



WALES AUDIT OFFICE
SWYDDFA ARCHWILIO CYMRU

Archwilydd Cyffredinol Cymru
Auditor General for Wales

Report in the Public Interest:
Inadequacies in governance and
financial management –
**Llangristiolus and Cerrigceinwen
Community Council**

Audit years: 2013-14 and 2014-15

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Mae'r ddogfen hon hefyd ar gael yn Gymraeg.

The person who delivered the work was Ian Hughes, under the direction of Anthony Barrett.

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Summary report

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 inadequacies in governance and financial management at Llangristiolus and Cerrigceinwen 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 serves a small rural community located on the West coast of Anglesey. It typically spends just under £7,000 annually, the largest proportion of which is funded from precept; the balance being met from rents and cemetery fees. It employs one part-time member of staff to undertake the roles of Clerk and Responsible Financial Officer (the Clerk). The former Clerk, Mrs Rhian Khardani, (referred to throughout this report as 'the former Clerk') was appointed by the Council in 2009 and resigned in September 2017.
- 4 I believe it is important to note, by way of context, that the former Clerk also had a full-time day job in local government and also held three other part time Clerk roles at the same time.
- 5 A combination of delays in receiving information from the Council, together with adverse comments in the Internal Auditor's report, prompted the Council's external auditor (Hacker Young) to expand the scope of the 2013-14 audit of accounts. Hacker Young was unable to receive all the information it had requested from the Council to enable it to complete the 2013-14 audit of accounts. This audit, together with that for 2014-15, were subsequently reassigned to a member of the Wales Audit Office staff to work under my direction, to bring them to a satisfactory conclusion.
- 6 My audit staff corresponded at length with the Council's former Clerk in order to receive the outstanding information in relation to both 2013-14 and 2014-15 accounts but were unsuccessful. They subsequently contacted and met with the Council's Chairman who, unaware of the ongoing problems, called a special meeting of the Council to discuss the position.
- 7 The Council's former Clerk, resigned shortly after the special meeting held in August 2017, and has since been replaced. The Council has taken several important steps to address the matters arising at audit, although its efforts have been hampered by difficulties in receiving all its records and assets from its former Clerk.
- 8 My audit findings show long-standing inadequacies in governance, financial management and internal control at the Council and are summarised below. They are considered in more detail in the remainder of this document.

Key findings

- 9 The Council has not complied with the statutory timescales for preparing and approving its accounts for several years. Whilst there was tardiness in the former Clerk's actions, the problem is more deep-rooted and reflects insufficient oversight and acceptance of responsibility by the Council as a whole. The Council now accepts it should have done more to ensure that it met its legal obligations for the timely preparation and approval of its accounts and that members placed too much reliance on their former Clerk without properly scrutinising her work.
- 10 I have not been provided with sufficient evidence to demonstrate that the Council has complied with the requirements of the Public Audit (Wales) Act 2004 which (amongst other things) grant rights to the public to inspect the accounts to be audited.
- 11 The Council's governance arrangements are inconsistent with the positive disclosures it has made in its Annual Return. 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, earlier findings of either its internal or external auditor in relation to the adequacy of its governance arrangements.
- 12 The Council has not maintained adequate internal controls to safeguard its assets and finances. Record keeping at the Council has been poor. Also, the Council's laptop was severely damaged when returned by the former Clerk following her resignation in September 2017. The former Clerk did not provide either a plausible or satisfactory explanation to the Council to account for this damage.
- 13 The effectiveness of internal audit has been diminished by a reluctance to report concerns about poor governance directly to the Council. Whilst the Internal Auditor would share his concerns with the former Clerk and reflect them in discussions with the external auditor, he did not escalate matters within the Council, such as seeking Council meeting time where he could share his concerns with members directly. Alternatively, he could have submitted a detailed written report directly to the Council to support the qualifications set out on the Annual Return.
- 14 The Council has now put in place several changes that address the weaknesses and failings identified in this report. The dates of meetings have been rearranged to facilitate appropriate scrutiny of matters relating to governance and financial management. The Council has had an independent review of its arrangements and it is introducing revised policies and procedures. It has strengthened payment authorisation procedures and is putting in place better arrangements to identify and properly account for the Council's income from the cemetery and property rentals.
- 15 The 2015-16 and 2016-17 audits of accounts are currently being undertaken by a new audit supplier (BDO). Although many of the issues set out in this report continue into these two years, I am satisfied that the Council is now taking appropriate action to improve its governance and financial management.

Detailed report

The Council has not complied with the statutory timescales for preparing and approving its accounts for several years

- 16 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.
- 17 Further details regarding the requirements for the preparation, approval and audit of Town and Community Councils are set out in the Accounts and Audit (Wales) Regulations 2014¹ and supplemented by guidance set out in a Practitioners' Guide².
- 18 Regulation 15, sets out the timetable for the preparation and approval of the annual accounts:
- the council's Responsible Financial Officer (RFO)³ 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.
- 19 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 1](#) below:

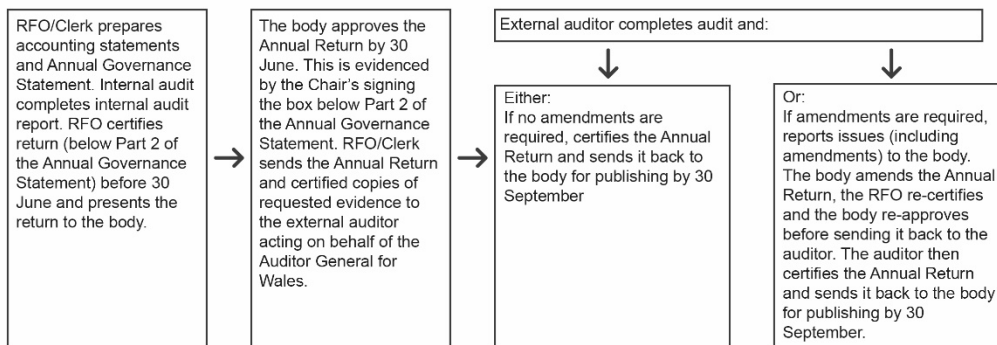
¹ And previously the Accounts and Audit (Wales) Regulations 2005.

² Governance and Accountability for local councils in Wales – a practitioners' guide (2011).

³ Usually the Clerk in practice but the RFO is a separate legal role to that of the Clerk.

Exhibit 1: the accounts and audit process

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



- 20 The Council has not complied with the statutory timescales set out above for preparing and approving its accounts for several years (see [Appendix 1](#)). The 2013-14 accounts were not completed and approved until the end of May 2015, some ten months after the statutory deadline had elapsed. The 2014-15 accounts were not completed until the end of November 2015, some four months after the statutory deadline had elapsed. Work is ongoing to complete the 2015-16 and 2016-17 accounts.
- 21 Audit records indicate a longstanding issue at the Council of delayed approval and submission of its Annual Return for external audit covering the eight-year tenure of the former Clerk. The correspondence on the audit file shows tardiness in the former Clerk's actions, including failure to address concerns raised by the external auditor and report these concerns accurately to the Council.
- 22 A longstanding Council member (and 2013-14 Chairman) did become aware of problems and wrote to the external auditor offering any assistance they could provide to expedite the conclusion of the audit. However, that member was not able to overcome, what I consider to be, a defensive attitude in relation to the former Clerk's position amongst other members. A symptom of this was the way the former Clerk was evidently unhappy with the conduct of the internal auditor and wanted the Council to appoint a new one. Based on the evidence I have seen, I consider the problem to have been cultural and deep rooted at the Council with poor oversight and scrutiny of the former Clerk's work.
- 23 The Council now accepts it should have done more to ensure that it met its legal obligations for the timely preparation and approval of its accounts and that members placed too much reliance on the former Clerk without properly scrutinising her work.

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

- 24 Sections 30 and 31 of the Public Audit (Wales) Act 2004, make provision for public rights ie for interested persons to inspect the accounts to be audited and for electors or their representatives, 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.
- 25 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.
- 26 I have not seen any evidence to demonstrate that the Council complied with the requirements of the Act and the Regulations. Therefore, I have appointed 11 January 2019 as the date from which local electors may exercise their rights for the 2013-14 and 2014-15 accounts under the Act.

The Council's governance arrangements are inconsistent with the positive disclosures it has made in its Annual Returns

- 27 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.
- 28 Whilst the actual wording of the Annual Governance Statement can vary from one year to another, it typically covers:
- the proper preparation and approval of the accounting statements;
 - ensuring a proper opportunity is afforded for the exercise of elector's rights to inspect the accounts;
 - the completion of an annual assessment of the risks facing the Council and setting out what action has been taken to manage these risks;
 - maintaining an adequate system of internal control, including measures designed to prevent and detect fraud and corruption; and
 - maintaining an adequate and effective system of internal audit.
- 29 For the two audit years considered in this report, 2013-14 and 2014-15, 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.

- 30 As I have referred to above, the Council has not properly prepared and approved its accounts for 2013-14 and 2014-15 and neither has it provided evidence to demonstrate that elector's rights have been observed.
- 31 The 2013-14 and 2014-15 Annual Returns assert that the Council has undertaken a formal risk assessment and that steps had been taken to manage the risks identified. The internal auditor's report for 2013-14 states that there was no evidence to support this assertion and for 2014-15, the internal auditor highlights that a new policy on risk had been introduced. The Council told my staff that this new policy was a work in progress.
- 32 Both the 2013-14 and the 2014-15 Annual Returns assert that the Council has maintained an adequate system of internal control, including measures designed to prevent and detect fraud and corruption. The next section of this report sets out several deficiencies and weaknesses in the Council's internal controls that have been readily apparent to internal and external audit.
- 33 The governance disclosures made by the Council are therefore, in my view, inconsistent with the position reflected in its documentation and indeed the contents of their own internal auditor's report which is also contained in the Annual Return.
- 34 It is clear to me that the Council has not taken sufficient steps to satisfy itself that its governance arrangements are effective and fairly disclosed. Council members now accept that they have not sufficiently recognised or acted upon earlier findings of either their internal auditor or the external auditor in relation to the adequacy of their governance arrangements.

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

- 35 The publication **Governance and Accountability in Wales – a Practitioners' Guide** (2011) sets out the types of internal controls town and community councils should have over their activities and transactions. These are set out in **Exhibit 2** below together with the actual arrangements that the Council's internal auditor and I have found to be in place at the Council.

Exhibit 2: expected and actual internal controls in place at the Council

Expected internal control	What we have found to be in place
<p>The annual precept requirement resulted from an adequate budgetary process, progress against the budget was regularly monitored and reserves were adequate.</p>	<p>There is no evidence to show that the Council set an annual budget which was monitored effectively throughout the year.</p>
<p>A reconciliation between the Council's accounts and independent banking records ie bank statements. The bank reconciliation together with the year-end bank statements provide important assurance to the Council that the accounts prepared by its Clerk are complete and reflect the money deposited with the bank.</p>	<ul style="list-style-type: none"> • The Council did not complete a year-end bank reconciliation to accompany the annual accounts included in its Annual Return for 2013-14 and 2014-15. • In both these years the Council's Internal Auditor completed a bank reconciliation to satisfy themselves the accounts agreed with the bank records.
<p>Expenditure controls ensure that only necessary and authorised purchases are made. Controls also ensure that the Council makes payments only for goods and services actually received and at agreed prices. As a body covered by Section 33 of the Value Added Tax Act 1994, the Council is able to reclaim VAT incurred on purchases. In order to do so, the Council should obtain proper VAT receipts and invoices setting out the relevant details of VAT paid and the supplier's VAT registration number.</p>	<ul style="list-style-type: none"> • Payments are not always supported by sufficient information. • The Council did not make a VAT reclaim until May 2015.
<p>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. All employers must also keep payroll records.</p>	<ul style="list-style-type: none"> • Proper payroll records have not been kept as required. • There was a lack of proper arrangements to operate PAYE as required by HMRC. • The Council has accepted at face value representations made by the former Clerk that she made appropriate deductions for her Council earnings through HMRC's Self-Assessment process. • The former Clerk did not register the Council as an employer with HMRC until July 2017.

Expected internal control	What we have found to be in place
Internal controls should ensure the Council accurately maintains accounting records of income.	<ul style="list-style-type: none"> • There are incomplete records maintained in respect of income arising from burials and opening of graves. • £1,040 of income from 2013-14 reflected in the minutes and cash book had not been banked. • There are incomplete records maintained in respect of income arising from tenant's rents.
Internal controls should be in place to safeguard the assets and investments held by the Council from loss or damage and to ensure their proper use within the community.	<ul style="list-style-type: none"> • The Council did not maintain an asset register. • It has started work on an asset register recently. • The Council did not have an arrangement for sharing costs or ownership of assets (Laptop and Printer) with a neighbouring council which also employed the same Clerk. • The Council's laptop was severely damaged when returned by the former Clerk following her resignation in October 2017.

The effectiveness of internal audit has been diminished by a reluctance to report concerns about poor governance directly to the Council

- 36 The Accounts and Audit Regulations 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.
- 37 Whilst the exact requirements set out annually for internal audit in the Annual Return can vary slightly from year to year, the following taken from the 2014-15 return provide a typical example of the areas to be examined:
- the Council's financial regulations have been met, payments are supported by invoices, expenditure was approved and VAT was appropriately accounted for;
 - the Council assesses the significant risks to achieving its objectives and reviews the adequacy of arrangements to manage these;
 - the annual precept requirement resulted from an adequate budgetary process, progress against the budget is regularly monitored, and reserves are appropriate;

- expected income was fully received, based on correct prices, properly recorded and promptly banked and VAT was appropriately accounted for;
 - salaries to employees and allowances to members are paid in accordance with council approvals, and PAYE and National Insurance requirements were properly applied;
 - asset and investment registers are complete, accurate and properly maintained;
 - periodic and year-end bank account reconciliations are properly carried out; and
 - accounting statements prepared during the year were prepared on the correct accounting basis (receipts and payments or income and expenditure), agreed with the cashbook, were supported by an adequate audit trail from underlying records, and where appropriate, debtors and creditors were properly recorded.
- 38 The Council's Internal Auditor had been engaged by the Council for many years and provided an internal audit service to the majority of town and community councils on Anglesey. He retired from the role in the autumn of 2017. The Internal Auditor was very experienced having previously served as the Director of Finance of a principal local authority. He had also established good working relationships with Hacker Young, the Council's external auditor up until 1 April 2015.
- 39 Given his experience, independence and long-term association with the Council, the arrangements governing his appointment were largely informal. The Council had not approved an up to date terms of reference for the Internal Auditor and his appointment was not formally reviewed and minuted on an annual basis. The Internal Auditor completed the internal audit report in full on the Annual Return but did not provide the Council with any additional report or correspondence elaborating on his audit findings.
- 40 The internal audit reports for both 2013-14 and 2014-15 highlighted several weaknesses and omissions in the Council's governance arrangements. These qualifications, together with delays in submitting the Annual Return for audit prompted Hacker Young to undertake a full external audit of the Council's 2013-14 accounts.
- 41 It is clear from our discussions with the Council's current Chairman that the Council was aware that there was a strained relationship between the Internal Auditor and the former Clerk. A symptom of this strain was that the Clerk was unhappy about the length of time the 2013-14 internal audit had taken and this had caused problems with the timely completion of the external audit. Whilst the Council was made aware of this by the former Clerk, the Internal Auditor's concerns about governance and financial management were not communicated as prominently. The former Clerk was unhappy with the conduct of the Internal Auditor and wanted the Council to appoint a new one.
- 42 Based on a review of the Council's minutes, very little time was given in Council meetings to discuss the Annual Return and the disclosures made in relation to its governance and financial management by the Internal Auditor.

- 43 It was only after the former Clerk resigned and Council papers were returned that the Chairman discovered the extent of the concerns being raised in correspondence by Hacker Young. As mentioned earlier, one long standing member of the Council was aware of problems but had failed to gain sufficient support from other members to challenge the former Clerk's actions.
- 44 It is also the case that whilst the Internal Auditor would share his concerns with the former Clerk and reflect them in discussions with Hacker Young, he did not escalate matters within the Council, for example by seeking time at a Council meeting where he could share his concerns with members directly. Alternatively, he could have submitted a detailed written report directly to the Council to support the qualifications set out on the Annual Return. Had he done so I believe matters may have been resolved sooner.
- 45 The Chairman accepts that, with the benefit of hindsight, they did not afford the former Clerk sufficient or appropriate levels of scrutiny. This lack of oversight and control meant the former Clerk was able to withhold important matters raised at audit from the Council. The Chairman concedes that there was insufficient scrutiny and oversight of the Annual Return.
- 46 The retirement of the Council's Internal Auditor means the Council now needs to find a replacement. It is important that the Internal Auditor is independent of the Council and is engaged to deliver an agreed programme of work. The Council must ensure the auditor is able to report any concerns about the Council's governance and financial management outside the control and influence of the Clerk. The performance of the internal auditor should be considered annually and reappointment minuted.

The Council has since taken several important steps to address the governance weaknesses highlighted in this report

- 47 Since my audit staff met the Council in August 2017 to raise concerns about its governance and financial management it has reflected carefully on both its arrangements and culture. Several important changes have taken place at the Council since that time.
- 48 The Council has reviewed the dates of meetings and rearranged them to facilitate appropriate scrutiny of matters relating to governance and financial management.
- 49 The Council has also obtained an independent review of its arrangements and is introducing revised policies and procedures. It has strengthened payment authorisation procedures and is putting in place better arrangements to identify and properly account for the Council's income from the cemetery and property rentals.

Recommendations

50 My recommendations to the Council are set out in [Exhibit 3](#) below.

Exhibit 3: recommendations to the Council

Recommendations	
R1	The Council should ensure that it sets aside sufficient time for scrutiny of the Annual Return before it is sent to the external auditor.
R2	The Council should introduce a comprehensive suite of internal financial controls and document its financial management arrangements in a policy and procedure.
R3	The Council should consider inviting the internal auditor to the annual meeting where the internal audit report is discussed to facilitate an open and honest exchange of views.
R4	The Council should ensure it receives a copy of the external auditor's annual report and certificate and that it is formally considered in a meeting of the Council.
R5	The Council should ensure that it complies with statutory requirements to facilitate the exercise of elector's rights to inspect the annual accounts and engage with the external auditor, and it should keep records to provide evidence of that compliance.

Next steps

- 51 Section 25 of the Public Audit (Wales) Act 2004 requires the Council to consider the report at a full meeting of the Council within one month of the date of this 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.
- 52 The Council will then need to prepare a written response and agree the wording of that response with me before publishing its response.



Anthony Barrett Assistant
Auditor General
30 January 2019

Appendix 1

Concerns raised by external audit about the Council's compliance with the Accounts and Audit (Wales) Regulations

Each year the appointed auditor Hacker Young expressed concerns about the Council's compliance with the Accounts and Audit Regulations.

Exhibit 4: issues raised by the appointed auditor

Audit Year	Issues raised by the appointed auditor Hacker Young
2009-10	Concerns raised with the Clerk over the late submission of the Annual Return. The Clerk failed to provide the auditor with name and contact details of the Chairman but provided assurances that procedures would be put in place to ensure compliance with audit requirements.
2010-11	Concerns raised with the Clerk over the late submission of the Annual Return. The Clerk failed to provide the auditor with name and contact details of the Chairman as requested.
2011-12	Concerns raised with the Clerk over the late submission of the Annual Return.
2012-13	Concerns raised with the Clerk over the late submission of the Annual Return. The Clerk failed to provide the auditor with name and contact details of the Chairman but provided assurances that procedures would be put in place to ensure compliance with audit requirements.
2013-14	The auditor informs the Clerk that they are considering issuing a Report in the Public Interest setting out concerns over the late submission of the Annual Return. The auditor also informs the Clerk that he has failed to file the Annual Return within the statutory deadline for all the last five years.
2014-15	The internal auditor's report is dated 28 September 2015 – it should have been available for the Council's consideration (within the Annual Return) before 30 June 2015.

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