



WALES AUDIT OFFICE
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Auditor General for Wales

Audit of accounts – failures in financial management and governance – **Maenclochog Community Council**

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

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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 Maenclochog Community Council.

This report sets out a number of failures in financial management and internal control at Maenclochog 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 your Annual Returns for the financial years 2015-16 and 2016-17.

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Summary report

Introduction

- 1 This report summarises my conclusions arising from my audit of Maenclochog Community Council's (the Council) accounts for the 2015-16 and 2016-17 financial years. 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.

Maenclochog Community Council

- 4 The Council is located in Pembrokeshire and serves the village of Maenclochog. The Council spends around £4,000 annually on local services. This means that the Council is one of the smaller community councils in Wales.
- 5 It funds this expenditure by means of a precept from Pembrokeshire County Council. The County 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. The Council is, therefore, accountable to the local electorate.
- 6 Community councils such as Maenclochog, by their very small 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.
- 7 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

- 8 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.
- 9 Delays in receiving the annual return for 2017-18 led to the auditors working on my behalf to refer Maenclochog Community Council to me. This has resulted in the assignment of these audits of the accounts to a member of the Wales Audit Office staff, working under my direction, to bring them to a satisfactory conclusion.
- 10 My duties as the Council's statutory auditor, are to provide an opinion on the Council's accounts and to conclude on whether or not the Council has in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. I discharge these responsibilities by the audit of the accounts and a review of the Council's governance arrangements.

Key findings

- 11 Notwithstanding that the Council is required by law to maintain proper accounting records, my audit identified deficiencies in these records. These deficiencies include:
 - A lack of supporting documents for payments made; and
 - A lack of bank statements for the financial years subject to audit.
- 12 The Council's positive assertions made in its annual governance statement about its governance arrangements are inconsistent evidence I obtained during my audit.
- 13 My detailed findings are set out in the remainder of this report.

Recommendations and next steps

Recommendations

- 14 I draw the Council's attention to the following 13 recommendations:

Recommendations	
R1	The Council must ensure that it maintains proper accounting records sufficient to record its transactions for the year and to form the basis for the preparation of accounts.
R2	The Council must ensure that the Statement of Accounts is prepared and approved before 30 June each year.

Recommendations	
R3	The Council must ensure that individual councillors understand their responsibilities for the annual accounts.
R4	The Council must ensure that the accounts are submitted for audit promptly following approval.
R5	The Council must ensure that it complies with the requirements of the Act and the Regulations promptly in relation to the 2015-16 and 2016-17 accounts.
R6	The Council should retain sufficient evidence that it has complied with its statutory duties.
R7	The Council must ensure that it prepares a budget in accordance with the Local Government Finance Act 1992 prior to setting its precept.
R8	The Council should monitor its expenditure against this budget throughout the year eg by quarterly comparisons of expenditure against budget.
R9	The Council must ensure that it issues an agreed contract of employment setting out the terms and conditions of employment for the clerk.
R10	The Council should review the payment of the Clerk's salary to confirm the salary and deductions for tax (including tax on the expenses allowance) have been calculated correctly.
R11	The Council should ensure that if required, it registers as an employer with HMRC.
R12	The Council must ensure that it identifies which documents it is required to publish electronically and makes appropriate arrangements to post these on a website promptly.
R13	The Council must ensure that it establishes an adequate and effective system of internal audit and receives an appropriate report from the auditor each year.

Next steps

- 15 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 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.
- 16 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
19 June 2019

Detailed report

The Council has failed to maintain proper accounting records and to provide sufficient evidence for me to audit, so I am unable to provide an opinion on whether or not the annual accounts properly present the Council's receipts and payments

- 17 The Accounts and Audit (Wales) Regulations 2014 require the Council to maintain proper accounting records of its transactions. These records should include a cashbook (or equivalent) and invoices and other documentation to support individual transactions recorded in the cashbook. The cashbook should record individual transactions and not group transactions together. The Council's clerk, Mr David Williams, provided me with copies of the documentation retained by the Council.
- 18 My audit identified that the Council has grouped its precept receipts as one transaction entry in the cashbook. The Council actually received its precept in three instalments.
- 19 I have not been provided with copies of supporting documents for all payments. As part of my audit, I sought to agree the transactions recorded in the cashbook to those presented to its bank, as recorded on its bank statements. The Council only provided bank statements covering the period from 22 July 2017 to 21 December 2017. These statements are outside the scope of my audit.
- 20 Consequently, I am unable to conclude on the accuracy or completeness of the accounting statements. Therefore, I intend to issue a disclaimer opinion on the Council's accounts for both 2015-16 and 2016-17 on the basis that the Council has failed to maintain proper accounting records.

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

- 21 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.
- 22 **Exhibit 1** below sets out the key elements of the Annual Governance Statement regarding the Council's arrangements, together with my assessment of those elements. As indicated, the coverage of the Annual Governance Statement varies from one year to another.

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	No
Considered the financial impact of any litigation, liabilities or commitments, events or transactions	Yes	Unable to conclude.
Appropriate action has been taken in relation to internal and external audit reports	Yes	No
2015-16 only		
Calculated and approved the budget requirement as required by law	Yes	No
Received detailed financial reports on the Council's receipts and payments and financial position	Yes	No

Assertion	Council response	Audit assessment
Ensured the Council's internal auditor is independent from the Council's decision making process	Yes	No
2016-17 only		
Registered as an employer with HM Revenue and Customs	No response.	No
Maintained proper payroll records	No response.	No
Adopted a Code of Conduct for members	No response.	No

Source: Maenclochog Annual Return and Wales Audit Office analysis

- 23 For the two audit years considered in this report, 2015-16 and 2016-17, the Council has completed the returns as above on the basis it is compliant with the requirements 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.
- 24 The governance disclosures made by the Council are therefore, in my view, inconsistent with the position reflected in its documentation.
- 25 I consider 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.
- 26 This section of the report sets out a number of deficiencies and weaknesses in the Council's arrangements that have been readily apparent during the audit.

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

- 27 Under Section 13 of the Act the Council must:
- make up its accounts each year to 31 March or such other date as the Welsh Government 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.

- 28 The accounts are prepared in the form of a simple annual return which is sent to the Council each year. Regulation 15 of the Regulations requires that the Council approves the accounts before 30 June following the end of the financial year. The Council must then send the accounts to the Auditor General and publish audited accounts by 30 September.
- 29 The Council has not complied with the statutory timescales for submitting its accounts for audit for the 2015-16 and 2016-17 financial years.
- 30 **Exhibit 2** sets out the dates on which the Council approved the accounts and the dates on which the accounts were sent to my auditors.

Exhibit 2: dates of completion of the accounts

Financial year	Date accounts approved by the Council	Date submitted for audit
2015-16	19 May 2016	28 January 2018
2016-17	25 May 2017	28 January 2018

Source: Wales Audit Office analysis

- 31 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. I wrote to the clerk in August 2017 and met with the clerk and chair on 28 January 2018.
- 32 While the clerk's tardiness is a significant factor in the Council's failure to comply with its statutory responsibilities, the Council itself must take a degree of responsibility for this failure. I have found no evidence that the Council took any steps in relation to the overdue accounts. The Council's minutes do not record any concerns related to the delayed submission of the 2015-16 or 2016-17 accounts. This indicates that individual councillors do not understand their responsibilities in relation to the accounts.

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

- 33 Section 30(2) and 31(1) of the Act make provision for public rights to inspect the accounts to be audited, to question the auditor about the accounts and to make objections before the auditor as to any matter in respect of which the auditor has a power to;
- apply for a declaration that an item of account is unlawful; and
 - any other matter in respect of which the auditor has the power to make a report under section 22 of the Act.

- 34 Regulation 17 requires the Body to give notice by advertisement to the public setting out the period during which the accounts and other documents are available for inspection and to provide the following details:
- the period during which, they will be so available;
 - the provisions contained in section 30 and section 31 of the Act; and
 - the date appointed under Regulation 21.
- 35 I have not been provided with sufficient evidence to demonstrate that the Council complied with the requirements of the Act. Therefore, I have appointed 29 July 2019 as the date from which local electors may exercise their rights under the Act.

The Council did not prepare a budget for 2015-16 or 2016-17

- 36 The Local Government Finance Act 1992 requires councils to calculate and approve the annual budget. Section 41 of this Act allows councils to issue a precept, the basis of which is determined, in accordance with Section 50, by the calculation of the budget requirement.
- 37 Regardless of this statutory requirement, the budget is important as:
- It results in the setting of the precept for the year;
 - It gives the council authority to spend money in accordance with approved spending plans and financial regulations; and
 - It provides a basis for monitoring progress during the year by comparing actual to planned spending.
- 38 The budget is a crucial element of effective financial management and accountability and, ultimately, reduces the amount of time councils spend managing their financial resources. In the absence of adequate budget setting and monitoring arrangements, councils are unable to effectively manage public funds and demonstrate compliance with statutory requirements.
- 39 During the course of my audit I was unable to find evidence that the Council prepared a budget for the 2015-16 or the 2016-17 financial years. There is no evidence of proper financial monitoring by the Council.

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

- 40 Most community councils, such as Maenclochog Community Council, employ one official to undertake the legally separate roles of the Clerk and RFO. The majority of these officers work part time, their hours varying from one to two days per week, to a few hours per quarter. The clerk as a proper officer of the council, is an employee of the Council. The Council should provide any employees with a contract of employment setting out the terms and conditions of employment. Employment contracts provide clarity on the role and status of the clerk and the

remuneration arrangements for the post. The Council should have ensured that it understood its responsibilities when employing the clerk.

- 41 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.
- 42 In both 2015-16 and 2016-17, the Council paid the clerk a salary of £600. However, there is no written agreement between the Council and the Clerk setting out the Clerk's terms and conditions of employment.
- 43 The Council is not registered as an employer with HMRC. There are limited exceptions to the requirement for employers to register with HMRC. It is possible that the Council would satisfy the conditions for these exceptions but it has not provided me with sufficient evidence upon which to draw a conclusion.
- 44 Based on the evidence I have seen in respect of payroll and PAYE at the Council, I have concluded that proper payroll records have not been kept as required.
- 45 In the absence of any records, I am unable to conclude whether or not the clerk has been paid the appropriate salary and whether or not the appropriate PAYE deductions have been made.

The Council has not established a website to enable it to publish all the 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 enhance accountability of local councils to their electorate.
- 48 My audit identified that the Council has not established a website. It is therefore failing its responsibilities to publish information electronically. The website should include a copy of the Council's register of members' interests, notices of audit and audited accounts.

Based on evidence I obtained during my audit, I consider that the Council did not maintain an adequate and effective system of internal audit

- 49 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.

- 50 Internal audit is an important part of the overall internal control framework. The internal auditor should be independent i.e. have no part in, the Council's decision-making process or any role in the maintenance of the accounting system and preparation of the annual accounts. The internal auditor should be engaged to deliver an agreed programme of work, their performance considered annually and reappointment minuted.
- 51 The Annual Return contains a template internal audit report that provides an example of the internal audit procedures that could be undertaken and provides a template to report audit findings to the Council. Completion of this template is not mandated but where it is not used, the Council should ensure that it receives a separate detailed report from the internal auditor.
- 52 The internal audit report provides positive assurance for each of the items included in the template report on the annual return.
- 53 As set out above, my audit identified a number of significant deficiencies that contradict the positive assurances provided in the internal audit report. Therefore, I conclude that the Council did not maintain an adequate and effective system of internal audit for 2015-16 and 2016-17.

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