to have appropriate evidence to support a 'Yes' answer to an assertion, for example, a reference in a set of formal minutes

1.20 Review of effectiveness — Regulation 6 of the Accounts and Audit Regulations 2015 requires the authority to conduct a financial year review of the effectiveness of the system of internal control. The review needs to inform the authority's preparation of its annual governance statement."

Since the implementation of the Accounts and Audit Regulations 2015, it has been accepted that the Council's consideration and completion of the Annual Governance Statement (AGS) each year constitutes the documentation of the annual review of the effectiveness of the system of internal control. Nevertheless, we note that the Council's consideration of the AGS was not supported by evidence, adequately documented or correctly resolved in the minutes of the meeting of 16 May 2023, where it appeared with the briefest mention. In our view, the Council should have answered 'No' to Assertion 2 as a result of this failure.

3. We note that the Council failed to properly appoint the Chair during 2022/23 and 2023/24 and should have responded 'No' to Assertion 2 each year due to the breach of its standing orders. The Council must ensure that the annual meeting is properly called and properly minuted. We note that 2022 was an election year, the annual meeting of the council was held on 18 May 2022, the agenda indicated that it was an annual meeting and the first item of business was the election of the Chair. However the minutes did not indicate that the meeting was held specifically for the purposes of Paragraph 7 of Schedule 12 of the Local Government Act 1972, i.e. that it was the annual parish council meeting. We note that 2023 was not an election year for the Council and that the agenda and minutes of the Council meeting on 16 May 2023 include the election of the Chair as the first item of business. However the agenda did not indicate that the meeting was to be held specifically for the purposes of Paragraph 7 of Schedule 12 of the Local Government Act 1972, i.e. the annual parish council meeting. The minutes were correctly titled: "MINUTES OF THE ANNUAL MEETING OF POTTO PARISH COUNCIL HELD ON TUESDAY 16 MAY 2023 AT 7.00 PM AT POTTO VILLAGE HALL".
4. We have reviewed the Council's compliance with Council procedures in respect of expenditure during the year on repairs to a sign post. Although the project was regularly the subject of discussion during 2022/23, there were no

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resolutions made by the Council in respect of the approval of such expenditure or the choice of supplier of the service. In our view, the Council should have responded 'No' to Assertion 2 since its financial regulations were not followed. The Clerk did not invite at least three tenders, and only received two verbal quotes; plus there was no minute referring to the waiving of financial regulations, i.e. FRs 9.3, 10.1(b), 10.1(c) and 10.1(d) were not complied with. The Council did not consider any tenders, since no tender process was undertaken. There is no approval of the expenditure minuted, i.e. FRs 9.1 and 9.2 were not complied with. The cheque payment of £1,988 did not match the invoice amount (£1,980), although this payment including the £8 overpayment was minuted as agreed, (approved), on 15/2/2023; i.e. FR 6.3 was not complied with.

5. It has been brought to our attention that the Council was not registered as an employer with His Majesty's Revenue & Customs (HMRC) and should therefore have responded 'No' to Assertions 2 and 3 on this year's (and prior years') AGAR and must also respond 'No' to Assertions 2 and 3 on the 2023/24 AGAR. The reasons are the breach of the Council's financial regulations (FR 7.1) since the Clerk did not keep up to date with current HMRC requirements (Assertion 2), as well as the fact that HMRC registration requirements were not complied with (Assertion 3); we understand that this issue has been rectified during 2024/25.
6. We note that the ICO issued a decision notice (IC-157306-S8Z9) on 15 August 2022 in which the Information Commissioner found that the Council had failed to conduct adequate searches for requested information. He directed a fresh response to the information requester following the conduct of further searches. The Council made an appeal on 17 August 2022 against this judgment; however, that appeal was struck out by the First-Tier Tribunal (General Regulatory Chamber - Information Rights) on 23 December 2022. We understand that the Council has yet to comply with the original decision notice and note that the Council's minutes during 2022/23 do not record the fact that the appeal was struck out. In our view, as a result of these findings, the Council should have responded 'No' to Assertion 3 on the 2022/23 AGAR; notwithstanding the fact that complaints against the Council to the ICO in 3 other cases during 2022/23 were not upheld by the Information Commissioner. We further note that in respect of the financial year 2023/24, although most cases were not upheld by the Information Commissioner, elements of one case were upheld. The Council should ensure that it considers this when responding to Assertion 3 of the 2023/24 AGAR.
7. We note that the Council has failed to publish registers of its councillors' interests on its website; this is a requirement of Section 29(7) of the Localism Act 2011. As a result the Council should have responded 'No' to Assertion 3 on the 2022/23 AGAR and must do the same on the 2023/24 AGAR.
8. We note that the Council has failed to publish our final report and certificate on the 2018/19 AGAR on its website (the link on the website leads to another document). As a result the Council should have responded 'No' to Assertion 3 on the 2022/23 AGAR and must do the same on the 2023/24 AGAR, due to the breach of the requirements of the Accounts and Audit Regulations 2015.
9. In July 2022, we issued a public interest report to the Council. We have followed up the Council's implementation of the 17 recommendations that we made and found a number of issues in respect of the implementation of 13 of the recommendations. As a result, the Council should have responded 'No' to Assertion 7 on the 2022/23 AGAR and must do the same on the 2023/24 AGAR. The issues are as follows:
 - a. **Recommendations 1 and 2:** *We recommend that the Council holds an annual meeting in accordance with legislation and at the annual meeting elects a Chair of the Council for the year.*
Finding: Although annual meetings have been held and the Chair elected, the level of accuracy and detail in the minutes regarding the meeting being an annual meeting of the PC and the election of the

Chair are inadequate.

Conclusion: Recommendations not fully implemented.

- b. **Recommendations 3 & 4:** *We recommend that the Council ensures that it clearly minutes all adoption of Standing Orders and it clearly specifies on Standing Orders the date of their adoption.*
Finding: Although standing orders have been adopted, there is no detail in the minutes and the dates on the two sets of standing orders adopted during 2022/23 are incorrect.
Conclusion: Recommendations not fully implemented.
- c. **Recommendation 7:** *We recommend that the Council adopts a more structured approach to setting its Council Tax precept, including setting out in the report to the Council proposing the Council Tax precept and/or minutes of the Council meeting setting the precept, the estimated 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.*
Finding: Although budget setting process and documentation was improved during 2022/23, the 2023/24 process has weaknesses due to the inadequacy of the minutes of the budget meeting.
Conclusion: Recommendation not fully implemented.
- d. **Recommendation 8:** *We recommend that the Council explicitly approves all payments made.*
Finding: From a review of 2022/23 minutes, this was not consistently carried out; however, moving forward throughout 2023, it appears to be consistently minuted.
Conclusion: Recommendation not fully implemented until 2023/24.
- e. **Recommendations 9 and 10:** *We recommend that the Council should undertake a review of its arrangements for handling Freedom of Information requests in light of the findings of the Information Commissioner and agree steps to minimise the risk of non-compliance going forward.*
Finding: Five of the 23 complaints to the ICO prior to the PIR resulted in the Council being found to be non-compliant; this is why the recommendation was made. We note that the Council did not update its systems and processes and that the ICO is still finding against the Council on occasion.
Conclusion: Recommendations not implemented.
- f. **Recommendations 11 and 12:** *We recommend that the Council should adopt formal policies and procedures for handling of correspondence and maintain a formal schedule for logging incoming correspondence and the handling of that correspondence.*
Finding: We note that the Council considers that its existing policies and processes adequately covered recommendations 11 and 12 in respect of correspondence and no changes were introduced following the PIR; however, we have also noted that some of the auditor's correspondence has not been included in Council agendas and minutes over the past two years, as we had expected it to be.
Conclusion: Recommendations not implemented.
- g. **Recommendation 14:** *We recommend that the Council adopts a structured and documented approach to the completion of its Annual Governance Statement.*
Finding: We reviewed the approval of the Annual Governance Statement (Section 1) of the 2022/23 AGAR and found that the Council's minutes were inadequate with no supporting papers to explain the mandatory requirements of each governance assertion before agreeing a response (16/5/2023, ref 6.3). Also the minute reference provided for the approval of the Accounting Statements (Section 2) did not even mention the AGAR or the accounts (20/6/2023, ref 4.3).
Conclusion: Recommendation not implemented
- h. **Recommendations 15 and 16:** *We recommend that the Council prepares action plans in response to this report, including clear actions with dates for completion and responsibilities for implementation and receives reports on progress in implementation of recommendations at each Council meeting until all agreed recommendations have been implemented.*
Finding: We note that the action plan was prepared, reviewed and minuted at each meeting throughout 2022/23, but the same wording was used indicating that all points had already been actioned. As can be seen here, the Council had not and still has not implemented all the

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recommendations. This message was also relayed to the Council in detail when it received the PIR and it did not accept our recommendations.

Conclusion: Recommendations not fully implemented.

- i. **Recommendation 17:** *We recommend that the Council seeks assistance, possibly from the Yorkshire Local Councils Associations (YLCA), in implementing the recommendations contained in this Public Interest Report.*

Finding: The Council has commented that its engagement with the YLCA is a continuous process; that YLCA has carried out an internal audit; and that the Council commissioned a Full Council training programme from YLCA, in addition to other training courses/Chairmans' Forums/etc that councillors attend.

We note that the action plan was minuted at each meeting throughout 2022/23, but the same wording was used indicating that the Council believed all points had already been actioned. As can be seen here, the Council had not and still has not implemented all the recommendations.

Conclusion: We recommend that the Council continues to engage with YLCA to implement the recommendations made in the 2022 PIR and address the matters reported in this external auditor report on the 2022/23 AGAR.

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

1. In the completion of the 2022/23 Annual Internal Audit Report and their detailed report, the internal auditor has drawn attention to a minor weakness in relation to Objective E, in terms of declaring VAT. The smaller authority must ensure that action is taken to address this area of weakness.
2. Information has come to our attention indicating that the smaller authority did not publish explanations for the 'No' responses given in respect of Assertion 1 on the Annual Governance Statement. Accordingly, the smaller authority must disclose this by responding 'No' to Assertion 3 of the Annual Governance Statement for 2023/24 and publish the reason for that 'No' response on its website when the 2023/24 AGAR is published.
3. The Council did not provide us with copies of the minutes and supporting paper documenting the Council's annual review of the effectiveness of the internal audit provision during 2022/23 and we have not found reference to any such a review in the minutes on the Council's website. We remind the Council of the importance of carrying out an annual review of effectiveness of the internal audit provision.
4. During our additional work as a result of the challenge correspondence received, we found that North Yorkshire Council (NYC) has only published the registers of interest for two of the parish councillors (dated May 2023). We understand that NYC lost the forms hand delivered to them in April 2022, although the Parish Council has copies of some of these.
5. We have noted a number of issues with the accuracy and detail of the Council's agendas and minutes. Best practice indicates that where correspondence is included on the agenda, the detail should be complete and accurate and that where meeting minutes are approved, the detail should be complete and accurate. We remind the Council that its standing orders 12.a.i, 14.a and 14.b dictate the Council's procedures in respect of amending draft minutes prior to approval.
6. We received challenge correspondence in relation to the 2022/23 AGAR which we considered before completing our work. The authority will receive an invoice in relation to this additional work.

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External auditor certificate 2022/23

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 2023.

PKF Littlejohn LLP

PKF Littlejohn LLP

30/05/2024