



WALES AUDIT OFFICE
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Auditor General for Wales

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

Audit year: 2017-18

Date issued: October 2019

Document reference: 1303A2019-20



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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 Llanfrothen Community Council.

This report sets out a number of failures in financial management and internal control at Llanfrothen 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 2017-18 Annual Return.

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Summary report

Introduction

Purpose of this document

- 1 This report summarises my conclusions arising from my audit of Llanfrothen 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..

Llanfrothen Community Council

- 4 The Council serves the three villages of Llanfrothen, Croesor and Rhyd in Gwynedd. It spends around £11,000 annually on local services. It funds this by means of a precept of some £5,800 from Gwynedd Council and by fees arising from burial services. Gwynedd 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.
- 5 Community councils such as Llanfrothen, 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.
- 6 Notwithstanding the role of the Clerk/RFO, 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.

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 return for 2017-18 led to the auditors working on my behalf to refer Llanfrothen 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.
- 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 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.
- 11 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

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	No
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

Assertion	Council Response	Audit assessment
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
Maintained a separate account of grants made under section 137 of the local Government Act 1972	Yes	Yes
Confirmed the Council does not have an obligation to pay a retirement gratuity	Yes	Yes

Source: Wales Audit Office analysis

- 12 For 2017-18, the Council has 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. These assertions have been made notwithstanding that the Council's internal auditor reported several weaknesses in governance arrangements and internal controls
- 13 What is clear to me is that the Council has not taken sufficient steps to satisfy itself that its governance arrangements are effective and 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 available to the Council when it approved the Annual Governance Statement.
- 14 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.

Audit opinion

- 15 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:
 - 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;
- publication of documents under the Local Government (Democracy) (Wales) Act 2013; and
- operation of a PAYE system for income tax under the Income Tax Earnings and Pensions Act 2003.

Recommendations and next steps

My recommendations

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

Exhibit 2: recommendations

I make eight 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 and the annual governance statements, 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 ensure electors' rights to inspect the annual accounts, and to engage with the external auditor (if they wish) are formally observed and evidenced.
R6	The Council must ensure that it adopts a Code of Conduct for members.
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.

Action already taken by the Council

- 17 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:
- Adopting a Code of Conduct for members in July 2019;
 - Preparing a new register of members' interests from July 2019;
 - Ensuring that the audit notice for the 2018-19 audit was displayed in a village shop; and
 - Operating PAYE from April 2019.

Next steps

- 18 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 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.
- 19 The Council will then need to prepare a written response and agree the wording of that response with me before publishing its response in a local newspaper.



Anthony Barrett
Assistant Auditor General
October 2019

The Council's internal auditor identified several weaknesses in governance arrangements and internal control that the Council disregarded when it approved the Annual Governance Statement

- 20 The Accounts and Audit (Wales) Regulations 2014 (the Regulations) require all community councils to ensure that they have an adequate and effective system of internal audit in place. Internal audit is an important part of the overall internal control framework.
- 21 To ensure that it has proper financial management and governance arrangements in place, the Council should carefully consider the internal auditor's report and take steps to address any deficiencies identified.
- 22 As recorded on the reverse of the annual return, the internal auditor reported to the Council, the following matters:
- the cashbook is not arithmetically correct;
 - the Council has not formally adopted or regularly revised its standing orders and financial regulations;
 - no annual risk assessment has been undertaken;
 - not all cashbook expenditure is supported by invoices;
 - the clerk's role, responsibilities and remuneration are not formally documented in an agreement or contract;
 - there has been a failure to appropriately operate PAYE.
- 23 The matters raised by the internal auditor indicate that the Council does not have proper accounting records in place or an effective system of internal control.
- 24 On this basis, I conclude that the assertions made by the Council in its annual governance statement provides false assurance over the Council's financial management and governance arrangements.

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

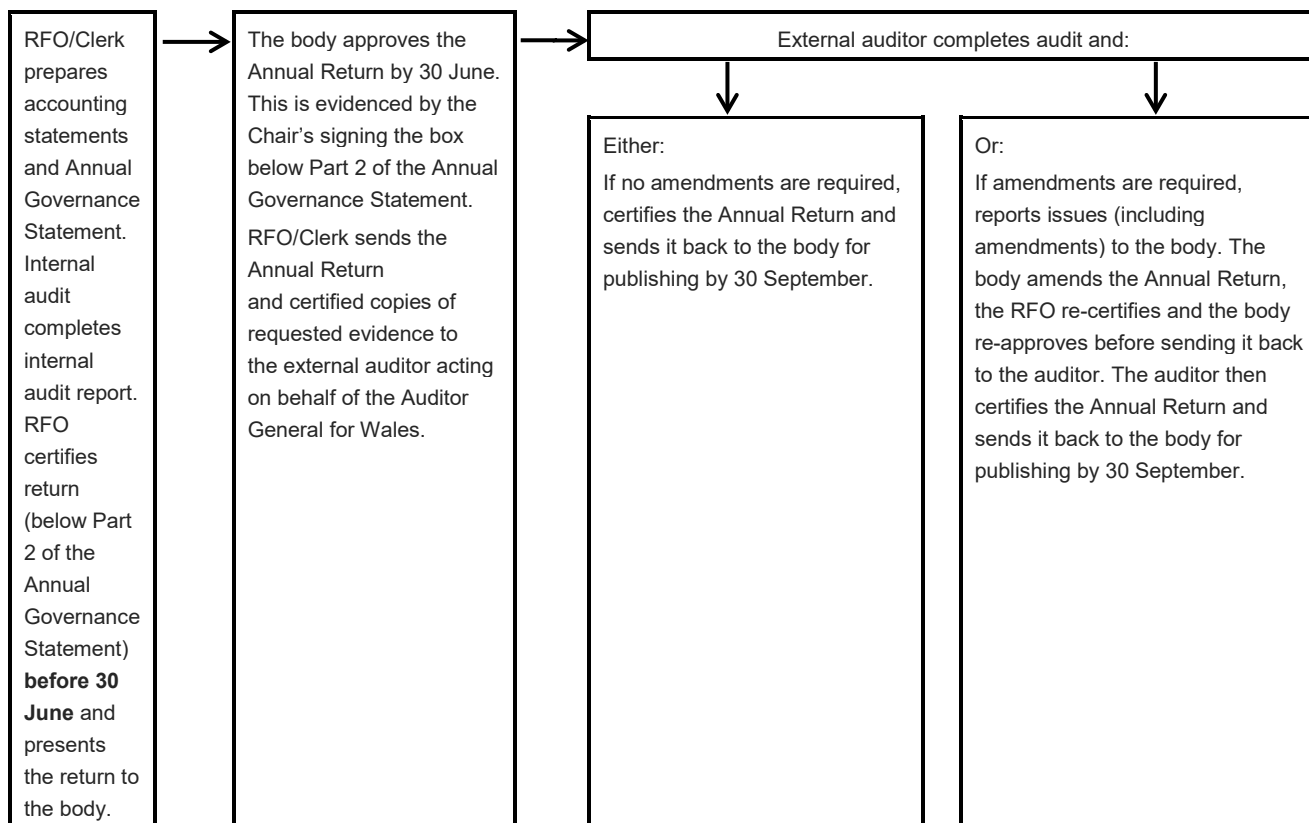
- 25 In the Annual Governance Statement the Council has asserted that it has put in place arrangements for the preparation and approval of the accounting statements.

The requirements for the approval and publication of the Council's accounts is set out in statute

- 26 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 2004 Act by the Auditor General for Wales.
- 27 Regulation 15 of the Accounts and Audit (Wales) Regulations 2014 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 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.
 - these actions must be completed by 30 June following the end of the financial year.
- 28 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 3](#).

Exhibit 3: the accounts and audit process

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



Source: Annual return

- 29 The council must also publish its accounts together with any audit certificate or report by 30 September. If this publication takes place before the conclusion of the audit and no such opinion has been given, the Council must publish the unaudited accounts and a notice that includes a declaration and explanation that, at the date of publication, the auditor has given no opinion.
- 30 Further details about the requirements for the preparation, approval and audit of Town and Community Councils are set out in the Accounts and Audit (Wales) Regulations 2014, and supplemented by One Voice Wales / Society of Local Council Clerks guidance, entitled 'Governance and Accountability for Local Councils in Wales – A Practitioners' Guide' (the Practitioners' Guide).

The Council has failed to submit its 2017-18 accounts to me for audit in accordance with the statutory timetable

Exhibit 4: approval of the annual accounts

Financial year	Date accounts approved by the Council	Date submitted for audit
2017-18	Unknown	10 December 2018

- 31 The Council's chair has signed the annual return as evidence that the annual return has been approved by the Council. However, the Chair has entered 9th June 1959 as the date on which the Council approved the return. The return was not certified by the Clerk until 5 November 2018 and was submitted for audit on 10th December 2018. There is no evidence in its minutes that the Council considered and approved its 2017-18 accounts and annual governance statement prior to submitting the annual return for audit.
- 32 My review of the Council's minutes demonstrates that the Clerk did not provide the Council with a complete and balanced account of its performance in adhering to these deadlines.
- 33 While the Clerk's tardiness in submitting the Annual Returns for both years has been a 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 to deal with the overdue submission and late publication of its accounts.
- 34 On this basis, I conclude that Llanfrothen Community Council has not complied with the statutory timescales set out above for preparing and approving its accounts for 2017-18. Work is ongoing to complete the audit of these accounts.

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

- 35 The Council has asserted in the Annual Governance Statement that it has maintained an adequate system of internal control and has reviewed its effectiveness.
- 36 The Practitioners' Guide sets out some examples of the types of internal controls community councils should have over their activities and transactions. These are set out in [Exhibit 5](#) below together with the actual arrangements I have found to be in place at the Council.

Exhibit 5: 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 Council has proper budget setting and monitoring procedures in place	While the Council receives a periodic report on the balances held in its bank account, there is no evidence to show that the Council set an annual budget in accordance with the Local Government Finance Act 1992 which was monitored effectively throughout the year.
The Council has appropriate arrangements in place to ensure that only necessary and authorised purchases are made and that the council makes payments only for goods and services actually received and at agreed prices.	Payments are not always supported by sufficient information e.g. supporting information was not provided for current clerk's expenses or previous clerk's final expenses.

Source: Wales Audit Office analysis

37 Based on the issues I have identified above and the matters reported by the Council's internal auditor, I conclude that during 2017-18, the Council did not have an adequate system of internal control in place.

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

38 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.

39 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 a Code of Conduct for members

40 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.

- 41 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.
- 42 During the course of my audit I was unable to find evidence that the Council had adopted a Code of Conduct for members.

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

- 43 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.
- 44 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.
- 45 My audit identified that the Council does not maintain a register of interests and, therefore, does not comply 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 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

- 46 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.
- 47 The changes introduced by the 2013 Act are designed to enhance the accountability of local councils to their electorates.
- 48 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.

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

- 49 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.
- 50 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.
- 51 All employers must register with HMRC unless none of their employees are paid £116 or more a week, get expenses and benefits, have another job or get a pension. However, they must still maintain payroll records.
- 52 My audit identified that the Council is not registered as an employer with HMRC and has not established proper arrangements for deduction of income tax under PAYE. The Council has not provided evidence to demonstrate it is entitled to claim an exemption from the need to register with HMRC. Furthermore, the Council has not maintained appropriate payroll records.
- 53 In addition, to the lack of payroll records, I 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 ensures that both parties understand their responsibilities under the contract.
- 54 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

- 55 In the Annual Governance Statement the Council has asserted that it has provided proper opportunity for the exercise of electors' rights in accordance with the requirements of the Accounts and Audit (Wales) Regulations 2014 (the 2014 Regulations).

The Council has a statutory duty to make arrangements for electors to exercise their rights under the Public Audit (Wales) Act 2004.

- 56 Sections 30 and 31 of the Public Audit (Wales) Act 2004, make provision for public rights to inspect the accounts to be audited, to question the auditor about the accounts and to make objections to the auditor about 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.
- 57 Regulation 17 of the 2014 Regulations requires the council 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.

The Council has failed to provide evidence to demonstrate it has made proper arrangements for the exercise of electors' rights under the Public Audit (Wales) Act 2004

- 58 Although it was specifically requested for the audit, the Council has failed to provide any evidence that it complied with the requirements of the 2004 Act and the 2014 Regulations. Therefore, in order to ensure that the Council's electors have the opportunity to exercise their rights under the 2004 Act, I appointed the 29 July 2019 as the date from which local electors may exercise their rights for the 2017-18 accounts.

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