

Inadequacies in Financial Management and Governance – Llansteffan & Llanybrie Community Council

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This report draws the Council's attention to inadequacies in governance arrangements, financial management and internal control at Llansteffan and Llanybrie Community Council. It contains written recommendations made under section 25 of the Public Audit (Wales) Act 2004.

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Summary report

Introduction

- 1 This report summarises the findings and conclusions arising from my audit of Llansteffan and Llanybri Community Council (the Council) for 2017-18. In the course of the audit, matters were brought to my attention indicating deficiencies in financial governance and decision making. My report draws the Council's attention to these failures in financial governance and decision making.
- 2 Under section 22 of the Public Audit (Wales) Act 2004 (the 2004 Act), I must consider whether in the public interest I should make a report on any matter which comes to my notice in the course of my audit, in order for it to be considered by Llansteffan and Llanybri Community Council (the Council) or brought to the attention of the public. I must also consider whether or not I should issue written recommendations under section 25 of the 2004 Act.
- 3 In considering whether or not to issue a report in the public interest or to issue statutory recommendations, I take into account the scale and impact of the issues I have identified and the action the Council has subsequently taken.
- 4 I also believe it appropriate to give the Council an opportunity to demonstrate the steps it has already taken to improve arrangements and minimise the risk of such failures recurring.
- 5 In view of the actions already taken by the Council during 2020 and the nature and overall impact of the issues I report on, I have decided not to issue a report in the public interest and that statutory recommendations will be sufficient.
- 6 Therefore, to assist the Council to avoid similar issues recurring in the future, and acting under delegated arrangements, I am making written recommendations under section 25 of the Public Audit (Wales) Act 2004 (the 2004 Act).

Llansteffan & Llanybri Community Council

- 7 The Council, located on the estuary of the River Towy, serves the wards of Llansteffan and Llanybri. It spends around £17,000 annually on local services. It funds this primarily by means of a precept of some £21,000 from Carmarthenshire County Council. Carmarthenshire Council collects the precept through additional council tax charged to the Council's residents. The Council derives its funding from the public purse and its members are elected by local residents. Therefore, while it is a relatively small council, it is accountable to the local electorate.
- 8 Community councils such as Llansteffan & Llanybri, 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.

- 9 During 2017-18, the position of Clerk and RFO was held by Mrs Melanie Phillips-Rees. Mrs Phillips-Rees left the Council's employment in January 2020. She is referred to for the remainder of this document as the former Clerk.
- 10 Notwithstanding the role of the former Clerk, 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 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

- 11 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.
- 12 Delays in receiving the annual return for 2017-18 led to the auditors working on my behalf to refer Llansteffan & Llanybri Community Council to me. As a result, these audits were assigned to a member of the Wales Audit Office staff, working under my direction, to bring them to a satisfactory conclusion.
- 13 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

- 14 My audit identified deficiencies in the Council's accounting records, including errors and omissions. Consequently, I am unable to conclude whether or not the accounting statements for 2017-18 present fairly the Council's finances.
- 15 In addition to presenting the accounts for a given year, the Annual Return requires the Council to make a formal declaration in relation to the arrangements it has in place for its governance and financial management. This is referred to as the Annual Governance Statement.
- 16 My audit work has identified that the Council's governance arrangements are inconsistent with the positive assertions it has made in its Annual Returns for 2017-18 as summarised in **Exhibit 1** below:

Exhibit 1: Annual Governance Statement

In its Annual Governance Statement, the Council has made positive assertions that are not supported by the evidence available for audit.

Assertion	Council response	Audit assessment
Put in place arrangements for effective financial management and properly prepared and approved the accounting statements.	Yes	No
Maintained and reviewed the effectiveness of an adequate system of internal control, including measures designed to prevent and detect fraud and corruption.	Yes	No
Taken steps to ensure there are no matters of non-compliance with laws, regulations and codes of practice.	Yes	No
Maintained an adequate and effective system of internal audit.	Yes	No

Source: Audit Wales analysis

- 17 For 2017-18, the Council completed its annual return as above on the basis it is compliant with the expectations set out in both legislation and published guidance. Where a positive assertion has been made, it has not qualified its responses or provided explanations on areas where it is either deficient or working to secure improvements.
- 18 In my view, the Council did not take sufficient steps to satisfy itself that its governance arrangements are effective and are fairly disclosed. Council members have not sufficiently recognised or acted upon issues in relation to the adequacy of their governance arrangements. Members have approved positive assertions that are contradicted by the evidence that should have been available to the Council when it approved the Annual Governance Statement.

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

Recommendations and next steps

My recommendations

20 I draw the Council's attention to the following recommendations to address the deficiencies identified during the audit. In my opinion, the Council should consider these recommendations in accordance with the requirements of section 25 of the Public Audit (Wales) Act 2004:

Exhibit 2: recommendations

I make nine 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 and then promptly sent to the Auditor General for audit and published by 30 September.
R2	Before approving the accounting statement and the Annual Governance Statement, the Council should ensure that it has sufficient evidence to support the assertions it makes.
R3	The Council should ensure it receives a copy of all internal and external audit reports and takes appropriate action in response to matters raised.
R4	The Council should review its accounting system and its system of internal control to ensure it maintains an effective system.
R5	The Council should review all payments made during 2017-18 for which no supporting evidence is available and ensure the payment was made to the correct payee.

Recommendations

- R6 The Council must ensure that it registers as an employer with HM Revenue and Customs and operates PAYE if it is required to do so.
- R7 The Council must ensure that it prepares and maintains a register of members' interests.
- R8 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.
- R9 The Council must ensure that it properly considers the terms of reference for its internal auditor and reviews all internal audit reports before concluding on whether it has an adequate and effective internal audit.

Next steps

- 21 Section 25 of the 2004 Act now requires the Council to consider the recommendations made in this report at a full meeting of the Council within one month of the date that I issue the recommendations.
- 22 At the meeting, the Council will need to decide:
- 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.
- 24 I also draw the Council's attention to the publicity requirements for the meeting that are set out in section 26 of the 2004 Act.

Ann-Marie Harkin

Executive Director – Audit Services

Audit Wales

For and on behalf of the Auditor General for Wales

Detailed report

The Council has not put in place proper arrangements for effective financial management and for the preparation and approval of the annual accounts

- 25 In its Annual Governance Statement, the Council asserts that it has established proper arrangements to ensure that:
- it manages its finances effectively; and
 - it has made arrangements to prepare and approve the annual accounts in accordance with the law.

The Council has failed to maintain proper accounting records during 2017-18

The Council is required to ensure that it has in place sound arrangements for financial management

- 26 The Accounts and Audit (Wales) Regulations 2014 (the 2014 Regulations) set out that the Council must establish a sound system of internal control which facilitates the effective exercise of its functions, and which includes arrangements for adequate and effective financial management.
- 27 Arrangements for adequate and effective financial management include internal control arrangements and the keeping of proper financial records.

The RFO is required to maintain proper accounting records

- 28 The 2014 Regulations set out that the RFO must, on behalf of the Council, determine its accounting records, including the form of accounts and supporting accounting records, and its accounting control systems. The RFO must then ensure that the accounting control systems are observed and that the accounting records of the body are kept up to date and maintained in accordance with the requirements of any enactment and proper practices.
- 29 Furthermore, the accounting records must be sufficient to show the Council's transactions and to enable the RFO to ensure that the annual accounts comply with the Regulations. To do this, the accounting records must contain entries from day to day, of all sums of money received and expended by the Council and the matters to which the income and expenditure or receipts and payments accounts relate.
- 30 During 2017-18, the former Clerk was the Council's designated RFO.

The former Clerk failed to maintain proper accounting records and the records kept contain numerous errors and omissions

- 31 The former Clerk provided for audit the Council's cashbook and supporting documentation including invoices. The supporting documentation was significantly incomplete. My audit identified the following:
- the cashbook contains arithmetical errors;
 - the value of a small number of transactions was recorded inaccurately, ie the amount recorded in the cashbook was different to the actual payment that cleared the Council's bank account;
 - expenses claims were supported by calculations only and contained no detail to validate the claims; and
 - original copies of invoices and other supporting documents, eg expenses claims, were not provided for all payments made.
- 32 The errors and omissions in the Council's accounting records lead me to conclude that the Council did not maintain proper accounting records during the period subject to audit.

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

- 33 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.
- 34 These arrangements apply to all employers, unless none of their employees are paid £118 or more a week, receive taxable expenses and benefits, have another job or are in receipt of a pension. In practice this means that very few councils are exempt from PAYE. In relation to the Council, the former Clerk was also employed by a second local council during the period subject to audit. Therefore, the Council was required to operate PAYE.
- 35 The Council has been unable to provide payroll records for examination. The former Clerk explained that these were unavailable as they had been produced on a previous laptop.
- 36 The Council's cashbook does include details of cheque payments purporting to have been made to HMRC, indicating that the former Clerk's salary had been subject to income tax.
- 37 However, my examination of these payments indicated that the cheques had not in fact been presented to the Council's bank. Therefore, I conclude that these cheques were not in fact issued to HMRC.

38 Based on the evidence I have seen in respect of payroll and PAYE at the Council, I conclude that the Council did not in fact maintain proper payroll records or administer PAYE as it is required to do by law.

The Council has not established an adequate system of internal control

39 The Council has asserted in the Annual Governance Statement that it has maintained an adequate system of internal control and has reviewed its effectiveness.

The Council is required to ensure that it has in place sound arrangements for financial management

40 The 2014 Regulations) set out that the Council must establish a sound system of internal control which facilitates the effective exercise of its functions, and which includes arrangements for adequate and effective financial management.

41 Arrangements for adequate and effective financial management include internal control arrangements and the keeping of proper financial records.

The Council does not have in place key financial controls to ensure safeguarding of its finances

42 **Exhibit 3** below sets out examples of the types of internal controls community councils should have over their activities and transactions, together with the actual arrangements I have found to be in place at the Council.

Exhibit 3: expected internal controls

The Council does not have essential internal controls in place to safeguard the funds it manages.

Expected internal controls	Audit findings
The Local Government Finance Act 1992 requires that, in order to set its precept, the Council must calculate its budget requirement each year setting out its spending plans and expected income.	Information provided for audit did not include a budget set for 2017-18. The Council's minutes do not record discussion of a budget for 2017-18 nor of any monitoring of income and expenditure against a budget.

Expected internal controls	Audit findings
<p>A reconciliation between cashbook/ledger and the bank account should be carried out periodically and at the year-end to identify errors and omissions in the Council's cashbook/ledger.</p>	<p>No bank reconciliation carried out by the Council was provided for audit.</p>
<p>All payments made by the Council should be supported by invoices or similar documentation.</p>	<p>My audit identified numerous payments that did not have supporting invoices or expense claim forms.</p>
<p>The Council has appropriate arrangements in place for authorisation of payments.</p>	<p>There is a lack of consistency with which payments are recorded as approved in minutes. For example:</p> <ul style="list-style-type: none"> • payments to HMRC have been approved but the payments have not been issued. • the Council's annual membership fee of £182 for One Voice Wales was approved on 19 February 2018 but not issued. • on 18 December 2017, the Council approved reimbursement of the former Clerk's expenses of £273.80. The actual payment made was £339.56.

Source: Audit Wales

43 On this basis, I conclude that the Council's assertion that it has maintained an adequate system of internal control is inaccurate.

The Council has failed to establish proper arrangements to ensure it complies with various statutory responsibilities

44 In its Annual Governance Statement, the Council asserts that it has taken all reasonable steps to ensure there are no matters of actual or potential non-compliance with laws, regulations and codes of practice.

- 45 However, my audit identified a number of areas where the Council does not comply with statutory requirements.

The Council has failed to comply with the Local Government Act 2000 requirement to adopt, maintain and publish a register of members' interests

- 46 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 members do have a disclosable interest, they must reveal its nature 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.
- 47 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.
- 48 There is no evidence that a register of interests has been maintained which leads me to believe the Council has not complied with the requirements of the Local Government Act 2000. Although members may be aware of the need to declare interests at meetings, the Council has failed to implement the requirement to maintain and publish a register.

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

- 49 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.
- 50 The changes introduced by the 2013 Act are designed to enhance the accountability of local councils to their electorates.
- 51 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.
- 52 The Council has recently taken action to include on its website, notices of audit, audited accounts and minutes for meetings.

The Council has failed to ensure that it has maintained an adequate and effective system of internal audit

- 53 In the Annual Governance Statement, the Council has asserted that it has maintained an adequate and effective system of internal audit as required by the Accounts and Audit (Wales) Regulations 2014 (the 2014 Regulations).
- 54 The Council's internal audit has been completed by Kelly James.

The Council is unable to demonstrate that its internal audit is adequate and effective

- 55 Regulation 6 of the 2014 Regulations requires that the Council has in place an adequate and effective system of internal audit.
- 56 In order to ensure that the internal audit is adequate and effective, the Council must consider the scope of the internal audit and ensure that the internal auditor provides sufficient feedback for the Council to consider whether its expectations have been met.
- 57 My audit identified that the Council is unable to provide a copy of any terms of reference agreed with the internal auditor.
- 58 The Annual Return completed by the Council includes, on its reverse, a proforma audit report. This allows the internal auditor to set out the work they undertook at the Council. As an alternative to completion of the internal audit report on the Annual Return, the internal auditor may provide a separate detailed report to the Council.
- 59 My audit established that:
- while the internal auditor appears to have completed the proforma report on the reverse of the Annual Return, the report has not been fully completed;
 - the 2017-18 report names the internal auditor in full and contains the auditor's signature and is dated 21/04/2018;
 - the internal audit report does not identify the deficiencies and inaccuracies I have identified with the Council's accounting records; and
 - the internal auditor did not provide a separate, more detailed report to the Council, so the shortcomings above remain unaddressed.
- 60 In the absence of terms of reference for, and a detailed report from, the internal auditor, the Council lacks evidence to demonstrate that it has maintained an adequate and effective system of internal audit.

The internal auditor has provided assurances to the Council that contradict the evidence I have identified during my audit

61 **Exhibit 4** sets out the internal auditor's assurances to the Council and my assessment of the Council's arrangements based on my audit work.

Exhibit 4: internal audit assurances

The Council does not have essential internal controls in place to safeguard the funds it manages.

Internal audit report assurance	Internal audit assessment	Wales Audit Office assessment
Appropriate books of account have been properly kept.	Yes	No
Financial regulations have been met, payments are supported by invoices.	Yes	No
The annual precept resulted from an adequate budgetary process.	Yes	No
Salaries were paid in accordance with approvals and PAYE requirements were properly met.	Yes	No
Year-end bank reconciliation was properly carried out.	Not answered	No

Source: Annual Return and Audit Wales

62 Based on the matters set out in the report, reflecting the evidence I found during my audit work, I do not consider that the internal auditor carried out audit work that is robust. I therefore conclude that the assurance provided by the internal auditor is not reliable and that the internal audit was not adequate and effective.



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