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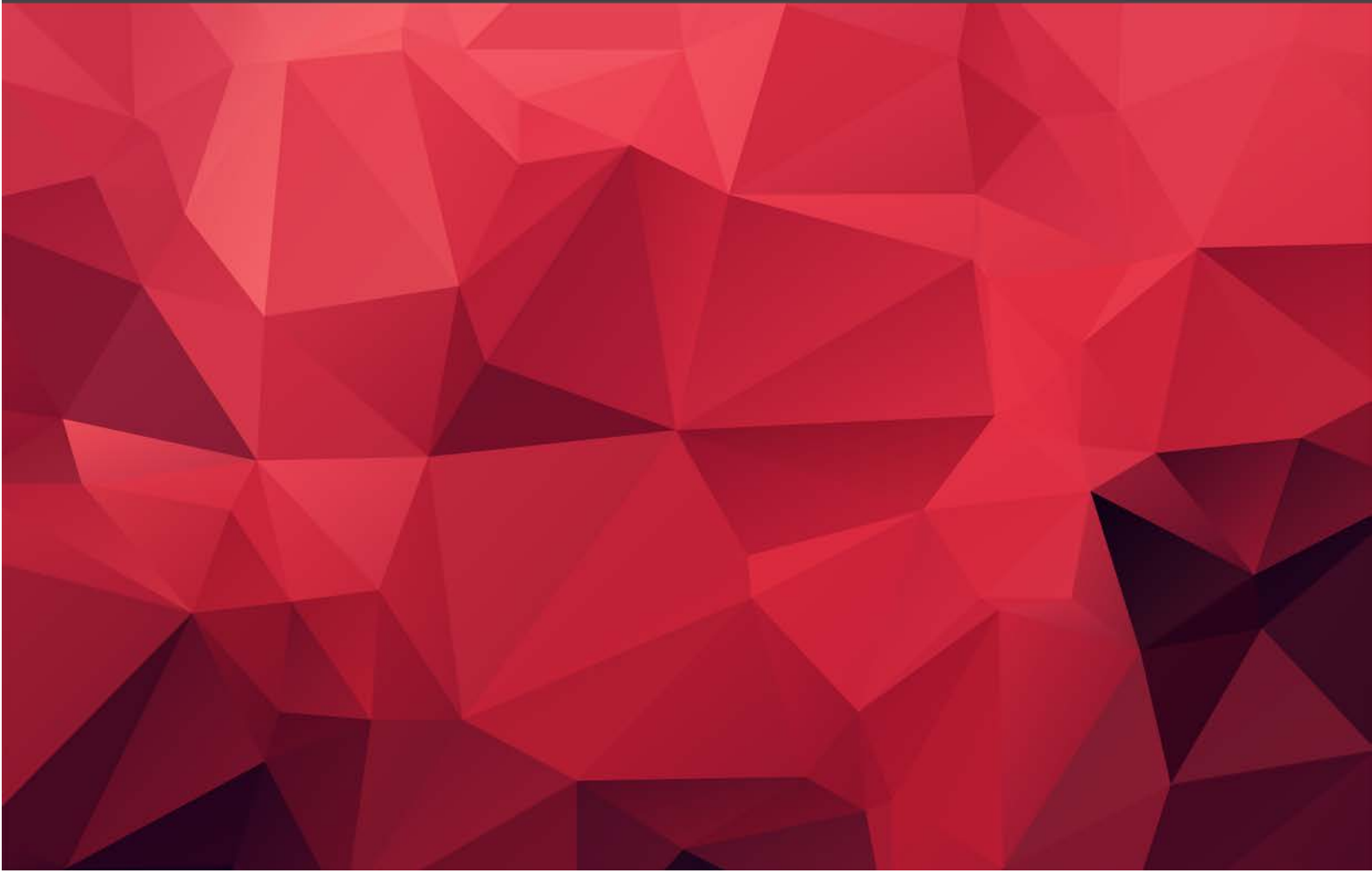
Archwilydd Cyffredinol Cymru
Auditor General for Wales

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

Audit year: 2015-16 and 2016-17

Issued: September 2018

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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 Llanwnnen 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 Llanwnnen 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 350 electors and other residents of the communities of Llanwnnen and Llanbedr Wledig. The Council has eight elected members and spends around £3,000 to £3,500 annually on local services. It funds this by means of a precept of some £3,200 from Ceredigion County Council. The County Council collects the precept through additional council tax charged to the Council's residents. Llanwnnen 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 Llanwnnen, 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.
- 6 References to the Clerk in this report refer to the former clerk, Miss Eleri Jones. I understand Miss Jones is no longer employed by the Council.

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

- 7 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.
- 8 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.
- 9 The Council has not complied with the statutory timescales for preparing and approving its accounts for the 2015-16 and 2016-17 financial years.

Exhibit 1: dates of completion of the accounts

Financial year	Date accounts should have been approved by the Council	Date approved by the Council
2015-16	30 June 2016	01 December 2017
2016-17	30 June 2017	01 December 2017

- 10 My review of the Council's minutes leads me to believe that the Clerk, Miss Eleri Jones, 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 in October 2017 to discuss the late submission of accounts.
- 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.

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

- 12 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.
- 13 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.
- 14 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 accounting records to record its income and expenditure for 2015-16 and 2016-17

- 15 Regulation 6 of the Accounts and Audit (Wales) Regulations 2014 requires the responsible financial officer (RFO), which in the case of the Council is the Clerk, to determine on behalf of the body, after consideration of proper practices, its accounting records, including the form of accounts and supporting accounting records, and its accounting control systems.
- 16 Proper practices are set out in the One Voice Wales/Society of Local Council Clerks publication Governance and Accountability for Local Councils in Wales: A Practitioners' Guide. These proper practices require that the Council should maintain a cashbook or equivalent in order to record transactions and retain original documentation to provide evidence to substantiate transactions recorded in the cashbook.
- 17 My audit identified that while the Clerk has kept a list of payments and a note of transfers between bank accounts, there is no overall cashbook to record all of the Council's transactions. While the Clerk prepared a balance sheet at the year ends, I have not been able to agree the 2015-16 accounting statement to the accounting records. There is a discrepancy of £397 between the closing balance at 31 March 2015 per the 2014-15 annual return and the bank statement.
- 18 The Council should retain copies of documentation to support all payments made. The documentation provided for audit was limited and as a consequence, I cannot conclude on the accuracy or completeness of the recorded transactions.

The Council has failed to maintain proper arrangements to administer payroll

- 19 Most Community Councils, such as Llanwnnen Community Council, employ 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.
- 20 Subject to certain exemptions, all employers 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.
- 21 While the Clerk received salary payments in both 2015-16 and 2016-17 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.
- 22 The Council has not provided evidence to demonstrate that it is exempt from registering for PAYE.
- 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.

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

- 25 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, which is determined, in accordance with Section 50, by the calculation of the budget requirement.

- 26 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.
- 27 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.
- 28 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.
- 29 My examination of the Council's minutes indicates 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 Pembrokeshire County Council.

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

- 30 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.
- 31 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.
- 32 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 or audited accounts. The Council has only published minutes for meetings held between April and September 2016.

Action already taken by the Council

- 33 It is important that the Council learns from these events. I understand that the Council has already taken certain actions, including:
- the Council has ensured it complies with the requirements for display and publication of the audit notice for the 2017-18 audit;

- the current clerk has introduced a cashbook to record receipts and payments
- the Council has introduced a contract of employment for its current clerk;
- PAYE will be processed through the HMRC Real Time Recording system;
and
- minutes of the council's meetings are now being published on its website.

Recommendations

Exhibit 2: my recommendations to the Council are:

Recommendations	
R1	The Council must ensure that the Statement of Accounts is prepared and approved 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 the accounts are submitted for audit promptly following approval.
R4	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.
R5	The Council should retain sufficient evidence to demonstrate that it has complied with its statutory duties.
R6	The Council must ensure that it prepares and maintains proper accounting records as required by the Accounts and Audit (Wales) Regulations 2014.
R7	The Council must ensure that it issues an agreed contract of employment setting out the terms and conditions of employment for the Clerk.
R8	The Council should review the payment of the Clerk's salary to confirm the salary and any deductions for tax (including tax on the expenses allowance) have been calculated correctly.
R9	The Council should consider whether or not it is required to register with HMRC and operate a PAYE system.
R10	The Council must ensure that it prepares a budget in accordance with the Local Government Finance Act 1992 prior to setting its precept.
R11	The Council must ensure that its decision to issue a precept is recorded in its minutes.
R12	The Council should monitor its expenditure against this budget throughout the year (eg by quarterly comparisons of expenditure against budget).

Recommendations

R13 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.

Next steps

- 34 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.
- 35 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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Assistant Auditor General
For and on behalf of the Auditor General for Wales
6 September 2018

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