

Inadequacies in Governance Arrangements, Financial Management and Internal Control – Ogmore Valley Community Council

Audit years: 2016-17 to 2018-19

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Contents

This report draws the Council's attention to inadequacies in governance arrangements, financial management and internal control at Ogmore Valley Community Council. It contains written recommendations made under section 25 of the Public Audit (Wales) Act 2004.

Summary report

Introduction	4
Key findings	5
Statutory recommendations and next steps	6

Detailed report

The Council and the former Clerk agreed amendments to the terms of the former Clerk's contract of employment without a clear rationale for the changes, resulting in significant additional costs to the Council	8
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A lack of appropriate supervision of the former Clerk and an inconsistent understanding of her role resulted in her undertaking work that the Council contends was unauthorised and in the loss to the community of significant grant funding	11
---	----

Although the contracts of employment include gratuity clauses and the Council has set aside in excess of £15,000, it is unclear whether the Council has a contractual obligation to pay a gratuity to the former Clerk and the maximum gratuity that could be paid under a contractual commitment would be limited to less than £2,600	13
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The former Clerk received taxable expenses and allowances totalling £4,338 that have not been reported to HM Revenue and Customs, resulting in an underpayment of tax, and received overpayments of expenses totalling £676	15
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The Council has failed to ensure that an adequate and effective system of Internal controls was established and operated during the period covered by my audit	19
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Summary report

Introduction

- 1 This report summarises the findings and conclusions arising from my audit of Ogmore Valley Community Council (the Council) for the 2016-17 to 2018-19 financial years. In the course of the audit, matters were brought to my attention indicating deficiencies in financial governance and decision making, particularly in relation to the loss of funding for a Community Voice project and issues related to the former Clerk's terms and conditions of employment. My report draws the Council's attention to these failures in financial governance and decision making.
- 2 Under section 22 of the Public Audit (Wales) Act 2004 (the 2004) Act, I must consider whether in the public interest I should make a report on any matter which comes to my notice in the course of my audit in order for it to be considered by Ogmore Valley Community Council (the Council) or brought to the attention of the public. I must also consider whether or not I should issue written recommendations under section 25 of the 2004 Act.
- 3 In considering whether or not to issue a report in the public interest or to issue statutory recommendations, I take into account the scale and impact of the issues I have identified and the action the Council has subsequently taken.
- 4 I also believe it appropriate to give the Council an opportunity to demonstrate the steps it has already taken to improve arrangements and minimise the risk of such failures recurring.
- 5 In view of the actions already taken by the Council during 2020 and 2021 and the nature and overall impact of the issues I report on, I have decided not to issue a report in the public interest and that statutory recommendations will be sufficient.
- 6 Therefore, to assist the Council to avoid similar issues recurring in the future, and acting under delegated arrangements, I am making written recommendations under section 25 of the Public Audit (Wales) Act 2004 (the 2004 Act).

Ogmore Valley Community Council

- 7 The Council serves the small community of Ogmore Valley in Bridgend County Borough. It spends around £80,000 annually, funded chiefly by a precept from Bridgend County Borough Council. The County Borough 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.
- 8 Community councils, such as Ogmore Valley, normally rely on one key officer, the Clerk, to manage their administrative affairs. More often than not, the Clerk is also appointed as 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.

- 9 From November 2006 until August 2018, the Council employed Mrs Louvain Lake as its Clerk and RFO. For the remainder of this report, she is referred to as the former Clerk.
- 10 Notwithstanding the role of the Clerk, by law (the Accounts and Audit (Wales) Regulations 2014 (the 2014 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 of the Council). 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

- 11 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.
- 12 The Council prepares its accounts on a simple receipts and payments basis. This means that transactions are recorded as and when payments are made or money is received. Individual transactions are classified into one of two sub-categories of receipts or payments. Receipts are recorded as either a receipt of a precept instalment or as an 'other' receipt. Payments are recorded as staff costs (salaries etc) or as an 'other' payment. At the year-end, these categories are added up and recorded in the year-end accounts.
- 13 Delays in receiving the annual returns for 2016-17 and 2017-18 led to the auditors working on my behalf to refer Ogmores Valley Community Council to me. This resulted in the assignment of the audits of these accounts to a member of Wales Audit Office staff to bring them to a satisfactory conclusion.

Key findings

- 14 The Council and the former Clerk agreed amendments to the terms of the former Clerk's contract of employment without a clear rationale for the changes, resulting in significant additional costs to the Council.
- 15 A lack of appropriate supervision of the former Clerk and an inconsistent understanding of her role resulted in her undertaking work that the Council contends was unauthorised and in the loss to the community of significant grant funding.
- 16 Although the contracts of employment include gratuity clauses and the Council has set aside in excess of £15,000, it is unclear whether the Council has a contractual

obligation to pay a gratuity to the former Clerk and the maximum gratuity that could be paid under a contractual commitment would be limited to less than £2,600.

- 17 The former Clerk received taxable expenses and allowances totalling £4,338 that have not been reported to HM Revenue and Customs, resulting in an underpayment of tax, and received overpayments of expenses totalling £676.
- 18 The Council has failed to ensure that an adequate and effective system of Internal controls was established and operated during the period covered by my audit.
- 19 My provisional findings and views are that the Council has not complied with statutory requirements. This non-compliance includes the refusal of the Clerk to discharge the responsibilities of his role on the grounds of innumeracy.

Statutory recommendations and next steps

- 20 I draw the Council's attention to the following recommendations to address the deficiencies identified during the audit. In my opinion, the Council should consider these recommendations in accordance with the requirements of section 25 of the Public Audit (Wales) Act 2004:

Exhibit 1: statutory recommendations

Statutory recommendations	
R1	Before amending contracts of employment, the Council must ensure that it has a clear understanding of the need for changes and the cost implications of the changes to be made.
R2	The Council should ensure that it formally approves any involvement by the Clerk with external bodies including the time allocated for the Clerk to discharge these responsibilities.
R3	The Council should ensure that appropriate scrutiny and review arrangements are in place to ensure that the Clerk adequately and effectively delivers their responsibilities.
R4	Prior to making any gratuity payment to the former Clerk, the Council should seek its own legal advice on its contractual obligations.

Statutory recommendations

R5 The Council should consider whether or not it should seek recovery of overpaid expenses and allowances.

R6 The Council should ensure that it understands the taxation implications for all aspects of the Clerk's remuneration package and reports taxable benefits to HM Revenue and Customs as appropriate.

R7 The Council should review its system of internal control and ensure that it has adequate and effective arrangements in place to approve payments and to monitor expenditure.

Next steps

- 21 The Council has already considered a draft of my report and taken steps to address the recommendations made. However, notwithstanding action the Council may already have taken, section 25 of the 2004 Act now requires the Council to consider the recommendations made in this report at a full meeting of the Council within one month of the date that I issue the recommendations.
- 22 At the meeting, the Council will need to decide:
- whether the recommendations in the report are to be accepted; and
 - what action (if any) to take in response to the report and recommendations.
- 23 The Council will then need to prepare a written response and agree the wording of that response with me before publishing its response.
- 24 I also draw the Council's attention to the publicity requirements for the meeting that are set out in section 26 of the 2004 Act.

Ann-Marie Harkin
Executive Director – Audit Services
Audit Wales

Detailed report

The Council and the former Clerk agreed amendments to the terms of the former Clerk's contract of employment without a clear rationale for the changes, resulting in significant additional costs to the Council

During my audit, I was provided with multiple copies of a contract of employment for the former clerk

- 25 The Clerk, as an officer of the Council, is an employee of the Council. Anyone who works for an employer for a regular wage or salary automatically has a contract of employment. Although the complete contract does not have to be in writing, the employee must, as a minimum, be given a written statement of terms of employment.
- 26 Employment contracts provide clarity on the role and status of the Clerk and the remuneration arrangements for the post. Therefore, it is good practice for all Council employees to have a written contract of employment.
- 27 During the course of my audit, I was provided with three copies of the former Clerk's contract of employment, each of which was signed by the then chair of the Council and by the former Clerk. These contracts are dated:
- 10 October 2008
 - 3 July 2010
 - 10 May 2013
- 28 Although the former Clerk was appointed on 1 November 2006, no employment contract has been provided from the date of appointment to October 2008.

No adequate explanation has been provided for why the former Clerk was provided with new contracts of employment in 2010 and 2013

- 29 The three versions of the former Clerk's employment contract are based on a model contract provided by the National Association of Local Councils. There are a number of key differences between the 2008 and the 2010 contract. There are no changes between the 2010 and 2013 contracts. The differences in the terms of the 2008 and 2010/2013 contracts are set out below.

Exhibit 2: terms of employment

There are key differences between the 2008 and 2010/2013 employment contracts.

Contract	2008 contract	2010 and 2013 contracts
Working hours	20 hours/week.	30 hours/week.
Salary	SCP20 – SCP25 on the National Joint Council salary scale. Salary calculated pro-rata to standard 37-hour week.	£15/hour from January 2010.
Salary increments	Annual increments on 1 April each year. SCP 25 increased to include and encourage training. Council may award a further one increment following successful training.	One additional salary point will be added up to a maximum of four points for success in obtaining specified qualifications.
Gratuity	The Council will make appropriate provision for the payment of a gratuity in accordance with the Regulations in force at the relevant time.	The Council may make appropriate provision for the payment of a gratuity in accordance with the Regulations in force at the relevant time.
Expenses	Any travel outside of the community area on Council affairs – mileage, subsistence expenses incurred by the Clerk ... and approved by the Council will be paid at the agreed NJC rate...	Any travel mileage, subsistence expenses incurred by the Clerk ... and approved by Council will be paid at the agreed NJC rate...
Working from home allowance	£546.50 per annum for use of space, lighting, heating and electricity.	£546.50 per annum for use of space, lighting, heating and electricity.
Telephone and internet	Separate telephone/internet and expenses incurred on a separate community council line.	Separate telephone/internet and expenses incurred on a separate community council line.

- 30 The most significant changes to the contract made in 2010 were the change in the basis of the salary from a defined pay scale to a set hourly rate and the change in the number of working hours. The impact of these changes was a significant increase to the former Clerk's salary entitlement as shown in **Exhibit 3** below.

Exhibit 3: the former Clerk's salary under the 2008 and 2010 contracts

The introduction of the 2010 contract terms significantly increased the former Clerk's salary compared to the 2008 contract.

	2008 contract pay rate	2008 contract annual salary ¹	2010 contract annual salary
2010-11	SCP23	£10,918	£23,400
2011-12	SCP24	£11,275	£23,400
2012-13	SCP25	£11,748	£23,400

Source: Audit Wales analysis

- 31 In 2010-11, the former Clerk would have been entitled to receive a salary under the 2008 contract at SCP23 of £10,918. By 2012-13, the former Clerk would, under the 2008 contract, have reached the top of the contracted pay band. Her annual salary calculated in accordance with the 2008 contract would have been £11,748.
- 32 Under the 2010 contract, her annual salary entitlement was £23,400. This increase was backdated to 1 January 2010.
- 33 The increase in the number of hours worked combined with a change in the basis of the salary from the NJC scale to an hourly rate led to an increase in the former Clerk's salary of over 110% in 2010-11.
- 34 Neither the Council nor the former Clerk has been able to provide an explanation to justify the changes to the former Clerk's contract of employment in 2010 that led to this significant increase in expenditure by the Council, either in terms of the increased hours or the change from a salary scale to a fixed hourly rate of pay. The Clerk informed me that it was the Council that offered to change the rate of pay from the national salary scale to a fixed hourly rate and to increase the hours worked from 20 to 30 hours per week.
- 35 The Council's Finance and General Purposes Committee's minutes for its 12 April 2013 meeting simply record that the contract was updated 'as per community council standards'. The minutes do not explain what these standards are.

¹ The equivalent salary under the 2008 contract is shown to illustrate the effect of the increase in salary. The former Clerk was entitled to the higher salary as set out in the 2010 contract.

36 The former Clerk informed me that in 2013 she was given a new contract to reflect the changes made in gratuity regulations.

A lack of appropriate supervision of the former Clerk and an inconsistent understanding of her role resulted in her undertaking work that the Council contends was unauthorised and in the loss to the community of significant grant funding

Notwithstanding that the former Clerk reported to the Council periodically, the Council contends that she undertook unauthorised work during her core working hours for external bodies

- 37 As noted above, the former Clerk's contracts of employment are based on a standard contract and job description provided by the National Association of Local Councils. The job description sets out the clerk's role within the Council.
- 38 Over the course of her employment, the former Clerk also undertook duties at a number of external bodies including:
- Friends of the Berwyn – a local group involved in the preservation of a local theatre
 - Ysgol Gynradd Gymraeg Cwm Garw – appointed as a school governor
 - Nantymoel Boys and Girls Club and community centre
- 39 These roles were discharged during the former Clerk's normal working hours and she claimed travel and subsistence expenses in relation to her time spent delivering these roles.
- 40 The former Clerk stated that the Council asked her to take on these responsibilities and that they were to be discharged during her core working hours. The Council contends that the former Clerk was not requested by the Council to take on these roles.
- 41 My examination of the Council's minutes has not identified any authorisation by the Council for the Clerk to take on these roles. However, it is clear that the former Clerk did in fact report to the Council various matters related to these organisations. Furthermore, the former Clerk's travel and expenses claims clearly set out that she was claiming for travel and subsistence related to these external bodies and until around September 2015, these claims were signed by the Council's chair.
- 42 In my view, the Council was aware of the former Clerk's activities. If the Council was of the view that these activities were outside of the former Clerk's role as the

Council's clerk, it should have taken steps at the time to ensure the former Clerk did not undertake work for external bodies during her core working hours.

The lack of effective supervision of the former Clerk also resulted in the loss of £19,000 in grant funding for the Council to manage its Community Voice project

- 43 In 2013, the Council was awarded up to £30,000 of Big Lottery funding for a 'Community Voice' project that was intended to ensure that the residents of Ogmore Valley had a say in regeneration projects within the community. The grant was awarded and overseen by the Bridgend Association of Voluntary Organisations (BAVO).
- 44 The project commenced in 2013, but by 2014 BAVO was expressing concerns about inadequate reporting and delivery of the project by the Council. Following a meeting involving BAVO, the then Chair and the former Clerk, it was agreed that the grant proposal would be modified to finance the appointment by the Council, of an officer to administer the project. Following a recruitment process administered by BAVO, the former Clerk was appointed by the Council to administer the Community Voice project. She received an additional 13.5 hours per week at an hourly pay rate of £10.60 per hour in late 2014.
- 45 BAVO required all grant recipients to submit quarterly returns to demonstrate delivery of project outputs and outcomes, together with evidence of expenditure incurred. BAVO has informed me that such returns were not routinely submitted by the former Clerk and those that were received were of poor quality or incomplete. BAVO noted that 'Outcome information was not provided despite the worker and the Council being given plenty of opportunities to achieve compliance with reporting requirements.' BAVO noted that following her appointment to the Community Voice role, she 'rarely attended provider meetings (even after confirming she would)... there was no evidence of the contracted hours per week being spent on the project...'.
- 46 Due to these concerns, BAVO arranged a meeting with and wrote to the then Chair. The then Chair passed the letter to the former Clerk. The former Clerk did not take the letter to the Council at its meeting on 28 June 2016 explaining that the letter 'was hurtful and not true'. BAVO terminated grant funding on 31 May 2016 having provided the Council with £11,000 in grant funding and the Council having incurred additional salary costs of £6,285.
- 47 Although the former Clerk provided updates to the Council on the Community Voice scheme, it appears that the Council was unaware of the lack of actual progress being made. The lack of supervision and scrutiny of the former Clerk's delivery of this project meant that the Council lost funding and was unable to deliver a significant project for the community.

Although the contracts of employment include gratuity clauses and the Council has set aside in excess of £15,000, it is unclear whether the Council has a contractual obligation to pay a gratuity to the former Clerk and the maximum gratuity that could be paid under a contractual commitment would be limited to less than £2,600

Until January 2012, community councils were able to make a gratuity payment to clerks on termination of employment in lieu of admission to a pension scheme

- 48 Until 16 January 2012, local councils were empowered to make gratuity payments to staff on the termination of employment (up to statutory ceilings specified in regulations). The relevant Regulations were the Local Government (Discretionary Payments) Regulations 1996 (the 1996 Regulations). The 1996 Regulations stipulated a ceiling on the amount of a discretionary payment a council could lawfully pay an employee on the termination of their employment and set out calculations for determining the prescribed maximum.
- 49 The power of local councils to make gratuity payments did not, however, create any duty or obligation to do so, nor did it create any contractual entitlement for members of staff to receive a payment. However, many local councils did decide to include an entitlement of staff to be paid a gratuity within their contracts of employment.

The Council misdirected itself in concluding that the former Clerk had a contractual entitlement to a gratuity payment

- 50 The former Clerk's gratuity was discussed at a Finance and General Purposes Committee meeting held on 13 February 2015. At this meeting, the former Clerk presented a summary of an 'SLCC Legal Advice Note on Retirement Gratuities'. The committee was not provided with a full copy of this note.
- 51 The minutes of this meeting record:
'Resolved: Legal Advice had been taken from the Society of Local Council Clerks [SLCC] on retirement gratuities. Appendix 1 was attached for members to consider and included information regarding the Advice [sic] from SLCC on gratuity payments and reasons for the advice.
It was accepted and agreed that:

In the case of Louvain Lake, the retirement gratuity clause included in the Clerk's contract of employment was made before 16 January 2012 and will remain as valid in the future, as it was in the past with no change.'

- 52 It should be noted that the committee was not presented with legal advice obtained specifically in relation to the former Clerk's contractual terms and conditions. It was in fact presented with extracts from a more detailed note.
- 53 In my view, the Committee was misdirected that the Council had obtained legal advice. The advice provided by the SLCC is advice to its members ie clerks and not advice to individual councils. It is incumbent on the individual council to obtain specific advice regarding its own circumstances. Therefore, I consider that the committee failed to properly consider whether or not the former Clerk was contractually entitled to a gratuity.

I am unable to satisfy myself that the former Clerk has a contractual entitlement to a gratuity but, in any case, the sum payable would be significantly less than the sum set aside by the Council

- 54 I have not been provided with a copy of the former Clerk's contract of employment from 2006. The provisions in the 2008 and the 2010/2013 contracts are set out in **Exhibit 2** above. The 2008 contract states that the Council 'will make' provision for payment of a gratuity while the 2010 contract amended this to 'may make' provision for the payment of a gratuity. This wording change clarifies that the payment of a gratuity would be discretionary.
- 55 During the course of my audit, I noted transfers of money described as Clerk's gratuity, from the Council's current account to a 14-day notice account. This account held over £15,100 as at 31 March 2017. I recognise that the Council's actions in making payments into a gratuity bank account could be construed as creating an expectation that the Council would make a payment to the former Clerk on the termination of her employment. However, I also note that the 2010 contract supersedes the 2008 contract and only provides for the possibility of the Council making a discretionary payment to the former Clerk, on the termination of her employment of an unspecified amount and subject to Regulations in force at the relevant time.
- 56 Furthermore, the 2013 contract then supersedes the 2010 contract. By this point in time, the 1996 Regulations had been repealed. I note from the Council's minutes that it was the former Clerk who arranged for the updates to the contracts of employment.
- 57 The inclusion of a gratuity clause did not enable councils to pay gratuities in excess of the maximum amounts set out in legislation. The 1996 Regulations were repealed with effect from 16 January 2012. This means that from that point on local councils had no legal power to make gratuity payments to members of staff when

their employment ended, unless members of staff had a contractual clause in their contract of employment which pre-dated the repeal of the Regulations that entitled them to be paid a gratuity payment. For those with a contractual entitlement, the amount which can lawfully be paid as a gratuity would be subject to the maximum amount set out in the Regulations in force at the time the contract was entered into.

- 58 In the case of the former Clerk, the relevant regulations are the 1996 Regulations. These stipulate that the maximum gratuity payable is the lesser of:
- 3.75% of salary for each year of service between the ages of 16 and 70; or
 - 3.75% of the National Insurance lower earnings limit for each year of service between the ages of 16 and 70.
- 59 Because the former Clerk's pay exceeded the National Insurance lower earnings limit, I estimate that this means that the maximum gratuity that could be paid would be limited to less than £2,600.
- 60 I am therefore unable to satisfy myself that the former Clerk has any contractual entitlement to receive a gratuity payment on the termination of her employment. I understand that the Council is currently discussing with the former Clerk a settlement of outstanding obligations related to her employment. In order to ensure that it does not incur unlawful expenditure, the Council should:
- seek appropriate legal advice before it makes any gratuity payment; and
 - if there is a contractual entitlement, ensure that the gratuity is properly calculated by reference to the appropriate Regulations.

The former Clerk received taxable expenses and allowances totalling £4,338 that have not been reported to HM Revenue and Customs, resulting in an underpayment of tax, and received overpayments of expenses totalling £676

- 61 In general, employees are entitled to be reimbursed expenses incurred wholly, exclusively and necessarily when carrying out the duties of their employment. Expenses and allowances may be paid on the basis of a standard scale approved by HM Revenue and Customs or on the basis of actual costs incurred. Where expenses payments exceed these amounts, they are subject to tax. This is achieved by the submission of P11D returns to HM Revenue and Customs each year.
- 62 My audit identified errors and potential tax issues with the payments to the former Clerk in respect of:
- The annual work from home allowance of £546.50
 - Reimbursement of expenses incurred for a telephone/broadband line
 - Mileage and subsistence expenses claimed by the former Clerk

63 My audit of the Council's records identified that the excess payments reported below were not declared on a P11D Benefits in kind return. Although the Council employed a local accountant to prepare and calculate PAYE deductions, the former Clerk did not report her expenses payments and allowances to the accountant for inclusion in a P11D Benefits in kind return to HMRC. Consequently, there has been an underpayment of income tax.

The former Clerk's home working allowance should have been reported as a benefit in kind and the former Clerk received an overpayment of £546.50 in 2015-16

64 From 2003, employers have been able to make tax-free payments to help employees cover their reasonable additional expenses incurred while working from home. Eligible payments are not subject to either income tax or national insurance. To be eligible, the employee must be carrying out the duties of their employment under homeworking arrangements. This means that the employee is regularly performing some or all of their duties at home. The former Clerk's contract of employment clearly sets out that the former Clerk's place of work was at home and therefore the Council would be able to make payments.

65 The reimbursements can only cover reasonable additional costs incurred by the homeworking employee. There are two main approaches.

66 Firstly, the employer can pay the following fixed amounts:

- £18/month (prior to April 2020) for monthly paid employees. This equates to £216 per annum. The advantage of paying at this rate is that there is no need for the employer to justify the expenditure and the employee does not need to keep records of their additional cost. Or,
- if the flat-rate is not appropriate, then a larger tax-free amount can be paid subject to provision of evidence for the additional costs. This may be calculated by either:
 - calculating a scale rate payment which reimburses the average additional costs of working at home. Once the scale rate has been established following HMRC guidance, then employees are not required to keep subsequent evidence of costs. Or,
 - the employer can reimburse the actual additional costs incurred by the employee.

67 Any payments in excess of these rates are taxable. I have not been provided with any evidence to demonstrate that the contractual sum was established following HMRC guidance. As a fixed sum, it does not represent the actual costs incurred. Therefore, in my view, the former Clerk received an annual taxable benefit of £320.50. From 2013 to 2017, the former Clerk was contractually entitled to receive allowances totalling £2,372. The taxable benefit element of these payments was £1,282.

68 In addition to the contractual payments received by the former Clerk, my audit identified that, during 2015-16, the former Clerk received two payments of £546.50² representing an overpayment of allowances.

Exhibit 4: overpayment of home work allowance

The former Clerk received two payments of the contracted home work allowance in 2015-16.

Financial year	Date of payment	Description in accounts	Payment made
2013-14	19/09/2013	Utilities	£546.50
2014-15	19/06/2014	Utilities	£546.00
2015-16	23/06/2015	Utilities	£546.50
	23/03/2016	Utilities	£546.50
2016-17	12/09/2016	Utilities	£546.50
2017-18	24/04/2017	Utilities	£546.50

Source: Audit Wales analysis of Ogmores Valley CC bank statements and invoices/receipts

Reimbursements of telephone and internet charges to the former Clerk should have been recorded as a benefit in kind and the former Clerk received an overpayment of £129.86 in 2014-15

69 Throughout the period covered by my audit, was reimbursed the cost of a telephone and broadband line at her home. The former Clerk has stated that this was an additional line used solely for Council business. The Council reimbursed the former Clerk on the basis of invoices received from BT.

70 However, my audit identified that as part of the services provided by BT, the former Clerk had added a BT Entertainment Plus service.

71 As noted above, tax free reimbursement of expenses relates to expenses incurred wholly, exclusively and necessarily when carrying out the duties of employment. The addition of the BT Entertainment Plus service means that in my view, the telephone and broadband line was not installed wholly, exclusively and necessarily when carrying out the duties of their employment. Therefore, in my view, the reimbursement of the telephone charges should have been recorded as a taxable

² This overpayment is excluded from the calculation of the contractual entitlement in the previous paragraph.

benefit in kind. The total sum paid to the former Clerk between 2013 and 2017 was £1,993.

- 72 Furthermore, during my audit, I noted that on 27 February 2015, the former Clerk claimed reimbursement of £129.86 in respect of a BT invoice. The former Clerk had previously claimed for this invoice on 5 January 2015. This represents an overpayment of expenses of £129.86³.

Exhibit 5: overpayment of telephone and broadband expenses

In 2014-15, the former Clerk was paid twice for telephone and broadband expenses for December 2014.

Date of payment	Accounts entry	BT invoice date	Supporting document	Amount	Total value of payment ⁴
05/01/2015	LL Expenses	05/12/2014	Original invoice	£129.86	£153.06
27/02/2015	LL Expenses Dec/Jan	05/12/2014	Photocopy invoice	£129.86	£242.58

Source: Audit Wales analysis of Ogmores Valley CC bank statements and invoices/receipts

Although mileage claims were paid at the contractual rate, the rate exceeded the HMRC approved rates, resulting in an undeclared benefit in kind

- 73 Subject to certain limits, employers are allowed to pay employees' mileage allowances for using their own vehicle for business journeys without reporting these to HMRC. Since 2011, the HMRC approved rates have been £0.45 per mile up to 10,000 miles each year. Payments in excess of these rates must be declared as a benefit in kind or by adding anything above the 'approved amount' to the employee's pay, deducting and paying tax as normal.
- 74 In accordance with the NJC for local government staff rates, the former Clerk was paid £0.65 per mile for the majority of her expenses claims. This means that £0.20 per mile should have been declared as a benefit in kind or been added to her monthly pay and tax deducted at source. In a small number of cases, the former Clerk claimed for the cost of fuel rather than a rate per mile. It is not clear what business journeys these payments related to.

³ This overpayment is excluded from the benefit in kind calculation.

⁴ The BT invoices were included along with mileage and subsistence payments and other reimbursements.

75 From May 2013 to July 2017, the former Clerk claimed mileage expenses totalling £3,455. I estimate that this equates to an undeclared benefit in kind of £1,063.

The Council has failed to ensure that an adequate and effective system of Internal controls was established and operated during the period covered by my audit

76 The Accounts and Audit (Wales) Regulations 2005⁵ and 2014⁶ require:

- 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 arrangements for the management of risk and adequate and effective financial management.
- the Responsible Financial Officer, acting on behalf of the Council, to maintain accounting records, including the form of accounts and supporting accounting records that are sufficient to show and explain the Council's transactions. The accounting records should include a cashbook/ledger and invoices/receipts to support all payments made.

77 My audit identified weaknesses and/or non-compliance with established internal controls and inadequacies in the Council's financial records.

In her role as the Council's Responsible Financial Officer, the former Clerk failed to maintain proper accounting records on behalf of the Council

78 The Accounts and Audit (Wales) Regulations 2005 and 2014 require the Responsible Financial Officer, acting on behalf of the Council, to maintain accounting records, including the form of accounts and supporting accounting records that are sufficient to show and explain the Council's transactions. The accounting records should include a cashbook/ledger and invoices/receipts to support all payments made.

79 The former Clerk maintained the Council's accounting record in the form of a computerised ledger. Unfortunately, except for the financial year 2016-17, the former Clerk did not provide a copy of the accounting records for earlier years. The former Clerk explained that the records were kept on a laptop that was returned to the Council. However, all data had been erased from this laptop prior to it being returned.

⁵ Accounts and Audit (Wales) Regulations 2005 Regulations 4 and 5.

⁶ Accounts and Audit (Wales) Regulations 2014 Regulations 5 and 6.

- 80 Given the lack of primary records, my audit team prepared a cashbook based on data contained in the Council's bank statements and files of supporting documents retained by the former Clerk.
- 81 My audit established that the relevant cheques were correctly made to the payee stated on the internally prepared vouchers. Notwithstanding this, I conclude that the former Clerk failed to maintain, on behalf of the Council, proper accounting records from 2013 to 2017.

The Council failed to establish an adequate and effective system of internal control over payments

- 82 Small councils such as Ogmere Valley, generally employ one member of staff, the Clerk. The Clerk is then responsible for managing most if not all of the Council's financial affairs. This means that there is little if any scope for separation of duties when dealing with financial matters. Therefore, it is particularly important that the Council establishes alternative internal controls and procedures to ensure its finances are properly managed.
- 83 There are two elements of an effective internal control system that it is reasonable to expect a small council such as Ogmere Valley to have in place:
- a proper procedure for authorisation of payments made;
 - verification of payments made to third-party documents eg invoices before cheques are signed; and
- 84 The Council made payments from 2013 to 2017 predominately by cheque, although bank transfers were also made. The Council should therefore have had a robust arrangement in place for the approval of payments and for the signing of cheques by members.
- 85 The former Clerk stated that all payments were approved at the Council's Finance and General Purposes Committee (F&GP) meetings. The Committee minutes would then be presented to and accepted by the full Council. The arrangement in place was that a schedule of payments would be presented to the Committee, which would then approve the payments made. Bank transfers would be made and relevant cheques would be signed after the meeting, and members would be presented with invoices and receipts before signing the cheques. The former Clerk also stated that some payments would be approved during full Council meetings.
- 86 The Council's Chair, Councillor Lee-Anne Hill noted that schedules of payments presented to the F&GP meetings would not include details of any payments made to the former Clerk. In addition, approval was made during closed 'Part 2' of the meetings at which the public was excluded.

87 I have examined the minutes of the F&GP Committee and the full Council and note the following:

- a relatively small number of payments are approved during full Council meetings. However, the minutes suggest that these are approvals for the Clerk to incur the expenditure in accordance with the estimates approved by the Council rather than approval for the actual payment made.
- the minutes of the F&GP Committee meetings do not record any approval of payments made. I have not been provided with any minutes from closed sessions of meetings of the F&GP Committee or the Council.

88 I therefore conclude that the former Clerk and the Council did not adopt an adequate and effective system for the approval of payments.

89 My audit identified that individual payments are supported by an internally prepared 'voucher' setting out the payment details and details of the meeting at which expenditure was approved. However, there are significant deficiencies with these records:

- in many cases, there are in fact no supporting invoices or receipts. These include for payments made to the former Clerk, in particular for expenses reimbursed for postage and other items.
- references to the meetings at which payments were approved are to meetings at which there was no specific authorisation of payments eg to the Council's annual general meetings.
- some payments contain no reference to any form of authorisation by the Council. This is particularly the case where the Council has incurred bank charges due to insufficient funds being held in the current account to meet payments due as cheques were presented to the bank.
- expenses reimbursed to the former Clerk for postage and other items are not always supported by receipts and therefore it is not possible to establish if the payments made were appropriate.
- although there is space on the internal vouchers for signature by the Chair to provide evidence of authorisation, no such signatures have been completed for the period of my audit.

90 Therefore, it is clear that when members signed cheques, they cannot have ensured that the cheques they were signing were supported by adequate evidence of the validity of the payment being made. It is unclear if members signed blank cheques ie cheques that have not been completed with payee and payment amounts. It is essential that before payments are authorised, the Council has an adequate mechanism in place to ensure the payment being made is for expenditure properly incurred.

91 Furthermore, while I have not identified any discrepancies between the payee recorded on the internal 'voucher' and the actual payee recorded on cheques, I am unable to conclude whether or not the expenditure was appropriately incurred.

The Council failed to properly scrutinise expenditure by a regular review of its financial position

- 92 One of the most important aspects of financial management for all councils is a regular review of the Council's financial position and of its income and expenditure. In smaller councils, this should be undertaken on at least a quarterly basis and should include details of:
- a breakdown of income and expenditure to date compared to the Council's budget; and
 - an overview of the Council's financial position, including a copy of the latest bank reconciliation.
- 93 My examination of the Council's minutes (including those of the F&GP Committee) and the former Clerk's reports to Council, revealed that the Council did not consider its financial position and its income and expenditure at any point between 2013 and 2017. While the former Clerk should have been reporting financial information to the Council, the Council itself failed to hold the former Clerk to account for this significant deficiency.
- 94 As a consequence of the failure to oversee its finances, the Council may have incurred excessive levels of expenditure without its knowledge. For example, although it is a relatively small council, the Council has incurred significant expenditure of printing costs.
- 95 In addition to providing the former Clerk with a laser printer in 2013 and spending substantial sums on related toner and paper, the Council incurred significant sums on printing costs at a local print shop.

Exhibit 6: printing costs incurred by the Council

The Council incurred £7,432 in printing costs over a four-year period.

	Printer toner and paper	External printers
2013-14	£829	£502
2014-15	£377	£2,103
2015-16	£478	£524
2016-17	£709	£430
2017-18	£820	£660

Source: Audit Wales analysis

- 96 The former Clerk has explained that the Council used the services of a local print shop to print copies of agendas, minutes and reports for Council meetings and for specific larger printed items. Other materials were printed at home for circulation to the members.
- 97 Notwithstanding additional printing costs associated with the Community Voices project, the Council's expenditure on printing costs is significantly higher than that which would be expected of a small council. There is no evidence that the Council queried the amount being spent on printing costs. This may in part be because some of the costs for toner and paper are subsumed within an overall heading of 'expenses' claimed by the former Clerk.

The Council is unable to demonstrate that the former Clerk's expenses payments were claimed and properly authorised in accordance with her contract of employment

- 98 Notwithstanding that the former Clerk's contract of employment required that the Council approved the former Clerk's travel and subsistence claims, my audit identified significant deficiencies in the arrangements put in place.
- 99 My examination of the expenses claims identified the following issues:
- frequent purchases of multiple items at local coffee shops and regular subsistence claims when making short car journeys.
 - claims for subsistence, as recorded on the former Clerk's expenses forms, were claimed inconsistently. In some cases, a flat rate of £5 was claimed and in other cases, a specific amount was claimed supported by a receipt. On at least one occasion, 8 September 2016, two subsistence payments were claimed at Starbucks, Bridgend for purchases made at 12:54 pm (takeaway) and 01:56 pm (eat-in).
 - the former Clerk frequently reclaimed for purchases made at local supermarkets for items purchased on behalf of the Council and claimed a mileage allowance for travelling to the supermarket. The purchases made on behalf of the Council were often a small part of the total bill, the remainder of which consisted of personal groceries.
 - receipts were not always provided for reimbursement of purchases made including subsistence payments and postage.
- 100 Initially, periodic expenses claims were signed by the chair of the Council. This practice seems to have discontinued from April 2015.
- 101 Consequently, in my opinion, payments to the former Clerk have not been properly authorised by the Council. As a result of these omissions, the Council is unaware of the expenses claimed by the former Clerk and whether these were properly claimed in accordance with the former Clerk's contract of employment.

The Council has not secured the return of assets provided to the former Clerk for the purposes of role as Clerk

- 102 In order to assist the former Clerk to discharge the responsibilities of her role, the Council provided the former Clerk with the following assets:
- HP Laserjet Pro200 printer. This printer was purchased in October 2013.
 - Apple iPad. The former Clerk claimed reimbursement of £663.90 for an iPad purchased in John Lewis. Payment was made to John Lewis plc via cheque number 301637 dated 21 March 2013.
 - peripheral equipment and storage. During the period 2013-14 to 2017-18, the former Clerk purchased a number of items including a powerbank and USB and micro-SD memory devices.
- 103 The Council has not yet secured the return of these assets from the former Clerk. While the individual items may now be obsolete, they remain the Council's property. Furthermore, they may contain sensitive data that remains the property of the Council.
- 104 It should be noted that the former Clerk states that she returned the iPad and left it in the community hall along with correspondence she had received relating to the Council.



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We welcome correspondence and telephone calls in Welsh and English.
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg a Saesneg.