



WALES AUDIT OFFICE
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Auditor General for Wales

Report in the Public Interest – Inadequacies in Governance and Financial Management – **Llanfairpwll Community Council**

Audit year: 2016-17 and 2017-18

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

The team who delivered the work comprised Hefin Davies and Deryck Evans under the supervision 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 Llanfairpwll Community Council.

This report sets out a number of failures in financial management and internal control at Llanfairpwll Community Council and makes recommendations to address those failures. The Council must consider the report and the recommendations made, in accordance with section 25 of the Public Audit (Wales) Act 2004.

The Auditor General intends to issue a qualified audit report on the Council's 2016-17 and 2017-18 Annual Returns.

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Summary report

Introduction

- 1 This report summarises my conclusions arising from my audit of Llanfairpwll Community Council's (the Council) accounts for the 2017-18 financial year. In the course of the audit, I identified significant failures in governance arrangements and inadequacies in financial management and internal control.
- 2 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 these failures in governance arrangements and inadequacies in financial management and internal control at the Council. I believe it is important that the public has a full and proper awareness of the events concerning the Council.
- 3 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..

Llanfairpwll Community Council

- 4 The Council serves the small community of Llanfairpwll on Anglesey. It spends around £40,000 annually on local services. It primarily funds this by means of a precept from Isle of Anglesey County Council. The County Council collects the precept through additional council tax charged to the Council's residents. In addition, the Council raises funds from burial fees and charges for the use of its assets. The 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.
- 5 Community councils such as Llanfairpwll, 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.
- 6 Notwithstanding the role of the Clerk/RFO, by law (the Accounts and Audit (Wales) Regulations 2014 (the 2014 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.

My audit work

- 7 My audit work on town and community councils focusses on an annual return completed by the councils and submitted to auditors working on my behalf. The annual return contains the annual accounting statements that the Council is required by law to prepare, and an annual governance statement which sets out how the council has managed its financial affairs.
- 8 Delays in receiving the annual returns for 2016-17 and 2017-18 led to the auditors working on my behalf to refer Llanfairpwll Community Council to me. This has resulted in the assignment of the audits of these accounts to a member of the Wales Audit Office staff, working under my direction, to bring them to a satisfactory conclusion. This work is currently ongoing. Although we have received supporting papers, we still await receipt of the Council approved 2016-17 and 2017-18 annual returns.
- 9 My audit findings, which reveal elements of poor governance and financial management, are summarised below and considered in more detail in the remainder of this document.

Key findings

- 10 The Council has not complied with the statutory timescales for preparing and approving its accounts for 2016-17 and 2017-18.
- 11 The Council has not maintained adequate internal controls to safeguard its assets and finances.
- 12 The Council has not demonstrated that there is an adequate and effective internal audit in place.
- 13 The Council has not demonstrated it has complied with its statutory responsibility to properly administer PAYE and to provide a written statement of the terms and conditions of employment for its clerk.
- 14 I have not been provided with sufficient evidence to demonstrate that the Council has complied with the requirements of the Public Audit (Wales) Act 2004 which (amongst other things), grant rights to the public to inspect the accounts to be audited.
- 15 The Council has failed to comply with its legal duties to adopt a Code of Conduct for members and to maintain a register of members' interests.
- 16 Although the Council has a website, it does not publish all the documents it is required to publish electronically, such as a register of members' interests, notices of audit, audited accounts and all minutes for meetings.
- 17 It is clear to me that the Council has not taken sufficient steps to satisfy itself that its governance and financial management arrangements are effective. Council members have not sufficiently recognised or acted upon issues in relation to the adequacy of these arrangements.

18 The next section of this report sets out the deficiencies and weaknesses in the Council's arrangements that have been apparent to me during the audit.

Audit opinion

19 Due to the issues I have identified in this report I intend to issue a qualified audit opinion as set out below:

- the Council has failed to maintain proper accounting records as required by Regulation 6 of the Accounts and Audit (Wales) Regulations 2014 and therefore I am unable to conclude whether the accounting statements have been prepared in accordance with proper practices and the Regulations;
- the assertions made in the Annual Governance Statement are not supported by the evidence obtained during the course of the audit and do not reflect the Councils financial management and governance arrangements.
- the Council does not comply with its statutory responsibilities for:
 - maintaining an adequate and effective system of internal audit as required by the Accounts and Audit (Wales) Regulations 2014;
 - adoption of a members' code of conduct under the Local Government Act 2000;
 - maintenance of a register of members' interests under the Local Government Act 2000; and
 - publication of documents under the Local Government (Democracy) (Wales) Act 2013.

Recommendations and next steps

My recommendations

20 On the basis of my review, I draw the Council's attention to the following recommendations:

Exhibit 1: recommendations

I make seven recommendations to address the deficiencies identified during the audit.

Recommendations

R1 The Council must ensure that the Statement of Accounts is prepared and approved before 30 June each year, then promptly sent to the Auditor General for audit, and published by 30 September.

Recommendations	
R2	The Council should ensure it has appropriate internal controls in place to safeguard its public funds.
R3	An internal auditor should be engaged to deliver an agreed programme of work and report their findings to the Council. Their performance should be considered annually and reappointment minuted.
R4	The Council should ensure electors' rights to inspect the annual accounts and engage with the external auditor (if they wish) are formally observed and evidenced.
R5	The Council must ensure that it adopts a Code of Conduct for members at the earliest opportunity.
R6	The Council must ensure that it prepares and maintains a register of members' interests.
R7	The Council must ensure that it identifies which documents it is required to publish electronically and makes appropriate arrangements to promptly post these on its website.

Action already taken by the Council

- 21 It is important that the Council learns from these findings and addresses the deficiencies I have identified. The Council has informed me that it has already taken some steps to improve its arrangements including:
- a review of the Council's internal financial controls and systems and the introduction of new procedures including bank reconciliations and budget reporting;
 - the Council has appointed a new internal auditor for the 2018-19 financial year;
 - a Code of Conduct has been adopted and members have signed up to abide by the Code;
 - a new register of members' interests will be introduced from November 2019; and
 - a new website is under development with the site due to go live from December 2019.

Next steps

- 22 Section 25 of the Act now requires the Council to consider the report at a full Council meeting within one month of the date I issue 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.
- 23 The Council will then need to prepare a written response and agree the wording of that response with me before publishing its response.



Anthony Barrett
Assistant Auditor General
October 2019

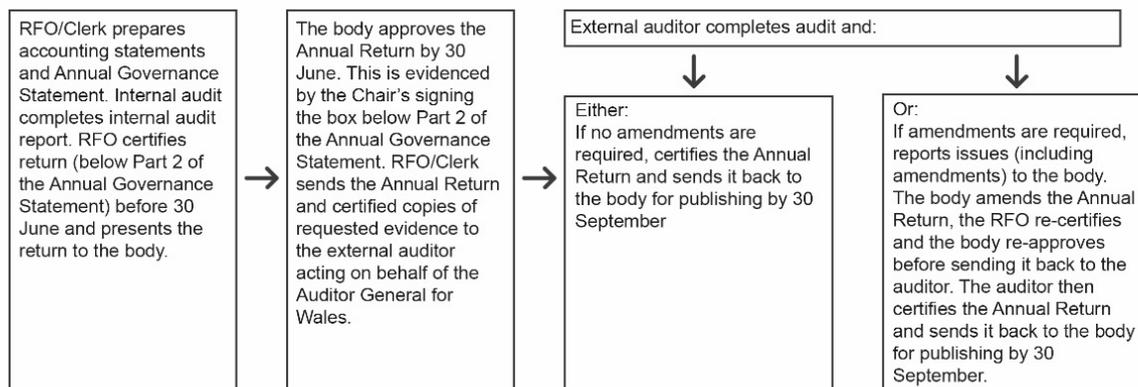
Detailed report

The Council has not complied with the statutory timescales for preparing and approving its accounts for 2016-17 and 2017-18

- 24 Under Section 13 of the 2004 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 by the Auditor General for Wales.
- 25 The 2014 Regulations require the Council to prepare its accounts in accordance with proper practices. Proper practices are set out in the One Voice Wales/SLCC publication 'Governance and Accountability for local councils in Wales: A Practitioners' Guide' (the Practitioners' Guide).
- 26 Regulation 15 of the 2014 Regulations sets out the timetable for the preparation and approval of the annual accounts:
- the Council's Responsible Financial Officer (RFO) must prepare and certify that the accounts properly present the Council's receipts and payment, or present fairly the Council's financial position and income and expenditure. The certification is evidenced by the RFO signing and dating the accounting statements. Provision for signature and date are made in an annual return.
 - the Council members meeting as a whole must consider the accounting statements and, following that consideration, approve the accounting statements for submission to the auditor by a resolution of the Council; and following approval, ensure that the accounting statements are signed and dated by the person presiding at the meeting at which that approval was given.
 - these actions must be completed by 30 June following the end of the financial year.
- 27 As soon as possible after the Council has approved the annual return it must be sent to the external auditor who in turn must complete their audit by no later than 30 September. The process is summarised in [Exhibit 1](#) below:

Exhibit 2: the accounts and audit process

The accounts and audit arrangements follow the process as set out below.



Source: Annual Return

- 28 The Council must also publish its accounts together with any audit certificate or report by 30 September, or if this publication takes place before the conclusion of the audit and no such opinion has been given, it should include a declaration and explanation that, at the date of publication, the auditor has given no opinion.
- 29 Further details regarding the requirements for the preparation, approval and audit of Town and Community Councils are set out in the 2014 Regulations and supplemented by guidance set out in the Practitioners' Guide.

Exhibit 3: approval of the annual accounts

Financial year	Date accounts approved by the Council	Date submitted for audit
2016-17	Not approved	26 November 2018
2017-18	Not approved	26 November 2018

Source: Wales Audit Office analysis

- 30 The accounts for both financial years submitted for audit have not been certified by the RFO nor approved by the Council. In addition, the accounting statement entries for both financial years are incomplete and the Annual Governance Statement and internal audit report have not been completed.

31 Llanfairpwll Community Council has not complied with the statutory timescales set out above for preparing and approving its accounts for 2016-17 and 2017-18, and work is ongoing to complete the audit of these accounts.

The Council has not maintained adequate internal controls to safeguard its assets and finances

32 The Practitioners' Guide sets out examples of the types of internal controls community councils should have over their activities and transactions. Extracts of these are set out in Exhibit 3 below together with the actual arrangements I have found to be in place at the Council.

Exhibit 4: expected and actual internal controls in place at the Council

Expected internal control	Audit assessment
<p>The annual precept requirement resulted from an adequate budgetary process, progress against the budget was regularly monitored, and reserves were adequate.</p>	<ul style="list-style-type: none"> No evidence has been provided to show that the annual precept requirement arose from an adequate budgetary process and that progress against budget was regularly monitored throughout the year.
<p>A reconciliation between the Council's accounts and independent banking records, ie bank statements.</p> <p>The bank reconciliation together with the year-end bank statements provide important assurance to the Council that the accounts prepared by its Clerk are complete and reflect the money deposited with the bank.</p>	<ul style="list-style-type: none"> There is no evidence to show that the Council has prepared and independently reviewed year-end bank reconciliations at 31 March 2017 and 2018 respectively to accompany the annual accounts.
<p>Expenditure controls ensure that only necessary and authorised purchases are made.</p> <p>Controls also ensure that the Council makes payments only for goods and services actually received and at agreed prices.</p> <p>As a body covered by Section 33 of the Value Added Tax Act 1994, the Council is able to reclaim VAT incurred on purchases.</p> <p>In order to do so, the Council should obtain proper VAT receipts and invoices setting out the relevant details of VAT paid and the supplier's VAT registration number.</p>	<ul style="list-style-type: none"> There is no evidence to show that Council expenditure approval procedures ensure that only necessary and authorised purchases are made. Payments are not always supported by sufficient information. VAT reclaims are periodically made to HMRC, the most recent of which, relating to both the 2015-16 and 2016-17 financial years, were in February 2018.

Expected internal control	Audit assessment
Internal controls should be in place to safeguard the assets and investments held by the Council from loss or damage and to ensure their proper use within the community.	No evidence has been provided to show that the Council maintained an asset register.

The Council has not demonstrated that there is an adequate and effective internal audit in place

- 33 The 2014 Regulations require all community councils to ensure that they have an adequate and effective system of internal audit in place. The role of internal audit is to examine a number of key areas of the Council's governance and financial management and highlight any material deficiencies. Internal audit is an important part of the overall internal control framework. The internal auditor should be independent ie have no part in the Council's decision-making process or any role in the maintenance of the accounting system and preparation of the annual accounts.
- 34 Whilst I have seen some evidence to indicate that an internal auditor was appointed for 2016-17, no evidence has been provided of any internal audit work undertaken or of any output provided to the Council in respect of this year. No evidence has been provided that an internal auditor has been appointed or that any work has been undertaken in respect of 2017-18. In addition, the internal audit sections of the annual returns have not been completed for either financial year.

The Council has not demonstrated it has complied with its statutory responsibility to properly administer PAYE and to provide a written statement of the terms and conditions of employment for its clerk

- 35 Most community councils, such as Llanfairpwll, employ one officer to undertake the role of both the Clerk and RFO.
- 36 As an employer, the Income Tax Earnings and Pensions Act 2003 and the Income Tax (PAYE) Regulations 2003 require the Council to operate a Pay as You Earn (PAYE) system in relation to income tax and national insurance contributions. .
- 37 Under PAYE, the Council must deduct Income Tax and employees' National Insurance Contributions (NICs) from employees' pay and send the amounts deducted to HMRC along with any employers' NICs.
- 38 All employers must register with HMRC unless none of their employees are paid £118 or more a week, get expenses and benefits, have another job or get a pension. However, they must still maintain payroll records.

- 39 The Council has not provided sufficient information to demonstrate it has registered as an employer with HMRC and established proper arrangements for deduction of income tax under PAYE. Furthermore, the Council has not demonstrated it has maintained appropriate payroll records.
- 40 I also note that the Council has not provided the clerk with a written contract of employment. A contract of employment is an agreement between an employer and employee and is the basis of the employment relationship. While an employment contract does not need to be in writing to be legally valid, a written contract helps to ensure that the parties understand their respective responsibilities.
- 41 Even if the employment contract is verbal, employees are legally entitled to a written statement of the main terms and conditions of employment within two calendar months of starting work. This should include details of matters such as pay, holidays and working hours. The Council has not provided a written statement of terms and conditions.

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

- 42 Sections 30 and 31 of the 2004 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 2004 Act.
- 43 Regulation 17 of the 2014 Regulations 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 2004 Act; and
 - the date appointed under Regulation 21 of the 2014 Regulations.
- 44 While the Council has stated that notification of public rights was displayed on the village noticeboard, I have not seen any evidence to demonstrate that the Council complied with the requirements of the Act. Therefore, I appointed 29 July 2019 as the date from which local electors could exercise their rights for the 2016-17 and 2017-18 accounts under the 2004 Act.

The Council has failed to comply with its legal duties to adopt a Code of Conduct for members and to maintain a register of members' interests

- 45 An essential part of any body's governance framework is the behaviour demonstrated by the members of that body. The Local Government Act 2000 created a new ethical framework for local government in Wales. It created a power for the Welsh Ministers to issue a model code of conduct to apply to members and co-opted members of all relevant authorities in Wales.
- 46 Local councils are required to adopt the Code in its model form in its entirety, but can make additions to the Code, provided these are consistent with the Model. The locally adopted Code is then integral to the individual council's governance framework.
- 47 During the course of my audit I was unable to find evidence that the Council had adopted a Code of Conduct for members.
- 48 While carrying out their duties, members need to decide if they have a personal interest, and, if so, whether they need to disclose it. Where they do have an interest that should be disclosed, the fact that there is an interest and the nature of that interest should be disclosed at meetings, when making written representations, including e-mails, and when making oral representations. This disclosure is required even if the interest is recorded on the Council's register of interests.
- 49 Councils are required by section 81 of the Local Government Act 2000 to maintain a register of disclosed interests and to publish that register electronically.
- 50 The Council has not provided sufficient evidence to demonstrate it has complied with the requirements of the Local Government Act 2000 and maintain a register of interests. Although members may be aware of the need to declare interests at meetings, the Council has failed to recognise that it must also maintain and publish a register.

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

- 51 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 electronically on its website. The 2013 Act also requires every council to publish their register of members' interests, public notices and audited accounts electronically.
- 52 The changes introduced by the 2013 Act are designed to enhance the accountability of local councils to their electorates.

53 My audit identified that while the Council has established a website, it has not published 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, audited accounts or minutes for meetings (since November 2017).

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