

EMAIL CORRESPONDENCE

between Mr JAMES CORRIGAN and Scarborough Borough Council,
presented in chronological sequence, from 1st May 2022 onwards.

-----Original Message-----

From: James Corrigan

Sent: 01 May 2022 21:45

To: Nick Edwards <Nick.Edwards@scarborough.gov.uk>

Cc: James Corrigan

Subject: Scarborough Borough Council Statement of Accounts for the year ended 31 March 2022

Dear Mr Edwards

Section 10 Accounts and Audit Regulation 2015 (as amended by Accounts and Audit (Amendment) Regulations 2021)

Please confirm the date that the Council's Statement of Accounts for the year ended 31 March 2021 will be published on the Council's website.

Section 15 Accounts and Audit Regulation 2015 (as amended by Accounts and Audit (Amendment) Regulations 2021)

Please confirm the commencement date for the period of inspection for the exercise of public rights provided by Sections 26 and 27 Local Audit and Accountability Act 2014.

Thank you for your assistance

Yours sincerely

James Corrigan

On 5 May 2022, at 10:55, Nick Edwards <Nick.Edwards@scarborough.gov.uk> wrote:

Dear Mr Corrigan

I acknowledge receipt of your e-mail and subsequent correspondence referring to the 2021/22 Accounts for the year ending March 2022.

The Council endeavours to conclude the Statement of Accounts by the 31st July with publication of the unaudited statements on the 29 July 2022. The public inspection of the accounts would commence on 1st August 2022.

However, it is recognised both locally and nationally that there is a risk that the accounts for local authorities will not be ready by the end of July and therefore inspection should be made available as soon as practicable after completion.

Yours sincerely

Nick Edwards

From: James Corrigan **Date:** 30 July 2022 at 14:18:37 BST
To: Nick Edwards <Nick.Edwards@scarborough.gov.uk>
Subject: Re: Scarborough Borough Council Statement of Accounts for the year ended 31 March 2022

Dear Mr Edwards

Further to your e-mail of 5 May, I do not believe the statement of accounts has been published on the website as you were expecting.

Can you please advise of the current position and confirm:

1. when the statement of accounts will be published on the Council website, and
2. when the inspection period will commence.

Yours sincerely

James Corrigan

On 3 Aug 2022, at 13:38, Kerry Metcalfe <Kerry.Metcalfe@scarborough.gov.uk> wrote:

Dear Mr Corrigan,

In response to your email below please find attached a notice relating to the inspection of the statement of accounts and accounting records. This notice has been agreed with our external auditors and has now been published on the Council's website.

You will see from the notice that there has been a delay in the production of the accounts, and that we are currently estimating that they will be published in September 2022.

We will endeavour to contact you via email when the accounts are published.

Kind regards
Kerry

Kerry Metcalfe
Head of Finance
Scarborough Borough Council
Tel: [\(01723\) 383542](tel:01723383542)

From: James Corrigan
Sent: 01 October 2022 11:04
To: Kerry Metcalfe <Kerry.Metcalfe@scarborough.gov.uk>
Cc: Nick Edwards <Nick.Edwards@scarborough.gov.uk>
Kevin Wardell <Kevin.Wardell@scarborough.gov.uk>
Subject: Re: Notice re audit of accounts

Dear Ms Metcalfe

In your email below dated 3rd August 2022 you stated the Draft Accounts publication date had been extended and would be published in September.

Please confirm when the Draft Accounts will be available for inspection?

Please could you explain the reason for the extension of publication not being met?

Yours sincerely

James Corrigan

On 1 Oct 2022, at 11:14, Kerry Metcalfe <Kerry.Metcalfe@scarborough.gov.uk> wrote:

Dear Mr Corrigan,

Apologies, I had a note to contact you next week to let you know that the September publication date had not been met and had been further delayed.

The reason for the delay continues to be the extensive workloads that key finance officers are facing due to Local Government Reorganisation.

Our current intention is that the draft accounts will be presented to the Audit Committee on 27 October and will be published by end October, however this remains dependent on there being sufficient staffing capacity beyond our LGR commitments.

We have made our external auditors aware of the delay and I will keep you updated on progress. In the meantime, if you've any further queries please let me know.

Kind regards
Kerry

From: James Corrigan
Date: 19 October 2022 at 22:06:47 BST
To: Kerry Metcalfe <Kerry.Metcalfe@scarborough.gov.uk>
Cc: "Cllr.Alex Bailey" <Cllr.Alex.Bailey@scarborough.gov.uk>
Subject: Re: Notice re audit of accounts

Dear Ms Metcalf

AUDIT COMMITTEE MEETING 27 OCTOBER 2022

I refer to our exchange of e-mails on 1 October. You stated that the Council was intending to present the 2021-22 Draft Accounts to the Audit Committee on 27 October. I note from the published Agenda for that meeting, Item 6 refers to "Draft Statement of Accounts 2020/21". It also states that the report is to follow.

Please confirm whether there is an error in the Agenda which should refer to the "Draft Statement of Accounts for 2021/22", or that this Agenda Item is relating to the 2020/21 accounts already published.

Yours sincerely

James Corrigan

From: Kerry Metcalfe <Kerry.Metcalfe@scarborough.gov.uk>

Date: 19 October 2022 at 22:06:51 BST

To: James Corrigan

Subject: Automatic reply: Notice re audit of accounts

I am currently on annual leave and will return to the office on Friday 4 November. I will get back to you as soon as I can upon my return.

Kind regards

Kerry

On 21 Oct 2022, at 11:14, Nick Edwards <Nick.Edwards@scarborough.gov.uk> wrote:

Dear Mr Corrigan

In Ms Metcalfe's absence I can confirm that the Draft Statement of Accounts refers to the completion and subsequent publication of the 21/22 Financial Statements.

I will ask the Committee Clerk to amend the Agenda title of this report

Yours sincerely

Nick Edwards

-----Original Message-----

From: James Corrigan

Sent: 24 October 2022 14:14

To: Democratic Services <democraticservices@scarborough.gov.uk>

Cc: StJohn Harris <StJohn.Harris@scarborough.gov.uk>

Subject: QUESTION FOR AUDIT COMMITTEE 27 OCTOBER 2022

AGENDA ITEM 6 – DRAFT STATEMENT OF ACCOUNTS 2021/22

Sir

I note that the report in relation to this Agenda Item has not been published prior to the time specified in the Constitution for a member of the public to raise questions (two clear delays prior to the meeting).

I further note that the Accounts were intended to be published by 31 July 2022. At the end of July a notice was published on the Council website stating that *“Notice will be given when*

the accounts have been published, which is likely to be in September 2022". That time has clearly passed and we are now waiting for the late report to disclose this information. Clearly the ongoing delay denies the public the opportunity to raise questions on the accounts in time for the Auditor to investigate and substantively reply prior to the Council being dissolved as part of the devolution process. These actions could be perceived as an attempt to avoid external scrutiny from the auditor and members of the public until after devolution.

Will any responsible party remain culpable (whether or not employed by North Yorkshire Council) for any unlawful items in the accounts that come to light after devolution as part of the conclusion of the Audit process?

Please confirm safe receipt by return.

Yours faithfully

James Corrigan

On 25 Oct 2022, at 16:41, StJohn Harris <StJohn.Harris@scarborough.gov.uk> wrote:

Good Afternoon Mr Corrigan

Further to your submitted public question, you will see that the report in question has now been published.

I note that your question in the third paragraph of your email infers wrongdoing on the part of an officer or officers of the Council.

Clearly, if you have evidence of this, it is of concern to the Council and we would want to ensure that this is investigated and we would ask that you supply this evidence so we can take the proper steps in accordance with the Council's processes and procedures.

If you would like to submit this evidence we will be able to facilitate this. Without this evidence, the question is potentially defamatory and/or offensive and is therefore not permitted.

Regards

St John Harris, Democratic Services Manager, Democratic and Legal Services
Scarborough Borough Council, Town Hall, St Nicholas St, Scarborough, YO11 2HG
Tel: [01723 383556](tel:01723383556). Mob: [07517 132090](tel:07517132090)
e: StJohn.Harris@scarborough.gov.uk
w: www.scarborough.gov.uk

-----Original Message-----

From: James Corrigan

Sent: 25 October 2022 22:44

To: StJohn Harris <StJohn.Harris@scarborough.gov.uk>

Cc: Paul Preston <Paul.Preston@scarborough.gov.uk>

Cllr. Alex Bailey <Cllr.Alex.Bailey@scarborough.gov.uk>

Subject: Re: **QUESTION FOR AUDIT COMMITTEE 27 OCTOBER 2022**

Dear Mr Harris

Thank you for your e-mail.

I have not made any specific allegation of wrongdoing against anyone. In no circumstances could the question be considered defamatory as there is no reference to any particular officer or department. I do not consider the question offensive and should be grateful if you would explain why you have come to that conclusion. In particular please explain who would find it offensive.

By way of background to put the question into context, relevant facts are:

1. The Council has not had any accounts signed off by its auditor since 2014-15, i.e. more than 7 years.
2. The Council is awaiting a High Court determination on the lawfulness of the treatment of its accounting for the revenue from Whitby Harbour.
3. The Council is publishing amended unaudited financial statements for last year following an Objection that I made against those financial statements in connection with the proposed change in the MRP. A highly unusual event that I do not believe has happened in the Council's history.
4. The Council is one of only 2 out of 432 local authorities who failed to submit their annual returns for 20/21 to Dept of Levelling Up, Housing, Communities published on 20 October 2022.
5. The publication of the Council's accounts for 2021-22 has been delayed several times. It was initially stated to me in email correspondence from Mr Edwards dated 5 May 2022 that the accounts would be published on 29 July 2022. When this date was missed, I contacted Mr Edwards for an explanation. Kerry Metcalfe replied on 3 August stating the accounts would be published by the end of September, and a notice to this effect was published (and still remains displayed) on the Council website. I contacted Ms Metcalfe on 1 October, to be told that it was planned to present the accounts to the Audit Committee on 27 October. Clearly this is no longer the case.

In this context my question is reasonable and certainly not offensive. I am not alleging any specific offence, but clearly there has been significant issues regarding the Council's accounts

so it is not unreasonable to enquire if after devolution anyone considered culpable would be subject to any form of criticism or recourse, particularly if as a consequence the ratepayers have suffered a loss.

Yours sincerely

James Corrigan

On 25 Oct 2022, StJohn Harris <StJohn.Harris@scarborough.gov.uk> wrote:

Dear Mr Corrigan

Further to your reply, whilst we are grateful for your explanation, it has not changed the Council's position on this.

Regards

St John Harris, Democratic Services Manager, Democratic and Legal Services
Scarborough Borough Council, Town Hall, St Nicholas St, Scarborough, YO11 2HG
Tel: [01723 383556](tel:01723383556). Mob: [07517 132090](tel:07517132090)
e: StJohn.Harris@scarborough.gov.uk
w: www.scarborough.gov.uk

From: James Corrigan

Date: 27 October 2022 at 11:23:20 BST

To: StJohn Harris <StJohn.Harris@scarborough.gov.uk>

Cc: All Scarborough Borough Councillors

Subject: COMPLAINT REGARDING REJECTION OF QUESTION TO AUDIT COMMITTEE – 27 October 2022

Dear Mr Harris

COMPLAINT REGARDING REJECTION OF QUESTION TO AUDIT COMMITTEE – 27 October 2022

Please treat this e-mail as a formal complaint to be investigated under the Council's Complaints Procedure.

Your e-mail confirms that you have rejected my question that was submitted and acknowledged within the required time limit. However your e-mail of 25 October has rejected it on the grounds:

1. It is 'potentially defamatory', and
2. It is 'offensive'.

It is not clear whether the decision to reject is a political one made by an elected member or by an officer. I was assured in response to a public question I put to full Council on 4 January 2021 that *"I would advise that no right of appeal is necessary. Officers are subject to a Code of Conduct which would prevent any officer arbitrarily rejecting a question for their own benefit (Councillor Jefferson)"* [Agenda Item 4 question 1].

This is a serious matter as I have been denied my constitutional right and this is also an affront to the democratic functioning of the Council. I also suggest that there is a breach of the Code of Conduct that Councillor Jefferson has referred to.

Para 16 of Section 4.1 of the Council's Constitution (Rules of Procedure) sets out the rules for Public Questions. Para 16.4 states that a question will be rejected if it is 'defamatory, frivolous or offensive'. Note there is no ground of rejection of 'potentially defamatory'. Therefore it is beyond doubt that the application of the Constitution has been incorrectly applied in this instance.

It is clear that in the present case the question I posed, which is repeated below, is neither defamatory nor offensive.

"I note that the report in relation to this Agenda Item has not been published prior to the time specified in the Constitution for a member of the public to raise questions (two clear days prior to the meeting).

I further note that the Accounts were intended to be published by 31 July 2022. At the end of July a notice was published on the Council website stating that "Notice will be given when the accounts have been published, which is likely to be in September 2022". That time has clearly passed and we are now waiting for the late report to disclose this information. Clearly the ongoing delay denies the public the opportunity to raise questions on the accounts in time for the Auditor to investigate and substantively reply prior to the Council being dissolved as part of the devolution process. These actions could be perceived as an attempt to avoid external scrutiny from the auditor and members of the public until after devolution.

Will any responsible party remain culpable (whether or not employed by North Yorkshire Council) for any unlawful items in the accounts that come to light after devolution as part of the conclusion of the Audit process?"

It is clearly established that defamation can only be made against an identifiable person and not against a Local Authority. This matter was raised in correspondence sent to you personally by Lupton Fawcett Lawyers LLP on 18 December 2020. They did not have the courtesy of your reply.

With regard to rejecting the question on the grounds it is 'offensive' is quite frankly offensive to me as a local elector, the Council's Constitution and I suggest your own integrity. To be offensive the question would have to cause 'someone to feel upset, resentful or annoyed'. The question is not rude, racist, sexist, homophobic or use foul language, etc. Furthermore it does not make any allegation against any person or body, so it is impossible for someone to meet the definition of being 'offended'. This is clearly not offensive. You have used this grounds as a means to suppress a question that the Council does not wish to answer.

I have acted with respect and courtesy and have complied with the requirements you have in place to engage. Unfortunately I have not been treated with the same level of respect and courtesy. It has taken considerable time and effort to take an interest in the Council, whilst having to deal with all the pressures of running my business. I have done this not for personal gain, but for the benefit of my fellow residents. The Council should have as its main objective to operate for the benefit of the residents and businesses in the town promoting their mutual success. The reality appears that there is a higher objective – self preservation even to the extent of defending the indefensible.

The law and the Council's Constitution provides rights to members of the public regarding the Council's business. The Council, whilst professing its openness and transparency at every opportunity has demonstrated by its actions that I have witnessed directly in recent years that the exact opposite is the reality – secrecy and opacity. I accept that certain items are commercially sensitive, but this is also abused. The Council does not welcome enquiry and scrutiny and will go to great lengths to avoid questions. I have attended many council meetings in recent years and seen not only my own questions dodged and avoided, but also those of other members of the public. I have also seen attempts at humiliating questioners so as to discourage a return. This is not good for engendering public support or engagement and serves to alienate and promote distrust in the Council from those who have a genuine interest in our town's success.

I repeat that my Objection to the Councils accounts regarding the proposed change in the accounting policy for the **MRP** being backdated was upheld and has required the Council to amend and re-publish the accounts for last year (**resulting in circa £1m being returned**). To put it bluntly, I caught you trying to fudge the accounts using a method so aptly described in the book (Accounting for Growth by Terry Smith) that I presented to the mayor at full

Council on 23 July 2021. This single issue demonstrates the validity of my enquiries and that I am well advised. There are other ongoing matters that I have taken issue with. I am confident that the Council will be required to concede its position on these also.

Whilst rejecting my question to the Audit Committee is a further demonstration of this desire to obstruct and discourage engagement, the real issue here is that the Accounts are not being published until after the Audit Committee meeting. Why? The accounts must be ready to be released, as the report in question refers to them being published immediately after the meeting. The only rational explanation is to avoid questions being raised at the Audit Committee about the accounts. What have you got to hide?

I will have the accounts soon and then maybe I will be able to draw my own conclusions. I do hope that there is sufficient time to resolve any issues and your officers do not just run the clock down until devolution.

I look forward to your acknowledgement and detailed reply in due course.

Yours sincerely

James Corrigan
