



WALES AUDIT OFFICE
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Auditor General for Wales

Report in the public interest – failures in financial management and governance – **Tirymynach Community Council**

Audit year: 2015-16 and 2016-17

Issued: September 2018

Document reference: 547A2018-19



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This document is also available in Welsh. Mae'r ddogfen hon hefyd ar gael yn Gymraeg.

The person who delivered the work was Deryck Evans, under the direction of Anthony Barrett.

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Acting under delegated arrangements and on behalf of the Auditor General for Wales, I have issued this report under section 22 of the Public Audit (Wales) Act 2004, to draw the public's attention to failures in governance arrangements and inadequacies in financial management and internal control at Tirymynach Community Council.

The Auditor General intends to issue a qualified audit report on the Council's Annual Returns for the financial years 2015-16 and 2016-17.

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Detailed findings

Introduction

- 1 This report is issued in the public interest under Section 22 of the Public Audit (Wales) Act 2004 (the Act). I have issued this report to draw the public's attention to failures in governance arrangements and inadequacies in financial management and internal control at Tirymynach Community Council (the Council). I believe it is important that the public has a full and proper awareness of the events concerning the Council.
- 2 I also consider it appropriate to give the Council an opportunity to demonstrate the important steps already taken to improve arrangements and to ensure that the risk of such governance failures recurring is reduced to a minimum. There are lessons to be learnt not just by the Council, but by all community councils in Wales.
- 3 The Council is located in Ceredigion and serves approximately 2,000 residents of the communities of Bow Street, Dole, Llangorwen and Clarach. The Council has 12 elected members and spends around £15,000 annually on local services. It funds this by means of a precept of some £18,000 from Ceredigion County Council. The County Council collects the precept through additional council tax charged to the Council's residents. Tirymynach Community Council derives its funding from the public purse and its members are elected by local residents. The Council is, therefore, accountable to the local electorate.
- 4 Community councils such as Tirymynach, by their very small local nature, normally rely on one key officer, the Clerk, to manage their administrative affairs. More often than not, the Clerk is also appointed in the capacity of Responsible Financial Officer (RFO). The RFO is responsible for administering the financial affairs of the Council on a day-to-day basis. In particular, this involves receiving and recording income, preparing cheque payments for signing by members, maintaining the accounting records and preparing the annual accounting statements.
- 5 By law (the Accounts and Audit (Wales) Regulations 2014 (the Regulations)), the responsibility for the stewardship of Council funds, including ensuring that it has effective and efficient financial management, rests with the Council (that is, the members). This includes such things as establishing an appropriate system of internal control, including internal audit, and approving the annual accounting statements prior to submission to the external auditor for examination.

The Council failed to submit its annual accounts for 2015-16 and 2016-17 to me for audit in accordance with the statutory timetable

- 6 Under Section 13 of the Act the Council must:
 - make up its accounts each year to 31 March or such other date as the Welsh Ministers may generally or in any special case direct; and

- ensure that its accounts are audited in accordance with the Act.
- 7 The accounts are prepared in the form of a simple annual return which is sent to the Council each year. Regulation 15 of the Regulations requires that the Council approves the accounts before 30 June following the end of the financial year. The Council must then send the accounts to the Auditor General and publish audited accounts by 30 September.
 - 8 The Council has not complied with the statutory timescales for submitting its accounts for audit for the 2015-16 and 2016-17 financial years.

Exhibit 1: dates of completion of the accounts

Financial year	Date accounts approved by the Council	Date submitted for audit
2015-16	30 June 2016	23 October 2017
2016-17	29 June 2017	23 October 2017

- 9 The Council has provided me with a written representation that the 2015-16 annual return was submitted to Grant Thornton, the auditors undertaking the audit on behalf of the Auditor General, in accordance with the timetable set by Grant Thornton. I have, however, been unable to obtain any evidence that Grant Thornton received this submission.
- 10 My review of the Council’s minutes leads me to believe that the Clerk, Rev Richard Lewis, did not provide the Council with a complete and balanced account of its performance in adhering to these deadlines. A member of my audit team wrote to the Clerk in August 2017 and met with the Clerk and Chair on 23 October 2017 at which point I was provided with the approved accounts for audit.
- 11 While the Clerk’s tardiness is a significant factor in the Council’s failure to comply with its statutory responsibilities, the Council itself must take a degree of responsibility for this failure. I have found no evidence that the Council took any steps in relation to the overdue accounts.
- 12 The minutes of the October 2015 meeting record the receipt of the audited accounts for 2014-15. The minutes also note the recommendation made by the former appointed auditor, BDO, that the responsible financial officer (RFO) should certify and the Council approve the accounts by 30 June each year. Notwithstanding this recommendation, the minutes of subsequent meetings do not record any concerns related to the delayed submission of the 2015-16 accounts until March 2017. This indicates that individual councillors do not understand, or do not give sufficient priority to, their responsibilities in relation to the accounts.

There is insufficient evidence to confirm whether or not proper arrangements have been made for the exercise of public rights

- 13 Sections 30 and 31 of the Act make provision for public rights to inspect the accounts to be audited, to question the auditor about the accounts and to make objections before the auditor as to any matter in respect of which the auditor has a power to:
- apply for a declaration that an item of account is unlawful; and
 - any other matter in respect of which the auditor has the power to make a report under section 22 of the Act.
- 14 Regulation 17 requires the Body to give notice by advertisement to the public in one or more conspicuous places setting out the period during which the accounts and other documents are available for inspection and to provide the following details:
- the place at which, and the hours during which, they will be so available;
 - the name and address of the auditor; the provisions contained in section 30 and section 31 of the Act; and
 - the date appointed under Regulation 21.
- 15 I have not been provided with sufficient evidence to demonstrate that the Council complied with the requirements of the Act. Therefore, I have appointed 18 September 2018 as the date from which local electors may exercise their rights under the Act in relation to the 2015-16 and 2016-17 accounts.

The Council has failed to maintain proper arrangements to administer payroll and PAYE, including the payment of the Clerk's income tax to HMRC

- 16 In common with most community councils, Tirymynach employs one official to undertake the legally separate roles of the Clerk and RFO. The majority of these officers work part-time, their hours varying from one to two days per week, to a few hours per quarter. The Clerk as an officer of the Council, is an employee of the Council. The Council should provide any employees with a contract of employment setting out the terms and conditions of employment. Employment contracts provide clarity on the role and status of the Clerk and the remuneration arrangements for the post. The Council should have ensured that it understood its responsibilities when employing the Clerk.

- 17 The minutes of the February 2016 council meeting record that the clerk's remuneration includes salary calculated at £11.19 per hour and an expenses allowance of £350.
- 18 As an employer, the Council must deduct Income Tax and employees' National Insurance Contributions (NICs) from employees' pay and send the amounts deducted to HMRC each month or quarter along with employers' NICs. This system is called Pay as You Earn (PAYE). PAYE deductions must be paid to HMRC. All employers must also keep payroll records.
- 19 **Exhibit 2** summarises the clerk's remuneration for 2015-16 and 2016-17.

Exhibit 2: Clerk's remuneration

Financial year	2015-16	Equivalent hours	2016-17	Equivalent hours
Salary	£2,793.02	249.6	£2,028.00	181.2
Expense allowance	£350.00		£350.00	
Total	£3,143.02		£2,378.00	

- 20 The Council has not provided any payroll records to support the sums paid as salary to the Clerk. I have not been provided with a contract of employment to validate these amounts. No explanation has been provided as to why the payment of salary varies between 2015-16 and 2016-17.
- 21 The expenses allowance is a fixed sum and is not supported by receipts or expenses claims. Fixed sum expenses allowances are subject to tax.
- 22 The Council is registered as an employer with HMRC. The records presented by the Clerk indicate that two cheques (100887 and 100908) were drawn up and made payable to HMRC.

Exhibit 3: cheque payments drawn for HMRC

Cheque number	Date as per cheque book	Value as per cheque book	Status
100887	28 January 2016	£624.00	Cancelled
100908	Not recorded	Not recorded	Not entered

- 23 Based on the evidence I have seen in respect of payroll and PAYE at the Council, I have concluded that proper payroll records have not been kept as required.
- 24 In the absence of any records, I am unable to conclude whether or not the clerk has been paid the appropriate salary and whether or not the appropriate PAYE deductions have been made.

25 In a written submission, the Council has confirmed that for the financial years subject to audit, the Clerk did not have a contract of employment. The Council further explained that the Clerk's salary was taxed through declaration of the income on his personal tax return.

The Council did not prepare a budget for 2015-16 or 2016-17 and did not approve the precept levied on council tax payers for these financial years

26 The Local Government Finance Act 1992 requires councils to calculate and approve the annual budget. Section 41 of this Act allows councils to issue a precept, the basis of which is determined, in accordance with Section 50, by the calculation of the budget requirement.

27 Regardless of this statutory requirement, the budget is important as:

- it results in the setting of the precept for the year;
- it gives the council authority to spend money in accordance with approved spending plans and financial regulations; and
- it provides a basis for monitoring progress during the year by comparing actual to planned spending.

28 The budget is a crucial element of effective financial management and accountability and ultimately, reduces the amount of time councils spend managing their financial resources. In the absence of adequate budget setting and monitoring arrangements, councils are unable to effectively manage public funds and demonstrate compliance with statutory requirements.

29 In its written submission, the Council states that it did in fact prepare budgets for both 2015-16 and 2016-17. The Council also states that its minutes record the budget and the issue of the precept to Ceredigion County Council.

30 During the course of my audit I was unable to find evidence that the Council prepared a budget for the 2015-16 or the 2016-17 financial years. The Council presented for audit, a single sheet of paper for each year with various expenditure headings. However, no values were recorded against the headings and therefore these sheets cannot be considered to be the Council's budgets for the two financial years.

31 The Council has prepared a budget for 2017-18. However, this budget does not fully comply with the requirements of the Act.

32 My examination of the Council's minutes leads me to believe that although the Council minutes record the receipt of the annual precept, there is no record that the Council ever approved the issuing of a precept to Ceredigion County Council.

Although the Council has a website, it does not publish all documents it is required to publish electronically

- 33 The Local Government (Democracy) (Wales) Act 2013 (the 2013 Act) requires every local council to make available their contact and membership details, and records of their proceedings via the internet. The 2013 Act also requires every council to publish their register of members' interests, public notices and audited accounts electronically.
- 34 The changes introduced by the 2013 Act enhance accountability of local councils to their electorate. In 2015, the Council received £500 in Welsh Government funding to assist in the development of a website.
- 35 My audit identified that while the Council has established a website, it has not published much of the information it is required to publish electronically. The website does not include a copy of the Council's register of members' interests, notices of audit or audited accounts. As at January 2018, minutes were available only for meetings held in April, May and June 2017. No minutes were published for the period from 2015 to 2016.
- 36 The Council has subsequently brought the publication of its minutes on its website up to date. Other documents remain to be uploaded to the website.

The accounting statements in the annual returns for 2015-16 and 2016-17 contain significant errors

- 37 The Council maintains its accounting records in the form of a cashbook. This records details of the receipts and payments made by the Council each financial year. These transactions are summarised into a simple accounting statement in the annual return that is presented for audit.
- 38 The accounting statements prepared by the Council contain errors that appear to arise from a lack of understanding of proper accounting practice and poor record keeping.

Recommendations

Exhibit 4: my recommendations to the Council are:

Recommendations	
R1	The Council must ensure that the Statement of Accounts is prepared, approved and submitted for audit by 30 June each year.
R2	The Council must ensure that individual councillors understand their responsibilities for the annual accounts.
R3	The Council must ensure that it complies with the requirements of the Act and the Regulations promptly in relation to the 2015-16 and 2016-17 accounts.
R4	The Council should retain sufficient evidence to demonstrate that it has complied with its statutory duties.
R5	The Council must ensure that it issues an agreed contract of employment setting out the terms and conditions of employment for the Clerk.
R6	The Council should review the payment of the Clerk's salary to confirm the salary and deductions for tax (including tax on the expenses allowance) have been calculated correctly.
R7	The Council should ensure that the non-payment of tax to HMRC is regularised and any overdue payments are brought up to date.
R8	The Council must ensure that it maintains proper payroll records and pays tax deducted to HMRC promptly.
R9	The Council must ensure that it prepares a budget in accordance with the Local Government Finance Act 1992 prior to setting its precept.
R10	The Council must ensure that its decision to issue a precept is recorded in its minutes.
R11	The Council should monitor its expenditure against this budget throughout the year (for example by quarterly comparisons of expenditure against budget).
R12	The Council must ensure that it identifies which documents it is required to publish electronically and makes appropriate arrangements to post these on its website promptly.
R13	The Council must ensure that it reviews the accounting statement prepared by the Clerk to verify the accuracy of the statement and that proper accounting practices have been followed in preparing the statement.

Action already taken by the Council

- 39 It is important that the Council learns from these events. I understand that the Council has already taken certain actions, including:
- arrangements are being made to procure appropriate training for the Clerk and individual councillors to develop their understanding of their responsibilities;
 - the Council has ensured it complies with the requirements for display and publication of the audit notice for the 2017-18 audit;
 - the Council has provided the Clerk with a contract of employment based on the One Voice Wales/Society of Local Council Clerks model contract;
 - arrangements have been made to process PAYE directly by the Council;
 - the website now contains up-to-date minutes and a copy of the 2018 audit notice; and
 - the Council has introduced an arrangement to review progress against its budget on a quarterly basis.

Next steps

- 40 The Council is required by section 25 of the Public Audit (Wales) Act 2004 to consider this report at a full meeting of the Council within one month of the date of the report. At the meeting, the Council will need to decide:
- whether the report requires it to take any action;
 - whether the recommendations in the report are to be accepted; and
 - what action (if any) to take in response to the report and recommendations.
- 41 The Council will then need to prepare a written response and agree the wording of that response with me before publishing its response.



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For and on behalf of the Auditor General for Wales
6 September 2018

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