

Report of the Deputy Chief Executive

Liberty Leisure Limited – External Audit Arrangements 2024/25

1. Purpose of Report

To provide Members with details of the exemption of Liberty Leisure Limited from the requirement of an external audit for 2024/25.

2. Recommendation

The Committee is asked to RESOLVE that Liberty Leisure Limited be exempt from requiring an external audit for 2024/25 in accordance with Part 16 Section 479 of the Companies Act 2006.

3. Detail

Liberty Leisure Limited is a company limited by guarantee and is wholly owned by Broxtowe Borough Council. Its objectives include the provision of leisure and sports services for the benefit of the public. The company was incorporated on 12 April 2016 and commenced trading on 1 October 2016.

Liberty Leisure Limited produce accounts with a year-end date of 31 March. It is assisted in this process by Haines Watts (Chartered Accountants) based in Stapleford who ensure that the company's accounts are filed at Companies House in accordance with the Companies Act 2006.

The accounts of Liberty Leisure Limited must be subject to an audit due to the company being a subsidiary of an entity (i.e. the Council) that does require an audit. Although the company has a turnover of around £3.7 million, it does not meet the small companies' exemption criteria as set out in the Companies Act 2006 due to its relationship with the Council.

It is possible, however, to obtain a specific audit exemption for Liberty Leisure Limited under section 479 of the Companies Act 2006 by obtaining a guarantee from the parent (i.e. the Council). Further details are set out in the **Appendix**. In this scenario, the Council would have to prepare Group Accounts in its Statement of Accounts 2024/25. As the Council's external auditors (Forvis Mazars) would not be able to rely on audited accounts for Liberty Leisure Limited, they would need to carry out additional work on both the Group and the transactions of the company. The guarantee would not impose any additional risk upon the Council above that it already has with Liberty Leisure.

4. Financial Implications

The comments from the Head of Finance Services were as follows:

Forvis Mazars will charge an additional fee over and above the fee for the external audit work undertaken on the Council's 2024/25 accounts. The additional cost will be met by the Council and has been included within the revenue budgets.

5. Legal Implications

The comments from the Monitoring Officer / Head of Legal Services were as follows:

The legislation, the Accounts and Audit Regulations (2015) and the Accounts and Audit (Amendment) Regulations 2022, sets out the timescales for the production of the Council's accounts, including the dates of the public inspection period. The Statement of Accounts must be published by that date or as soon as reasonably practicable after the receipt of the auditor's final findings.

Section 151 of the Local Government Act 1972 requires the Council to make arrangements for the proper administration of its financial affairs and to secure that one of its Officers (the Deputy Chief Executive and Section 151 Officer) has the responsibility for the administration of those affairs, which include responsibility for preparing the Council's statement of accounts in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom.

The Statement of Accounts is that upon which the auditor should enter his certificate and opinion which is prepared under the Local Government Finance Act 2003.

6. Human Resources Implications

There were no comments from the Human Resources Manager.

7. Union Comments

Not applicable.

8. Climate Change Implications

There are no Climate Change issues in relation to this report.

9. Data Protection Compliance Implications

This report does not contain any OFFICIAL(SENSITIVE) information and there are no Data Protection issues in relation to this report.

10. Equality Impact Assessment

As there is no change to policy an equality impact assessment is not required.

11. Background Papers

Nil.

Appendix**Audit Exemption under the Companies Act 2006 Part 16, Section 479a
Subsidiary Companies**

The Companies Act 2006 Part 16, Section 479A(1) states that “a company is exempt from the requirements of this Act relating to the audit of individual accounts for a financial year if – (a) it is itself a subsidiary undertaking, and (b) its parent undertaking is established under the law of any part of the United Kingdom.”

Furthermore, Section 479A(2) states “exemption is conditional upon compliance with all of the following conditions:

- (a) all members of the company must agree to the exemption in respect of the financial year in question;
- (b) the parent undertaking must give a guarantee under section 479C [below] in respect of that year;
- (c) the company must be included in the consolidated accounts drawn up for that year or to an earlier date in that year by the parent undertaking in accordance with:
 - (i) if the undertaking is a company, the requirements of Part 15 of this Act, or, if the undertaking is not a company, the legal requirements which apply to the drawing up of consolidated accounts for that undertaking, or
 - (ii) UK-adopted international accounting standards (within the meaning given by section 474(1))
- (d) the parent undertaking must disclose in the notes to the consolidated accounts that the company is exempt from the requirements of this Act relating to the audit of individual accounts by virtue of this section, and
- (e) the directors of the company must deliver to the registrar on or before the date that they file the accounts for that year:
 - (i) a written notice of the agreement referred to in subsection (2)(a),
 - (ii) the statement referred to in section 479C(1) [below],
 - (iii) a copy of the consolidated accounts referred to in subsection (2)(c),
 - (iv) a copy of the auditor’s report on those accounts, and
 - (v) a copy of the consolidated annual report drawn up by the parent undertaking.”

The Companies Act 2006 Part 16, Section 479C(1) states that “a guarantee is given by a parent undertaking under this section when the directors of the subsidiary company deliver to the registrar a statement by the parent undertaking that it guarantees the subsidiary company under this section” and Section 479C(2) details that “the statement under subsection (1) must be authenticated by the parent undertaking and must specify:

- (a) the name of the parent undertaking,
- (b) the registered number (if any) of the parent undertaking
- (c)
- (d) the name and registered number of the subsidiary company in respect of which the guarantee is being given,
- (e) the date of the statement, and
- (f) the financial year to which the guarantee relates.”

Companies Act 2006 Part 16, Section 479C(3) states that “a guarantee given under this section has the effect that:

- (a) the parent undertaking guarantees all outstanding liabilities to which the subsidiary company is subject at the end of the financial year to which the guarantee relates, until they are satisfied in full, and
- (b) the guarantee is enforceable against the parent undertaking by any person to whom the subsidiary company is liable in respect of those liabilities.”