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Auditor General for Wales

Report in the Public Interest – Use of Financial Reserves – **Penmaenmawr Town Council**

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

The person who delivered the work was Ian Hughes 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 Penmaenmawr Town Council.

The Council has not maintained a sustainable financial position and has over-relied on its reserves to meet its spending commitments. The Council also had unrealistic spending plans and failed to monitor its expenditure in the context of available financial resources. It has made substantial expenditure cuts to put itself back on a more sustainable financial footing. The Council's poor financial management is symptomatic of wider failings in its governance which are set out in my report. The Council has now put in place several changes that address the weaknesses and failings identified in this report.

I intend to issue a qualified audit report on the Council's Annual Return for the financial year 2018-19.

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Summary report

Introduction

- 1 This report summarises my conclusions arising from my audit of Penmaenmawr Town Council's (the Council) accounts for the 2018-19 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.

Penmaenmawr Town Council

- 4 Penmaenmawr is a town and community in Conwy County Borough located on the North Wales coast between Conwy and Llanfairfechan. The population of the community was 4,353 in 2011, the town itself having a population of 2,868. In 2017-18, Penmaenmawr Town Council (the Council) spent £192,171; most of this expenditure was financed from a precept and the use of balances. The precept is funded from additional council tax charges to residents of Penmaenmawr.
- 5 The Council consists of 13 Councillors. All of the current Councillors secured their positions unopposed at election time¹. The Council's constitution requires the establishment of three committees to the main Council; Planning, Finance and HR. The Planning Committee has been in place for some time. The HR Committee was re-established in early 2018 and the Finance Committee re-introduced in November 2018.
- 6 The Council employs a part time Clerk and Responsible Financial Officer (RFO) in addition to two part time Civic Pride Wardens. The current Clerk and RFO (referred to as Clerk from now on) has been in post since July 2018. The previous Clerk left the Council's employment in April 2018 and the role was filled on a locum basis in the intervening period.

¹ I understand that one councillor has resigned in the period leading up to the publication of this report.

My audit work

- 7 My audit work on town and community councils normally 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. Additional audit work is undertaken when matters come to my attention during the audit.
- 8 In February 2019 the local press reported that Penmaenmawr Town Council's financial reserves were 'almost exhausted' and that urgent cut backs were needed to balance the books. The events leading up to this situation were considered in an interim report prepared by the Council's Finance Committee on 19 December 2018. The report highlighted that the Council had not contained its expenditure within available income and as a result the money held in the deposit bank account had been used to the point of near depletion.
- 9 Shortly after the weaknesses in budgetary control and monitoring came to light, I was contacted by several residents of Penmaenmawr expressing concern about the situation. Some correspondents also set out their views about the value for money of the Council's various procurement decisions. The Council has issued a public statement disputing claims that there was a failure to account for the Council's expenditure and that Councillors had benefitted personally from the public purse.
- 10 To get a full understanding of what has happened to the Council's reserves, I have undertaken a review of the Council's accounts for the financial years 2013-14 to 2018-19. My focus has been on the aspects of the council's governance and financial management that have contributed to the depletion of reserves and subsequent austerity measures put in place. I have also looked at arrangements for procurement and declarations of interest.
- 11 My audit findings show long-standing inadequacies in governance, financial management and internal control at the Council and are summarised below. They also reveal tensions and lack of mutual respect and trust within the membership of the Council which are not helpful to either its reputation or to the delivery of services to the residents. These findings are considered in more detail in the remainder of this document.

Key findings

- 12 The Council has been spending at an unsustainable level over the last three years and its ability to rely on its financial reserves has been time-limited. The Council's overspending is rightly a matter of public concern. It has apologised for its management of public finances and accepts that this is not in keeping with the high standards expected of a local council.

- 13 I have found several failings in the Council's governance which I believe contributed to its poor financial management. These failings are, in my view, equally attributable to current and former officers of the Council and the Councillors themselves. For this reason, I have not referred to any named individual in this report.
- 14 The Council did not exercise enough scrutiny of the accounts and annual governance statement prior to approving the annual return. The Council's governance arrangements are inconsistent with the positive disclosures it makes about them in its Annual Accounts. These disclosures are in my view factually inaccurate and misleading.
- 15 The Council's budget setting and monitoring arrangements were ineffective and did not safeguard it from the over reliance on reserves that ensued. I am not satisfied that there was a proper understanding of the make-up of its reserves or any effective controls to ensure they were used in line with their intended purposes.
- 16 The Council's internal auditor escalated their concerns about weaknesses in budget setting and monitoring but these went unheeded by the Council. There was, in my view, enough opportunity for the Council to take remedial action and introduce spending restraint early and prevent a financial crisis.
- 17 The Council's arrangements to ensure appropriate declarations of interest are insufficiently transparent and diminish public confidence in its accountability. The Council also needs to improve the consistency and transparency of its procurement arrangements.
- 18 Whilst I have found the Council wanting in many aspects of its governance, I have not seen any evidence that members of the Council have personally benefitted from the public purse. Moreover, it is evident that the Council had recognised the seriousness of its financial position by the autumn of 2018 and had started taking action to improve its budgetary control and monitoring arrangements. My audit has also shown that the Council continues to strengthen its financial management and governance and is determined not to allow a similar situation to arise again in the future. I note from the Council's financial report for June 2019, that the Council's balances have been increased and stood at £52,196 as at the end of June 2019.
- 19 In addition to the governance failings noted above I have also noted significant tensions within the membership of the Council. Terms such as 'a Council operating within a Council', a 'bullying culture', 'voting like sheep' and 'withholding of information' were used by Councillors in discussions with my audit team. These comments are reinforced by reference to various written complaints made both within and outside of the Council in relation to member behaviour.
- 20 It is not my role to comment on the validity or otherwise of these statements or to apportion any blame to any group or individual within the Council for the tensions that are apparent from my audit. I will state, however, that the situation is damaging to the reputation of the Council and is detrimental to the interests of the local community. I urge the Council to bolster its governance changes alongside wider efforts to rebuild trust and mutual respect amongst its membership.

Recommendations

21 I draw the Council's attention to the following eight recommendations:

Exhibit 1: Recommendations

Recommendations	
R1	The Council must bolster the governance changes it is making with wider efforts to rebuild trust and mutual respect amongst its membership.
R2	Copies of the annual returns need to be made available to Councillors with the agenda papers of the meeting in which they are asked to consider and approve the annual accounts.
R3	The internal auditor's report needs to be made available to Councillors with the agenda papers of the meeting in which they are asked to consider and approve the annual accounts.
R4	Councillors should be provided with quarterly budget monitoring reports setting out actual expenditure against the budget.
R5	The Council must prepare a policy for its reserves, to include a minimum level, the definition of any earmarked reserves and quarterly reports setting out the balance on each reserve.
R6	Councillors must ensure they make a full disclosure of any personal interest in Council meetings and the minutes should accurately reflect who made the declaration, the reason for it, and what action was taken eg abstained from a vote, left the Council chamber.
R7	Council minutes should accurately reflect how procurement decisions have been made and that they are in accordance with the requirements of the Council's new Financial Regulations.
R8	The Council should complete an appraisal of training needs for both the Clerk and its elected members. A prioritised training programme should then be prepared and approved subject to the availability of resources.

Next steps

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



Anthony Barrett
Assistant Auditor General
October 2019

Detailed report

The Council's financial management and governance is a matter of public concern

- 24 In February 2019 the local press reported that the Council's financial reserves were 'almost exhausted'. The press report highlighted matters that had come to light over recent months within the Council and brought together under cover of an interim report prepared by the Council's Finance Committee on 19 December 2018. Whilst the interim report was helpful in addressing concerns later raised by the public, I do not consider it was sufficient to explain the full context of the matter to local council tax payers.
- 25 In January 2019 the Council had already issued a public notice responding to the press coverage and concern amongst residents and voluntary organisations who received funding from it. The public notice included, amongst other remarks:
- 'It has recently come to light that over the last three years the Town Council have been spending more on the local community than it has been receiving in its annual precept (income). To pay for this over-expenditure on local projects, money has been drawn from the Council's reserves. The first transfer occurring in November 2015, the last in July 2018. The total amount transferred from reserves during this period is £100,000. This has left the Council with almost no financial reserves.
- The current financial situation, while extremely regrettable, has arisen because the Council was regularly required to make decisions regarding expenditure on local community events, charities and organisations, without being furnished with accurate and up to date financial information. This led to a culture of generosity towards local projects that the Council's finances could not sustain. The Town Council acknowledges that this was a weakness on its part and has introduced robust new procedures to ensure greater financial oversight in the future. The Town Council sincerely apologises for its management of public finances over the last few years and accepts that this is not in keeping with the high standards expected of a local Council. Despite its shortfalls, the Council would like to affirm that it has, throughout the period acted in the interest of the residents of the area.'
- 26 To get a full understanding of what has happened to the Council's reserves, I have based my review on the financial years 2013-14 to 2018-19. This does not mean I have looked at all the financial transactions taking place within these years. These annual accounts have already been subject to external audit by BDO as part of the Auditor General's limited assurance regime. All these years have also been subject to an internal audit. My focus has been on the aspects of the council's governance and financial management that have contributed to the depletion of reserves and subsequent austerity measures put in place by the Council. I have also looked at arrangements for procurement and declarations of interest.
- 27 This next section of my report summarises the Council's financial position between April 2013 and June 2019.

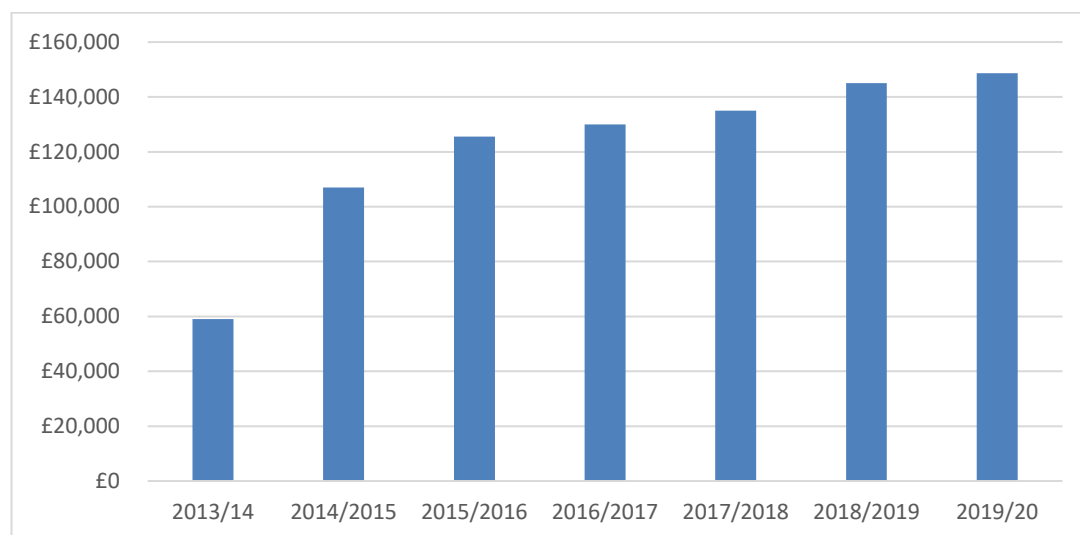
The Council has not maintained a sustainable financial position and has over-relied on its reserves to meet its spending commitments

The precept raised by Penmaenmawr Town Council from its council tax payers has increased from £59,000 in 2013-14 to over £148,000 in 2019-20

28 Penmaenmawr Town Council is a very active Council and supports many projects, events and festivals within the local community including amongst others, Pen in Bloom, Light up Pen and the Festive Fayre. To fund its various endeavours the Council precepts on Conwy County Borough Council (Conwy Council). The precept is funded from additional council tax charges to residents of Penmaenmawr. Exhibit 1 below shows how the precept has increased over the last few years.

Exhibit 1: Penmaenmawr Town Council's precept between 2013-14 and 2019-20

Penmaenmawr Town Council's precept has increased from £59,000 to over £146,000 between 2013-14 and 2019-20



Source: Penmaenmawr Town Council audited annual accounts

29 There is a mistaken belief amongst residents that the precept has been increased to fund the purchase of a car park from Conwy County Borough Council. The increase in the precept reflects a wider policy by Penmaenmawr Town Council to fund a programme of town improvements including the removal of an old skatepark from the promenade. The Council has been considering a range of options for the

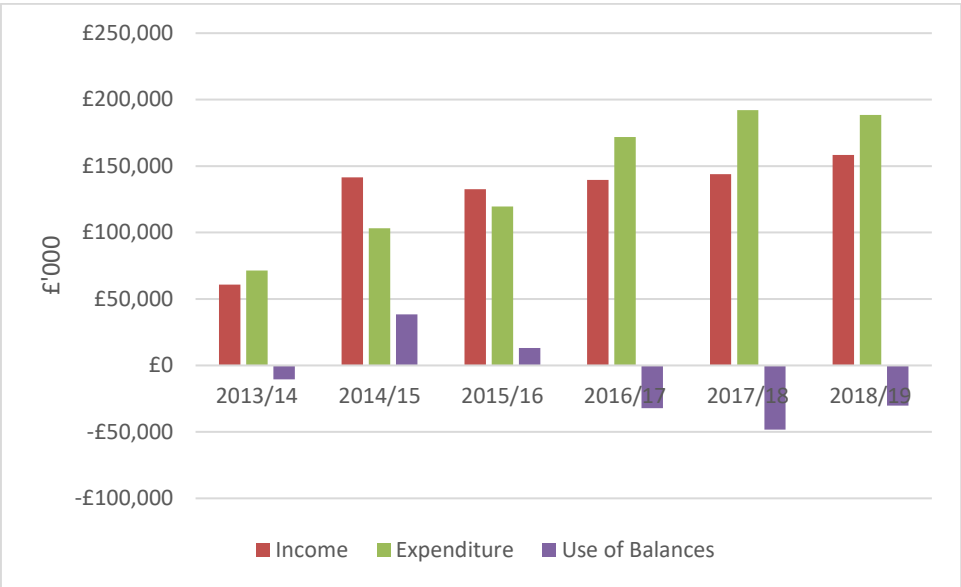
car park, including its purchase. However, it recently resolved not to proceed with any acquisition.

Since 2013-14, the Council’s annual expenditure has increased from £55,000 to over £158,000 and this has been funded in part by depleting its reserves

- 30 **Exhibit 2** below shows how the Council’s spending has increased every year since 2013. The biggest increase between 2013-14 and 2014-15 followed a programme of public consultation undertaken by the Council about needs and priorities. Project costs and grants and donations typically account for some 85% of the Council’s total annual expenditure. For the years 2014-15 and 2015-16 the spending was covered by the annual income (mainly the precept). There was an item of exceptional income of £27,781 in September 2014 arising from the dissolution of Cwmni Penllan (a local community development group)..
- 31 **Exhibit 2** also shows how the Council drew heavily on its balances to fund its expenditure during 2016-17, 2017-18 and 2018-19.

Exhibit 2: the Council’s income and expenditure and use of balances over the last five financial years

From 2016-17 onwards, the Council has drawn on its balances to finance its expenditure.



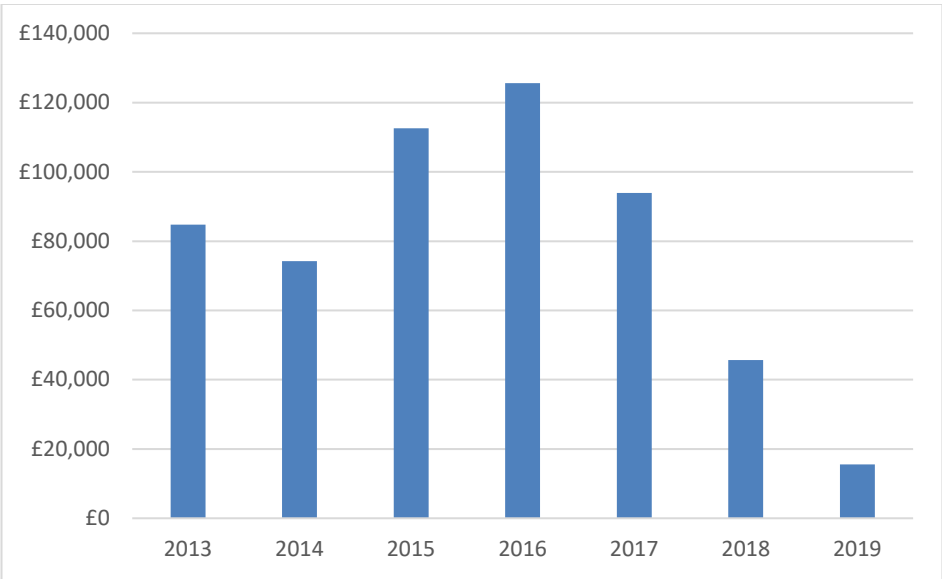
Source: Penmaenmawr Town Council audited annual accounts

- 32 The Council’s balances are represented by money held in both the Council’s current and deposit bank accounts. **Exhibit 3** below shows the declining value of

the Council's total balances between 1 April 2014 and 1 April 2019. The balances have reduced to £15,527 by the end of the 2018-19 financial year. This represents some 8% of the Council's annual expenditure.

Exhibit 3: Penmaenmawr Town Council's year end balances

The Council's financial balances have decreased from a peak of over £125,000 at 31 March 2016 to under £16,000 as at 31 March 2019



Source: Penmaenmawr Town Council audited annual accounts

While the Council has been spending at an unsustainable level, members lacked an understanding of the purposes for which the Council held reserves

- 33 Based on my discussions with the Council (councillors and the current and former clerks) and a review of its records, I am not satisfied that there was a proper understanding of the make-up of its reserves or any effective controls to ensure they were used in line with their intended purposes or to sanction a change in use. The information available on the amounts held in reserves is also inconsistent.
- 34 The Council's working papers explaining its budget calculation for 2018-19 show that it held reserves totalling £95,884 as at 1 April 2018. The Council's papers identify that these funds were earmarked for the following specific purposes:

Exhibit 4: most of the Council's financial reserves had been earmarked for specific purposes

Almost 90% of the Council's reserves were earmarked for specific purposes

Purpose of reserve	31 March 2016
Promenade (skatepark)	£70,000
Asset transfer reserve	£10,000
Election reserve	£5,884
General contingency	£10,000
Total reserves	£95,884

Source: Penmaenmawr budget analysis

- 35 These earmarked reserves were included within the total brought forward balances figure of £105,638 included in the 2018-19 revised budget presented to the Town Council in September 2018.
- 36 Unfortunately, the brought forward figure of £105,638 reported in the September 2018 budget is overstated as the actual audited brought forward balances were significantly less at £45,661 (see [paragraph 62](#) for more on this). Also, in practice the Council's balances have been used to fund a range of projects and grants including some of the specific causes reflected above in [Exhibit 4](#).
- 37 It is evident from the above analysis that the Council has been spending at an unsustainable level over the last three years and its ability to rely on its financial reserves has been time-limited. I agree with the Council's own reflection that it has incurred expenditure 'towards local projects that the Council's finances could not sustain'. It has now made substantial expenditure cuts to put itself back on a more sustainable financial footing.
- 38 I note that the Council's balances have now been increased and stood at £52,196 as at the end of June 2019.
- 39 The next section of my report sets out the reasons why the Council failed to keep its spending under control.

The Council's poor financial management is symptomatic of wider and unreported failings in its governance

- 40 I have found several failings in the Council's governance which I believe have together contributed to its poor financial management. I am also satisfied that there were missed opportunities to prevent the financial crisis from taking hold. These

failings are, in my view, equally attributable to current and former officers of the Council and the Councillors themselves. For this reason, I have not referred to any named individual in this report.

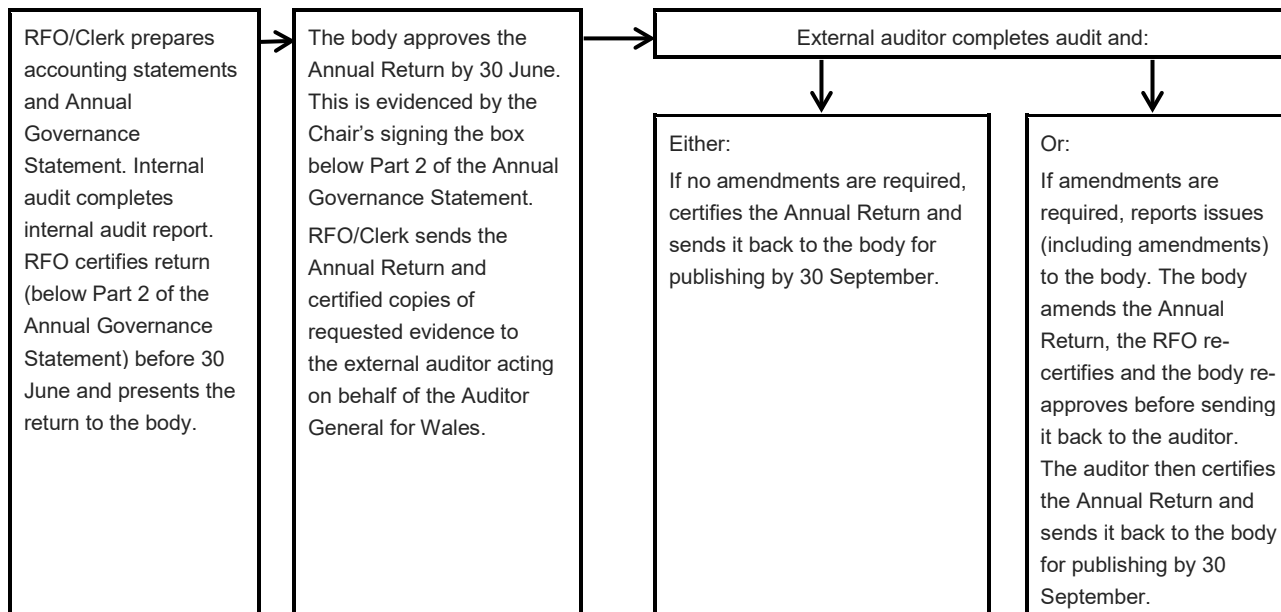
- 41 Whilst I have found the Council wanting in many aspects of its governance I have not seen any evidence that members of the Council or current and former officers have personally benefitted from the public purse.

The Council did not exercise enough scrutiny of the accounts and annual governance statement prior to approving the annual return

- 42 Under Section 13 of the Public Audit (Wales) Act 2004, 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.
- 43 The Accounts and Audit (Wales) Regulations 2014 (the Regulations) set out the timetable for the preparation and approval of the annual accounts:
- the council's RFO must prepare and certify that the statement of accounts properly presents 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; and
 - these actions must be completed by 30 June following the end of the financial year.
- 44 As soon as possible after the Council has approved the annual return it must be sent to the external auditor. The process is summarised in [Exhibit 5](#) below:

Exhibit 5: the accounts and audit arrangements follow the process as set out below

The accounts and audit arrangements follow a defined process



Source: Penmaenmawr Town Council annual return

- 45 Penmaenmawr Town Council met and discussed its year end accounts for 2017-18 and annual return on 12 June 2018. I am told that the Clerk went through the governance questions on the annual return and the proposed answers were agreed by the Council and recorded on the form. The Council then resolved unanimously that the annual return be accepted and that the Clerk would forward the paperwork to the auditors.
- 46 However, the Councillors were not provided with copies of the actual annual return to read. An integral part of this return is the report and conclusion of its own internal auditor. This report was not available at the time the Council met and approved its annual return. When the internal audit report was completed on 25 June it was qualified as follows:
- ‘On the basis of the internal audit work carried out, in our view the Council’s system of internal control is NOT in place, adequate for the purpose intended and effective, and the issues reported in the action plan need to be implemented promptly.’
- 47 I believe that approving the annual return without having sight of the internal auditor’s report was a significant and collective failing on the part of the Council and its current Clerk.

48 I have also reviewed the minutes of Council meetings pertinent to the previous financial year 2016-17. I have found no mention of the Council discussing and approving its statement of accounts between 1 April and 30 June. This confirms to me that the Council did not incorporate effective scrutiny and challenge into the account's approval process.

The assertions made by the Council in its annual governance statements are inaccurate and misleading

49 In addition to presenting the accounts for a given year, the Regulations require the Council to publish a statement on internal control alongside the accounts. To meet this requirement, the annual return incorporates an annual governance statement in which the Council makes a series of assertions about the arrangements it has in place for its governance and financial management.

50 Whilst the actual wording of the Annual Governance Statement can vary from one year to another, it broadly covers the items ('assertions' or statements about the Council's governance) set out in **Exhibit 6** (for 2017-18). **Exhibit 6** also shows the Council's response to those matters and my audit assessment for 2017-18.

Exhibit 6: Penmaenmawr Town Council Annual Governance Statement for 2017-18

Six out of ten of the Council's positive assertions in its Annual Governance Statement are inconsistent with my assessment of the Council's arrangements

Assertion	Council Response	Audit assessment
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
Provided proper opportunity for the exercise of electors' rights in relation to the accounts	Yes	Yes
Carried out an assessment of the risks facing the council	Yes	No
Maintained an adequate and effective system of internal audit	Yes	Yes
Considered the financial impact of any litigation, liabilities or commitments, events or transactions	Yes	Not reviewed
Appropriate action has been taken in relation to internal and external audit reports	Yes	No
Taken into account the level of reserves held by the Council when setting its budget	Yes	No

Assertion	Council Response	Audit assessment
Maintained a separate account of grants made under section 137 of the local Government Act 1972	Yes	Yes

Source: Penmaenmawr Town Council Annual Governance Statement and Wales Audit Office analysis

- 51 **Exhibit 6** shows that my audit work has identified that the Council’s governance arrangements are inconsistent with the positive assertions it has made in its Annual Governance Statements.
- 52 For the audit years 2013-14 to 2017-18, the Council has completed the returns on the basis it is compliant with the expectations set out in both legislation and published guidance. It has not qualified its responses or provided explanations on areas where it is either deficient or working to secure improvements. This includes, for example, asserting it had proper budget setting and monitoring arrangements in place and that it has appropriate plans in place for the use of these reserves. These disclosures are in my view factually inaccurate and misleading.

The Council has failed to properly budget for its financial activities and did not act on the concerns expressed by its internal auditor

The Council is required by law to calculate a budget and to put in place proper arrangements to secure effective financial management

- 53 Section 50 of the Local Government Finance Act 1992 requires the Council to calculate its budget requirement each year. In calculating this budget requirement, the Council must take into account:
- the expenditure it estimates it will incur in the year in performing its functions;
 - such allowance as it estimates will be appropriate for contingencies in relation to expenditure for the year;
 - the financial reserves which it estimates it will be appropriate to raise in the year for meeting its estimated future expenditure; and
 - such financial reserves as are sufficient to meet so much of the amount estimated by the council to be a revenue account deficit for any earlier financial year as has not already been provided for.

54 Regulation 5 of the Regulations requires the Council to ensure that there is a sound system of internal control which facilitates the effective exercise of that body's functions and which includes adequate and effective financial management.

The Council's budget setting and monitoring arrangements were ineffective and did not safeguard it from the over reliance on reserves that ensued

55 I have reviewed the Council's budget statements between 2013-14 and 2017-18. For each of these years the Council looked to draw upon its reserves to help fund its budgeted expenditure. However, the planned expenditure for these five years significantly exceeded the income and reserves available to draw upon. The total planned use of balances between 2013 and 2018 was £416,858 yet the Council's actual balances were only £85,785 as at 1 April 2013. Increases in precept and other income over this time did not address the shortfall. Also, as mentioned earlier there is no clear or consistent explanation of how earmarked reserves are planned to be used in the Council's budgets.

56 The Council's computerised accounting system is set up on the basis that expenditure is recorded in line with budget headings. This should facilitate timely budget monitoring. I have not seen any monitoring reports presented to Council that do this in practice. Councillors have told me that they only received updated budgets from the former Clerk which they understood was the basis for ensuring the Council was spending within its means.

57 Councillors have also told me that they had long standing concerns about the former Clerk's skills and competence in financial management. They had tried to address this through offers of training and support but more latterly had to escalate matters by the introduction of a formal working protocol. However, the working relationship between the Council and the former Clerk deteriorated culminating in the departure of the former Clerk in April 2018.

58 The former Clerk refutes this criticism on the basis that:

- the deterioration in working relationships was, in his view, due to animosity against him by a small number of Councillors;
- he had made it clear at appointment that his skills were in local government and project management although he was, in his opinion, more proficient at finance than the members of the Council;
- his requests for training went unheeded and had to arrange it in a personal capacity at his own expense; and
- he has no recollection of the 'formal working protocol' referred to by the Council.

The Council's internal auditor escalated their concerns about weaknesses in budget setting and monitoring but these went unheeded by the Council

- 59 The Accounts and Audit (Wales) Regulations 2014 require all town and community councils in Wales to have an adequate and effective system of internal audit in place. The role of internal audit is to examine several key areas of the Council's governance and financial management and highlight any material deficiencies.
- 60 At the end of 2016-17 internal audit the Council's internal auditor reported² to the council, concerns about the Council's budget for the following financial year, 2017-18. Essentially the proposed spending level for 2017-18 would involve using up all the Council's reserves. Moreover, the auditor reported that most of the Council's reserves had been earmarked but there was no correlation between planned expenditure and the use of earmarked reserves. The internal auditor made several recommendations for improvement but as far as I can see these were not implemented. The internal audit report was not presented to the Council for consideration.
- 61 The internal auditor escalated their concerns at the end of the 2017-18 audit. The overall audit opinion was qualified but more specific concerns were raised about the Council's budget for 2018-19. The internal auditor noted that the budgeted expenditure set exceeded the income and reserves available to fund it. As explained above, local councils must set and approve a balanced budget annually by law. The report included the following statement in bold ink:
- 'The Council therefore do not have budgeted income and reserves that meet their budgeted expenditure for the year'.
- 62 The internal auditor also reported a material discrepancy between the budgeted reserves as at 1 April 2018 (£105,638) compared to the actual reserve reported in the year end accounts for 2017-18 (£45,661). The newly appointed Clerk referred this report to a Councillor who had previously assisted the former Clerk with the Council's accounts including budget preparation. The outcome was the preparation of a revised budget for 2018-19 which was presented to Council when it met on 4 September 2018. Unfortunately, the revised budget presented to the Council still included the incorrect and overstated figure of £105,638 for opening balances when they were significantly less at £45,661. This issue has been explained by those involved as an 'unfortunate error'.
- 63 I mentioned earlier that the Council approved its Annual Return for 2017-18 when it met on 12 June 2018. It did so without the benefit of having seen the subsequent internal audit report which was completed on 25 June 2018. Similarly, when the Council met on 4 September 2018 to discuss and approve the revised budget it did so without having seen the contents of the internal auditor's report.

² The internal auditor's report is dated 31 May 2017.

- 64 In the light of the above, there was, in my view, enough opportunity for the Council to take remedial action and introduce spending restraint early and prevent a financial crisis.

The Council needs to improve the consistency and transparency of its procurement arrangements

Residents have expressed concerns over the Council's procurement processes

- 65 Shortly after the weakness in budgetary control and monitoring came to light, I was contacted by several residents of Penmaenmawr expressing concern about the value for money of the Council's various procurement decisions. Questions were asked about the selection of contractors for work and whether personal interests of Councillors were being declared when providing financial support. One issue that was frequently raised was the relationship between the Town Council and another local voluntary group, Pen in Bloom. Some members of the Council are also on the Pen in Bloom Committee which receives funding from the Council throughout the year.

The Council's arrangements for declarations of members' interests are not sufficiently transparent

- 66 I have reviewed the Council's arrangements for declaring personal interests and found them to be insufficiently transparent. This lack of transparency has prompted many of the concerns I have received from residents who have relied on the Council's minutes, as published on the Council's website, to see whether appropriate declarations of interest have been made.
- 67 A schedule of Councillors' interests is published via the Council's website and this was recently updated. Also, at the start of every Council meeting there is a standing agenda item 'Code of Conduct/Declaration of Interest'. The expectation is that Councillors who may have an interest in an upcoming item ask the Clerk for a form in which they declare an interest. The Clerk maintains a file of all completed declaration of interest forms which can be inspected by interested persons if they so wished. However, minutes of Council meetings do not show whether a Councillor asked for and completed a form under this agenda item. There is no record in the minutes of what action is taken in relation to this standing item. Correspondents relying on the minutes, arrive at the understandable but unsafe conclusion that no declaration of interest has been made at the beginning of the Council meeting.

68 Council minutes also reflect declarations of interest when Council decisions are taken eg to approve a payment or schedule of payments. However, as with the standing agenda item above there is insufficient transparency in the process. The minutes reflect when a Councillor abstains from a decision. However, they do not always disclose the identity of the Councillor or explain what interest is being disclosed. There is not always any differentiation between abstaining from a decision for reasons other than having a personal interest in the item. The Council has accepted these findings and is now ensuring more transparency in declarations of interest in the published minutes.

The Council is unable to demonstrate that it has complied with its own financial regulations related to procurement

69 The Council has adopted financial regulations that govern the financial management of the Council. The Financial Regulations provide procedural guidance for members and officers and must be observed in conjunction with the council's standing orders. The Council's arrangements for procurement are set out in its Financial Regulations. For the period subject to audit, the relevant Financial Regulations were those approved by the Council in October 2015. The key elements relating to tenders and quotes were:

- for contracts exceeding £50,000 the Clerk would invite tenders from at least three firms to be taken from the appropriate approved list (most of the Council's procurement falls below this threshold);
- when it is to enter into a contract less than £50,000 in value for the supply of goods or materials or for the execution of works or specialist services the Clerk or RFO shall obtain three quotations.
- where the value is below £1,000 and above £300 the Clerk shall try to obtain three estimates. The Council shall not be obliged to accept the lowest of any tender, quote or estimate.
- where the amount is less than £300 the Clerk will be voted a specific sum to undertake the required task. He will then be delegated to seek the best value for money within that sum.

70 I have looked at the council's history of procurement over the last two years by references to all the payments approved by the Council as set out in the minutes of meetings. Whilst there is the occasional reference to the Clerk obtaining one or two quotes for an item, I have generally been unable to satisfy myself that the requirements set out in its Financial Regulations have been met. I have seen no reference in the minutes to Councillors voting on a specific sum to undertake the required task. Council minutes should accurately reflect how procurement decisions have been made and that they are in accordance with the requirements of the Council's new Financial Regulations.

71 The Council updated its Financial Regulations in December 2018 and it accepts that greater rigour and transparency needs to be introduced into its minutes. This will now be actioned in conjunction with the updated Financial Regulations.

The Council has put in place several changes to address the governance weaknesses and failings identified in this report

72 The Council has reflected carefully on the events that have led up to the recent financial difficulties. It recognises that there were many issues that came together at the same time which resulted in the overspending and over-reliance on reserves. These issues include:

- the absence of a HR Committee which would have had a greater role in the management and oversight of the former Clerk;
- not ensuring the former Clerk had the appropriate financial management skills to meet the Council's needs;
- insufficient training being made available to both the former Clerk and Councillors on financial management and governance;
- the absence, due to personal reasons in 2018-19, of a Councillor who had considerable accountancy experience who had previously been able to devote more time to assisting the former Clerk to undertake the financial aspects of the role;
- the absence of a permanent Clerk at a crucial time for the Council (April to June 2018) and a lead in time for the new Clerk (from July 2018 onwards); and
- tensions within the membership of the Council limiting its ability to pull in one direction.

73 A detailed report was presented to Council by the Finance Committee (on 19 December 2018), which detailed a series of recommendations designed to enhance financial oversight and improve reporting to Council. The following represents a summary of these recommendations:

- all future audit reports to be scrutinised by the Finance Committee;
- the current open-ended assessment of grant and project applications be suspended until further notice and replaced with a bi-annual system;
- the concept of 'core-grants' be temporarily suspended and current recipients be asked to submit applications for further funding;
- ring-fenced funds are only to be released on completion of specified works, and then only on the approval of Full Council;
- that movement of monies between the Council's bank accounts may only be authorised by Full Council; and

- Council to only approve a project or action once the financial implication is known.

74 In addition, the Clerk and RFO has recently attended the introductory course to the role run by SLCC. The Council is also now supporting the Clerk to obtain a foundation qualification (CiLCA) for local council officers and others working with local councils.

Wales Audit Office
24 Cathedral Road
Cardiff CF11 9LJ

Tel: 029 2032 0500

Fax: 029 2032 0600

Textphone: 029 2032 0660

E-mail: info@audit.wales

Website: www.audit.wales

Swyddfa Archwilio Cymru
24 Heol y Gadeirlan
Caerdydd CF11 9LJ

Ffôn: 029 2032 0500

Ffacs: 029 2032 0600

Ffôn testun: 029 2032 0660

E-bost: post@archwilio.cymru

Gwefan: www.archwilio.cymru