

Report in the public interest
Audits of accounts 2011-12,
2012-13 and 2013-14
Mawr Community Council



This report is issued in the public interest under section 22 of the Public Audit (Wales) Act 2004. I have issued this report to draw the public's attention to continued failures in governance arrangements and inadequacies in financial management and internal control at Mawr Community Council. No responsibility is accepted in relation to any officer, member or any other person in their individual capacity or any third party.

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Introduction

- 1 Section 22 of the Public Audit (Wales) Act 2004 (the 2004 Act) requires me to 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 of Mawr Community Council (the Council) in order for it to be considered by the Council or brought to the attention of the public.
- 2 The standards expected of those holding public office are high. It is essential that such individuals conduct themselves in accordance with the seven principles of public life – the so-called ‘Nolan principles’ (see Appendix 1). Not only must public officials conduct themselves in accordance with these principles, they must also be seen to do so if public confidence is to be maintained. In the course of my audit, I came across specific examples where I consider members acted in a way which is likely to undermine public confidence in the operation of the Council.
- 3 In December 2011, I issued a report in the public interest on the Council setting out failures in governance arrangements and inadequacies in financial management and internal control identified over the period 2004-05 to 2009-10. In that report, I concluded:
 - a the (former) Clerk failed to discharge his responsibilities in relation to the financial management of the Council;
 - b the Council had failed to discharge its responsibilities to establish appropriate governance and supervisory arrangements to prevent inappropriate or wasteful use of public money;
 - c the Council had established arrangements to reclaim VAT on fuel for the welfare halls in Felindre, Craig Cefn Parc and Garnswllt which may not be in accordance with HM Revenue and Customs rules; and
 - d poor governance and administration within the Council has resulted in it incurring unnecessary and avoidable expenditure totalling £10,500.
- 4 Since I issued my previous report, further issues have been brought to my attention surrounding a number of projects in which the Council has been involved with the Mawr Development Trust (the Trust). The Trust was initially established, with the Council’s support, as a vehicle for improving facilities within the Mawr area. The projects brought to my attention are:
 - a construction of a woodland path at Felindre;
 - b proposed development or sale of land at Craig Cefn Parc; and
 - c renovation work at Craig Cefn Parc Welfare Hall.

- 5 The issues brought to my attention gave cause for concern that:
 - a the Council has not learnt the lessons I identified in my December 2011 report;
 - b the Council is still failing to comply with its statutory obligations; and
 - c the relationship between the Council and the Trust is inappropriate and individual council members fail to separate their responsibilities as councillors from their interests in the activities of the Trust.
- 6 It is unusual for an appointed auditor to issue two reports in the public interest in relation to a small body such as the Council. It is even more unusual for such reports to be issued in such a short space of time.
- 7 However, in my view, it is important to draw the public's attention to the dysfunctional way in which the Council has operated. This has led to ongoing failures in governance arrangements and inadequacies in financial management and internal control. There are a variety of different issues covered by this report but they all point to a council which is failing the people of Mawr.
- 8 This document sets out the most significant issues that I considered as part of my audit. During the course of my audit, a large number of issues were brought to my attention. In many cases, these issues did not fall within my remit as appointed auditor. In other cases, the issues identified were not sufficiently significant to warrant inclusion.
- 9 My conclusions set out in this report need to be understood in the following context:
 - a My audit work has not examined all transactions of the Council. However, in considering the financial arrangements for the woodland footpath at Felindre and the renovations at Craig Cefn Park, I have not identified any misappropriation of council funds or grants.
 - b Each of the individuals my audit team has communicated with appears to be acting in accordance with what they believe to be the interests of the community.
 - c Notwithstanding this, the Council has consistently failed to act responsibly as a corporate body.

- 10 In my view, in order for the reader to understand the context of this document, it is necessary to identify individuals in this report who have been involved in the activities I now report on. These individuals are:

Name	Position	Referred to in this document as:
Dorian Williams	Mawr Community Councillor	Cllr Williams
Ioan Richard	Former Mawr Community Councillor (resigned 2013)	Cllr Richard
Robert King	Former Clerk to Mawr Community Council (resigned October 2012)	The former Clerk
Linda Frame	Mawr Community Councillor and Chair/Vice Chair	Cllr Frame, the Chair
Christine Strong	Former Mawr Community Councillor (resigned 2013)	Cllr Strong, the former Chair
Philip Owen	Mawr Development Trust Development Officer	Mr Owen/Trust Development Officer
Helen Jones	Mawr Community Councillor	Cllr H Jones
Alan Davies	Mawr Community Councillor	Cllr A Davies
Geoffrey Clifford	Mawr Community Councillor	Cllr Clifford
Mark Harris	Mawr Community Councillor	Cllr Harris

- 11 I provided each of these individuals with an opportunity to comment on my findings. This report reflects the responses received from these individuals and from the Council itself.
- 12 Whilst drawing together my conclusions, I was notified of further problems in relation to a proposed extension to Felindre Welfare Hall. In this case, the project involved the Trust and the Felindre Welfare Hall Management Committee in securing grant funds for an extension to the Welfare Hall. The hall itself is leased by the Council to the Management Committee and under the terms of the lease the Council must consent to any structural works proposed by the Management Committee. The information and evidence I have been provided with indicates that this project has been beset by similar difficulties as the projects noted earlier. Therefore, I have not included details of these issues in this report.

Individual councillors' lack of understanding of their role and responsibilities and disregard for proper governance underpins the Council's difficulties

- 13 During the course of my audit, I identified instances where individual councillors have demonstrated a lack of understanding of their roles, responsibilities and authority within the Council. This lack of understanding has led to a blurring of individual responsibilities to the Council and to a lack of regard for the Council's proper decision-making and governance processes. These failures underpin the problems the Council has been facing for a number of years and has resulted in the Council making unlawful decisions.
- 14 This section of my document sets out the attitudes of some members of the Council and helps to set into context some of the issues I report on later.

Individual members do not understand their role

- 15 The role of community councillor is an important one and all who stand for election or accept appointment as councillor must ensure that they fully understand their role and responsibilities. They must understand that their position on the council is to address local issues and that they must represent local people equally. During the course of my audit, it became clear that in some cases councillors do not fully understand their role and responsibilities within the community council.
- 16 For example, in an email dated 12 July 2013, Cllr Richard stated that 'in recent years I had interpreted my role on Mawr Community Council as an inside link to the County Council pursuing issues that Community Councillors brought forward relating to County Council business'.
- 17 It is surprising that an experienced member of approximately 35 years' service should make such a statement. As members of the Council, all community councillors have a responsibility to discharge their full responsibilities as community councillors and should not seek to define or interpret their role as they see fit. Individuals' interpretation of their own roles within the Council, without acknowledging their corporate responsibilities can lead to councillors acting against the wishes, interests and decisions of the Council as a corporate body.
- 18 In response, Cllr Richard has stated that he has 'always taken his responsibilities very seriously, dealing with all aspects of the role'. Cllr Richard believes he expressed himself badly in his previous email.
- 19 I have also identified a number of instances where individual members acted contrary to the decisions of the Council as a whole. It is an important principle that once a decision has been made by the Council, then all councillors take responsibility for that decision as a corporate body regardless of whether or not an individual councillor voted for or against the proposal.

- 20 The Council has advised me that it has now taken steps to ensure all members understand their role and responsibilities. These steps include:
- a identifying and providing relevant training for both the members and the current Clerk; and
 - b providing a 'starter pack' for all members including the Code of Conduct, the 'Good Councillors Guide' and a copy of the Council's standing orders.

Individual members failed to declare their interest in motions proposed and decisions taken by the Council

- 21 Although they have duties towards their constituency, councillors have an overriding duty to the community as a whole. For this reason, they should not favour any individuals or groups and they should represent their constituents as a body. Councillors should discharge their duties in an impartial manner.
- 22 The Council's Constitution and Standing Orders set out the rules by which the Council will carry out its business. This Constitution, whilst undated, sets out that members must declare their interests. The Council also has a Code of Conduct for members (the Members' Code) which all members should have given a written undertaking to abide by. The Members' Code also requires individual members to declare their interests.
- 23 I have examined the Council's minutes and the Register of Members' Interests and noted that members do record their interests on a regular basis. However, I have identified areas where individual members have failed to declare their personal interests when discussing key decisions.
- 24 Cllr Williams is a director of the Trust. The former Clerk was a director of the Trust until 2009. Both individuals, therefore, had a disclosable interest in any item of Council business that related to the Trust. In the case of Cllr Williams, he still retains this interest. However, neither individual has ever declared any interest in the Trust when matters related to the Trust have been discussed and decisions made by the Council.
- 25 Cllr Williams explained in interview that he initially held a position on the board of the Trust as a nominated representative of the Council. This appointment was made when the Trust was originally established a number of years ago. Cllr Williams stated that he was not aware that he should make a declaration as the Council would have been aware that he was the Council's nominated representative.
- 26 Over time, the status of the Trust has changed and it is now a limited company, of which Cllr Williams is a director. The Trust's website notes that it 'is run by a Steering Committee, (made up of local residents)'. No reference is made to Council appointments.

- 27 In interview, Cllr Williams referred to both the Trust and the Council as 'we', frequently interchanging between the two organisations. It was, therefore, difficult to establish which organisation Cllr Williams was referring to at any given time.
- 28 The minutes of the Council meeting of 6 March 2013 further highlight this difficulty. Cllr Williams confirmed that he had approached a local landowner to establish if 'Mawr could have access through his land' to land owned by the Council. Cllr Williams was asked on whose behalf he had been acting and the minutes record that he replied 'for us'. On being asked to clarify this, Cllr Williams replied 'Mawr Development Trust'.
- 29 In my view, Cllr Williams does not adequately distinguish between the activities of the Council and the Trust, and blurs the lines between his responsibilities to both bodies.
- 30 Cllr Williams disagrees with my conclusion that he has blurred the lines between his responsibilities to the Council and to the Trust. Cllr Williams believes that he acted 'fairly and responsibly to both organisations, on behalf of the community'. He also noted that the Council valued his input in discussions about Trust business and that 'everyone knew [Cllr Williams] held a responsible position within the Trust, even if they didn't know the details of the Trust's management arrangements'.
- 31 However, the changed nature of the Trust means that, notwithstanding that the rest of the Council may have known he was a director, his involvement in the Trust gives rise to an interest which should be declared and which disqualified him from participating in the decision-making process. It is unclear from the Council's minutes whether or not Cllr Williams actually voted in any decision made by the Council in relation to the Trust. This is due to defects in the nature of the minutes kept, upon which I comment in more detail in [paragraphs 33 to 38](#). However, it is clear that Cllr Williams participated in the debates and therefore the decision-making process. I am satisfied that Cllr Williams acted in what he believed to be the best interests of the Mawr community as a whole, but his participation in the decision-making process renders unlawful the Council's decisions in relation to the Trust. His failure to declare his interest is a departure from proper standards of ethical conduct.
- 32 I comment further on individual members' failure to properly declare personal interests in [paragraphs 66 to 71](#).

Individual members have disregarded proper standards of governance and financial management and failed to take on board the lessons set out in my 2011 report

- 33 One of the most significant issues I reported on in my 2011 report was that the Council was making payments without sufficient or appropriate evidence to support such payments. Such practices fail the most basic standards of financial management that public bodies are expected to adhere to. My current audit has identified further examples of such practice.
- 34 For example, the Council's minutes record that at the Council meeting of 4 November 2012, Cllr Williams requested that the Council approve the following payments totalling £10,614:
- a £3,000 'to cover the cost of materials for renewing the roof on Craig Cefn Parc Welfare hall' and £1,000 'to cover the cost of a deposit placed on purchasing the woodland area in Felindre'. The minutes state that 'Cllr Williams explained the urgency of the need to make cheques payable to the Development Trust' for these items.
 - b £2,654 'to cover the cost of conveyancing' by the Council's solicitors.
 - c £3,960 'to pay for material to cover the cost of repairing the remaining roof sections on CCP Welfare Hall'.

In response to concerns that the Council was being asked to approve payments when invoices had not been provided, the minutes state that Cllr Williams informed the Council that 'the receipt for the [Council's solicitors] is with Phil Owen at Mawr Development Trust which he would have on Monday 5th November 2012. The Invoice for £30,000 [sic] is with the Trust Treasurer and will be obtained by Councillor Williams on Monday 5th November 2012. The invoice for materials from the roofing contractor UK Roofing will be obtained by Cllr Williams on Wednesday 7th November 2012.'

- 35 In a letter to me, Cllr Williams noted that these invoices were subsequently provided to the Council and that there was no impropriety as the cheques were made out in the name of the solicitors or contractors as appropriate.
- 36 The minutes of the 5 December 2012 meeting record that Cllr Frame identified 'significant and serious issues' and questioned whether or not the work was of sufficient standard. A representative of UK Roofing had been invited to attend the meeting to explain the position regarding the roof. The minutes record that the representative confirmed that 'all that had been said was true' ie, that the work undertaken by UK Roofing was not of an appropriate standard.

- 37 In a written submission, Cllr Williams disputes the accuracy of the minutes and states that there was no admission by the UK Roofing representative that sub-standard work had been carried out. Cllr Williams has explained that UK Roofing had said that it would remedy any problems as there was a 10-year guarantee on the work undertaken. He noted that there was a deadline for submission of a claim for the grant that was funding the project and that the invoice had to be paid before the grant could be drawn down.
- 38 Notwithstanding this, it was inappropriate for Cllr Williams to request that the Council issue cheque payments without supporting receipts and in respect of work that had not been completed to the required standards. I understand that UK Roofing did not return to put right the defective work and has subsequently gone out of business.

Inadequacies in the Council's minutes make it difficult to establish what decisions were made and what information was provided to support decisions

- 39 The Council must keep minutes of its meetings and of any committees. The Council's minutes are the official record of its proceedings. They are intended to be a formal record of its official acts and decisions and not reports of speeches made by individual councillors.
- 40 Throughout 2013, the minutes appear to be detailed records of what was said at each meeting. This has caused a number of difficulties with various parties disputing what decision was actually made at the meeting or even whether or not a decision was made.
- 41 My audit identified that in many cases there is no clear record of what decisions were made by the Council.
- 42 For example, the minutes of the meeting dated 16 October 2013 record, in relation to the confirmation of the minutes of the previous meeting 'Minutes of the meeting proposed as accurate by Cllr Williams, seconded by Cllr Torrington. All agreed.' In this case, it is clear that the Council resolved to accept the minutes as an accurate record.
- 43 However, the Council's minutes regularly record that motions are made and seconded but do not record the actual decision made. Also at the 16 October 2013 meeting, the minutes record 'Cllr O'Sullivan proposed the community council end their involvement with [their legal advisors] and they pass on the documentation to new solicitor. Motion seconded by Cllr Davies.' In this case, it is not clear whether the Council made a decision.
- 44 This inconsistency and lack of clarity makes it difficult to establish what course of action the Council has agreed to and opens the Council to the possibility of disagreement within the Council and/or challenge by third parties.

- 45 Responsibility for the accuracy of the minutes rests with both the Clerk and individual members of the Council. The Clerk should ensure that the minutes record the business transacted, including decisions made. Individual members are responsible for reviewing the minutes to ensure they are an accurate record of the business transacted at the meeting. In Mawr, at the start of each meeting, members review the minutes of the previous meeting and vote on whether or not the minutes are an accurate record. It is at this point that members should contest the accuracy or adequacy of the minutes. Once the minutes have been approved as an accurate record of the meeting, they become the Council's official record of the meeting and an assumption must be made that the minutes are complete and accurate and that matters not recorded were not discussed by or reported to the Council.
- 46 In response, the Council advises me that 'greater care is taken in completion of the Minutes' to ensure that the Clerk is able to clearly record the decisions made by the Council. The Council also acknowledges members' individual responsibility to scrutinise the minutes carefully before they are approved to ensure they are an accurate record of the relevant meeting.

The Council failed to comply with statutory requirements relating to consideration of my December 2011 report in the public interest

The Council failed to take the action required of it by the Public Audit (Wales) Act 2004 in relation to its handling of my December 2011 report in the public interest

- 47 The 2004 Act sets out in detail what councils must do when the appointed auditor issues a report in the public interest. The 2004 Act requires that the Council hold a meeting to consider the report within one month of the auditor sending the report to the Council. At that meeting, the Council must decide if the report requires the Council to take any action; if any recommendations made in the report are to be accepted and what action, if any, to take in response to the report or the recommendations contained therein. Following the meeting, the Council must ensure that the auditor is notified of the decisions made by the Council, obtain the auditor's approval of a written summary of those decisions and ensure that a notice containing the summary is published in one or more newspapers circulating in the area.
- 48 Prior to issuing a report in the public interest, I prepare a document setting out my provisional findings and views from the audit. The purpose of the document is to assist me in considering whether or not I should issue a report in the public interest. I send the document to relevant parties and take their responses into account before deciding to report in the public interest. The document is referred to as a 'consideration document' rather than as a report.

- 49 Subsequent to my publication of my 2011 report in the public interest, it was brought to my attention that the Council had failed to hold an appropriate meeting. Furthermore, the former Clerk and former Chair (Cllr Strong) had failed to provide copies of my October 2011 'consideration document' and the report in the public interest published in December 2011 to all members.
- 50 On 11 October 2011, I wrote to Cllr Strong enclosing for each member of the Council a copy of a consideration document in relation to my audit. I specifically requested that Cllr Strong circulate these to all of the members. Information was later provided to me identifying that Cllr Strong had failed to circulate a copy of the document to all members.
- 51 The October 2011 consideration document was discussed by the Council in a closed meeting on 19 October 2011. The minutes of the meeting simply state 'consider response to auditor's letter. Council resolved that the council's internal auditor, Dudley Roberts would respond.' At a second closed meeting dated 15 November 2011, the Council's minutes only record 'Consider letter by Dudley Roberts, Council's Internal Auditor to Audit Wales: Mr Roberts' letter was read out and council resolved to send it to the WAO'.
- 52 The Council does not have any detailed minutes to record the discussions that took place at either meeting.
- 53 Having received and considered responses from the Council and other parties, I concluded it would be appropriate to report in the public interest. Therefore, on 8 December 2011, I issued a report in the public interest to draw attention to the failures in financial management and governance at the Council.
- 54 The minutes for the meetings held in December 2011 and January and February 2012 do not record that the report was received by the Council. The minutes for the meeting held on 15 February 2012 simply record that 'The completed audit of account has been received from WAO and had been signed off'.
- 55 As a consequence of the Council's failure to properly consider the report, I attended a Council meeting in May 2012 to present the findings of my report to the Council and to members of the public.
- 56 Cllr Strong has stated that she circulated my consideration document to all members present at the October 2011 meeting but confirms she did not provide copies to individual councillors who did not attend the October meeting. She has explained that it was her 'intention to ensure it was viewed by missing members in subsequent meetings'. Although 'absent from chair of the January 2012 meeting', Cllr Strong states that she asked the former Clerk to ensure 'the audit was circulated and discussed' and 'followed this up after the meeting to ensure the audit was discussed and [she] received assurances that it had been'. On receipt of further correspondence from me in 2012 regarding my 2011 report, she forwarded a request to the other members in order to call a special meeting. She states that

except for Cllr Richard, she received no responses from the Chair (Cllr Frame), the former Clerk or any of the other members. Cllr Strong holds the view that these actions represent a 'genuine attempt to get the audit findings to each member and ensure it was discussed appropriately'.

- 57 Notwithstanding Cllr Strong's views, it is clear that the Council failed to follow proper process for the consideration of my 2011 report. The required process is set out in the 2004 Act. It is significant that the only evidence of discussion is the discussion of my consideration document at the October 2011 meeting, during which, members of the public were excluded. The failure of the Council at the time to properly consider my report suggests to me that the Council, or individual members and the former Clerk, sought to minimise public awareness of the report and my criticisms of the Council and its former Clerk.

The Council has failed to address all of the weaknesses and recommendations I made in my 2011 report

- 58 In my 2011 report, I made a series of recommendations to assist the Council to improve its financial management and governance. Despite the time that has now elapsed, the Council has not as yet addressed many of the recommendations. In [Appendix 2](#), I set out the action taken by the Council and the areas where work is still needed.

The Council failed to comply with the requirements of the Local Government Finance Act 1992 when setting the budget for both 2012-13 and 2013-14 and in my opinion set an unlawful budget for these years

- 59 The Local Government Finance Act 1992 (the 1992 Act) sets out the requirements the Council must follow when setting its precept. The 1992 Act (section 41) requires the Council to calculate what is known as its budget requirement each year. The precept issued to the City and County of Swansea must state this budget requirement in its precept demand.
- 60 The 1992 Act (section 50) also sets out how the budget requirement is to be calculated. The Council must take into account:
- a all expenditure that it estimates will be incurred during the financial year;
 - b an allowance for contingencies ie, unforeseen expenditure;
 - c an amount the Council estimates it will be appropriate to raise in the year for meeting future estimated expenditure ie, to hold in reserves; and
 - d the amount estimated by the Council to meet expenditure for any previous financial year that has not already been provided for.

- 61 The final audit fee raised in relation to my 2011 report totalled £10,752 plus VAT. My 2011 report included an initial estimate of the final fee of £8,525.
- 62 Although the former Clerk (Robert King) and former Chair (Cllr Strong) had been advised of the likely audit fee arising as a result of the additional work undertaken prior to my publishing the 2011 report in December 2011, no account was taken of this fee when setting the budget and precept on 18 January 2012. As a consequence, the Council did not have sufficient funds to meet its obligations in 2012-13. I, therefore, made arrangements for the audit fees to be paid in three instalments during 2013-14 in line with the Council receiving its precept instalments from the City and County of Swansea. This required the Council to include the fee in its 2013-14 budget.
- 63 Cllr Strong has stated that the Council believed the audit fees 'were inflated and would be significantly reduced'. She 'did not understand we [the Council] were under a legal obligation to include a maximum figure in the 2012/13 budget and we [the Council] believed the figure was still under negotiation'.
- 64 In my view, the budget set by the Council for 2012-13 was ultra vires and unlawful. I determined not to apply for a judicial review of the Council's 2012-13 budget for the following reasons:
- a the costs of doing so would have been significant and would be an additional financial burden to the Council; and
 - b the Council made arrangements to rectify the error and to ensure that the fees would be included in the lawfully set budget for 2013-14.
- 65 However, examination of the minutes for the meeting on 16 January 2013 indicates that the process for setting the precept for 2013-14 was also flawed. The minutes record discussion about the bank account and a proposed increase in the precept but do not make any mention of the Council having considered those items required by section 50.
- 66 For this reason, in my view, the Council also set an unlawful budget for 2013-14.
- 67 The Council has advised me that its Standing Orders and Financial Regulations have now been reviewed and improved arrangements have been established for setting its budget for 2015-16.

The Council's decision to withdraw the planning application for land at Craig Cefn Parc was unlawful

- 68 In December 2012, the Council decided to submit an application for planning consent for 28 houses on land it owns in Craig Cefn Parc. The purpose of this was to secure the supply of affordable housing in the village and to raise funds to match fund a grant applied for by the Trust to develop a multiuse games area in the village. The land had been highlighted for housing development in the Unitary Development Plan. The planning consent application was submitted in January 2013.
- 69 The application was not without opposition from local residents and a local residents' association was established to oppose the Council's decision.
- 70 The minutes of the Council meeting on 17 July 2013 record that Cllr Davies 'asked if the council could add to the next special meeting agenda 'to discuss withdrawing the planning application for Parc Ellen''.
- 71 On 25 July 2013, the Council's minutes record that it met to 'discuss the sale of land at Parc Ellen, Craig Cefn Parc'. The minutes record that during the course of the meeting, 'Cllr Torrington proposed that the planning application for the housing development and recreational facility at Parc Ellen, Craig Cefn Parc made in January 2013 be withdrawn'. The minutes state that 'This was seconded by Cllr Clifford and a unanimous decision' [sic].

The decision to withdraw the planning application for the proposed Craig Cefn Parc development was flawed as this matter was not properly specified in the summons to the meeting

- 72 Prior to each meeting, a summons must be left at or sent by post to the usual residence of every member of the Council. Schedule 12 of the Local Government Act 1972 requires that the summons must specify the business which it is proposed to transact in such a way that each member who receives it can identify the matters which he/she will be expected to discuss. A council cannot lawfully decide any matter which is not specified in their agenda.
- 73 The agenda for the 25 July 2013 meeting lists the following as an agenda item: '4. To discuss the sale of land at Parc Ellen, Craig Cefn Parc.'
The agenda suggests that the Council would discuss the sale of the land. This is misleading; no reference is made to the application for planning consent that had previously been made.
- 74 In my view, the Council could not have lawfully made a decision at that meeting to withdraw the planning application as this was not specified as an item of business on the agenda.

75 In its response, the Council states that it is of the opinion that there was an assumption that the purpose of the meeting was to consider withdrawing the application. The Council states 'It is felt that the councillors and public were aware of the purpose of the meeting particularly given it was minuted in previous meeting that the withdrawal of the planning application was to be decided'. The Council also notes that councillors accept responsibility to ensure the accuracy of the agenda prior to meetings to prevent similar issues occurring.

The decision to withdraw the planning application for the proposed Craig Cefn Parc development was unlawful because it was made by members with undeclared personal or pecuniary interests

76 The Local Authorities (Model Code of Conduct) (Wales) Order 2008 requires members to disclose personal or pecuniary interests in matters being discussed by the Council. The minutes do not record the declaration of any interests held by councillors present at the meeting on 17 July 2013.

77 The minutes record the names of six councillors present at the meeting. These were Cllrs L Frame, M Harris, A [Alan] Davies, G Clifford, B Torrington and A Davies. However, this does not appear to be a complete list of those members actually present. The minutes also record that Cllr H Jones proposed the Council approve a payment, indicating her presence and participation in the meeting. The minutes record that Cllr Torrington's proposal (that the planning application be withdrawn) was seconded by Cllr Clifford and that all councillors present voted in favour of the proposal.

78 It has been brought to my attention that Cllr Alan Davies was the chair of the residents' association established to oppose the development. As such, he held a personal interest which should have been declared. He should then have withdrawn from the meeting and should not have taken part in the decision-making process.

79 Cllrs Clifford and Davies live adjacent to the land at Parc Ellen, Craig Cefn Parc. In addition, I understand that the father of Cllr H Jones also owns land adjacent to the proposed development site. Each of these councillors, therefore, had a personal or pecuniary interest in the decision being taken by the Council. Each of the councillors had a disqualifying interest and their participation in the decision-making process rendered the Council's decision unlawful. Their failure to declare their interests is a departure from proper standards of ethical conduct.

80 In my view, the decision to withdraw the planning application was unlawful as it was taken by members with undeclared personal or pecuniary interests. Furthermore, had these members excused themselves from the meeting, the meeting would have been inquorate and could not have taken a decision.

- 81 In addition, at the public consultation meeting organised by the Council and held at Craig Cefn Parc Welfare Hall on 24 October 2013, Cllr Harris suggested that the land at Parc Ellen could be sold to each of the properties backing onto Parc Ellen. The minutes of the meeting record that 'Cllr Harris suggested that if the market value was 20k, sell for 10k'. This would have provided a direct benefit to those members with interests. No interests were declared by Cllrs Clifford, Davies and H Jones at this meeting (although it is accepted that this was not a formal Council meeting).
- 82 The Council notes that councillors 'were aware of their need to submit declarations of interest but not aware of the extent to which they are expected to make such declarations. Now that it has been highlighted, the Council will ensure that in future there will be no further undeclared personal or pecuniary interests.'
- 83 In my view, Cllrs Clifford and Davies had a clear and direct personal interest and Cllr Jones had an interest due to a family connection. I do not consider it credible that they were not aware that they needed to disclose such interests.

The relationship between the Council and the Trust is inappropriate and the Council engages in projects for which it does not have a full understanding of its role and responsibilities

Although both bodies seek to act for the benefit of the community of Mawr, the lack of any formal agreements or relationship has led to informal arrangements being established with complex financing arrangements for projects

- 84 The projects to construct the woodland footpath and to renovate the Craig Cefn Parc Welfare Hall will provide benefits to the community and I make no other comment on the merits of these projects.
- 85 It is clear to me that both the Council and the Trust seek to act for the benefit of the community of Mawr and it is entirely appropriate that both bodies co-operate with each other to maximise their impact for the community as a whole.
- 86 Such co-operation, however, should be on the basis of a formal agreement between both parties which sets out their respective responsibilities. In relation to individual projects, the role of both parties should be established and funding arrangements for each project agreed and clearly communicated to both parties prior to the start of the project. No such arrangements have been brought to my attention. It is clear that in relation to projects undertaken between the Council and the Trust, the Council is not fully aware of the financial arrangements and how these will affect the Council's financial position. It appears to me that the major cause of this is a complete breakdown in relations and communication between individual councillors.

- 87 Cllr Williams stated that although individual councillors may not have been fully aware of the financial arrangements due to a lack of regular attendance at meetings, he provided details of the arrangements at Council meetings. Cllr Williams notes that the minute taking was poor. I comment on the quality of the minutes and the responsibilities of individual members to ensure the accuracy of the minutes in **paragraphs 33 to 39**.
- 88 Had appropriate and formal arrangements been in place for both the woodland footpath project and the Craig Cefn Parc Welfare Hall renovations, and if councillors had been prepared to listen to each other and work together, the Council would have saved itself from the recent disagreements and acrimony.
- 89 The Council notes in its response to me that it has recorded in its minutes, dissatisfaction with the relationship between the Trust and the Council and that there has been a 'genuine effort to correct many of the areas of concern'.

Applications for grant funding made and drawn down by the Trust's Development Officer on behalf of the Council for the woodland footpath and the renovation of Craig Cefn Parc Welfare Hall are unlawful as they were made without the authority of the Council

- 90 Both the woodland footpath and the refurbishment of Craig Cefn Parc Welfare Hall projects have been part financed by grant funding applied for in the name of the Council.
- 91 In an email to the current Clerk dated 22 May 2013, Mr Owen (the Trust's Development Officer) advises the current Clerk of 'the grant applications I've [Mr Owen] made since starting this job in 2008. There have been 3 applications made on behalf of the Community Council:
- a Purchase of woodland and development of the primary school access path in Felindre...
 - b Refurbishment of extension roofs at Craig Cefn Parc Welfare Hall...
 - c Expression of interest for the refurbishment of Garnswllt Welfare Hall roof.'
- 92 Mr Owen also notes 'I also applied for planning permission on land in Garnswllt on the Council's behalf'.
- 93 In his email, Mr Owen also states:
- a In respect of the woodland path – 'this will be complete once the contractor is paid and information provided to me so that I can claim the rest of the funding on your behalf'.
 - b In respect of the refurbishment of Craig Cefn Parc Welfare Hall – 'this is complete and I have put in a claim for funding on behalf of the Council. Once the money is in your [the Council's] bank account, you will need to refund the money lent to you by the Trust so that the project could go ahead.'

- 94 In both cases, the application forms identify the primary contact as Cllr Williams. Cllr Williams certified the application forms as a community councillor. In so doing, Cllr Williams provided the following certification 'I am acting with the authority of the Applicant Organisation and certify to the best of my knowledge and belief that entries and details on this application form... are correct...'
- 95 I have examined the minutes of the Council meetings and other documents provided by the Council. I cannot identify any authority being delegated by the Council to Cllr Williams to apply for grants for either project. However, Cllr Williams asserts that he made the Council aware of the grants that he had applied for.
- 96 In my opinion, Cllr Williams acted without authority when applying for grant funding on behalf of the Council and his certification that he acted with the authority of the Council was wrong. It is, therefore, my view that the grant applications were unlawful and the subsequent receipt of funds results in items of account which are contrary to law.
- 97 Mr Owen has confirmed to me that, at the request of Cllr Williams, he prepared the applications for Cllr Williams to certify. Furthermore, he has stated to me that he does not accept that he acted without the authority of the Council. He noted that 'authorisation to proceed with work was often given verbally at that time'. However, I have not been able to identify any evidence that Mr Owen was authorised to prepare applications, apply for grant funding or draw down grant funds on behalf of the Council.
- 98 On this basis, I consider the grant applications completed by Mr Owen and signed by Cllr Williams and the drawing down of such grants to be unlawful. This results in items of account which are contrary to law.
- 99 The Council has stated that when engaging in joint projects in the future, the Council will ensure that there is 'a clear brief and defined roles for the Trust or other groups it may be involved with in order to benefit the community. The Council will also expect to take regular feedback... to ensure that it is kept updated on progress and record decisions involving the quorate council not individual members.'

The Trust Development Officer acted without authority from the Council when he instructed the Council's solicitors to act in relation to the purchase of land for the woodland path project

- 100 Mr Owen, the Trust Development Officer, is an employee of the Trust and is not employed by the Council in any capacity. Nevertheless, on 29 December 2011, the Council's solicitors sent an email to Mr Owen stating 'I confirm I will be delighted to act for the Community Council in their purchase of the above land and I enclose my standard terms and conditions letter for signature and return in the usual way. I should also be grateful if you could let me have a cheque for £500 + VAT in order for me to give the seller's solicitors the required undertaking to meet their costs whether or not the matter proceeds to completion.'
- 101 I have been unable to identify what document held by the Council authorised its solicitors to deal directly with Mr Owen of the Trust rather than directly with the former Clerk. In the absence of evidence from the Council, I requested this information from the Council's solicitors who confirmed that Mr Owen contacted them by email on 6 December 2011 stating:
'Could you represent the Community Council with the purchase of the woodland in the plan, please... We have agreed to pay for the legal costs of both sides, as long as these costs are reasonable. I have applied for grant funding for the purchase, which should be straight-forward. The purchase price is £3,000.'
- 102 Mr Owen has advised me that he was 'asked to write to the Council's solicitor by the [former] Clerk and a Councillor'. Mr Owen also advised that he forwarded the reply and associated documents to the former Clerk who signed them and returned them to the solicitor.
- 103 The Council's solicitors also confirmed that they were not advised that Mr Owen is not an officer of the Council.
- 104 In my opinion, it is wrong for Mr Owen to instruct solicitors to act on behalf of the Council in the absence of authority from the Council to do so.

Payments made to, or on behalf of, the Trust were not accurately reported to the Council

- 105 One of the key requirements for accountability of local councils is for their financial records to be transparent and supported by proper documentation. I reported on this issue in my 2011 report. During the course of my current audit, I identified continued failings in the Council's records as a result of which the Council's transactions with the Trust cannot be established with certainty.
- 106 For example, on 1 June 2011, Mr Owen of the Trust wrote to the former Clerk to request that the Council provide a grant of £420 to cover the cost of an asbestos survey for Gerazim Chapel, Cwmcerdinen. Attached to this letter are:

- a An invoice from Anchem Laboratories Ltd for the sum of £420. The invoice is, however, addressed to Mawr Community Council and is dated 12 April 2011.
 - b A statement from Anchem Laboratories Ltd showing payment of the £420.
 - c A handwritten 'voucher' prepared by the former Clerk with the details 'Work at Grazim [sic] Chapel – Grant to Mawr Development Trust'.
- 107 On 20 July 2011, the schedule of payments presented to the Council for approval included 'Ancheron [sic] (work at Gerazim Chapel) £420.00'. There is no record of the Council having approved payment of a grant to the Trust. The records at this time were kept by the former Clerk.
- 108 In my view, the Council was misled as to the purpose of the payment to Anchem. It was a grant to the Trust rather than a payment to Anchem.
- 109 The Council notes that it has recognised and taken steps to address this issue and that in future all correspondence and documentation must be presented to the Council by the Clerk and that documentation would not be accepted directly from individual councillors, the hall committees or the Trust.

Expenditure incurred on the woodland footpath project is unlawful because individual members, the Council's former Clerk and the Trust Development Officer acted without the authority of the Council

- 110 Between December 2012 and July 2013, the Council was embroiled in internal disputes relating to a project to construct a woodland footpath between Felindre Welfare Hall and Felindre Primary School. This woodland footpath project has been characterised by individual members disregarding the Council's proper processes and acting without the authority or knowledge of the Council as a whole. Those involved in managing the project failed to differentiate between the role of the Council and that of the Trust. There have been failures in communication with neither side understanding the concerns of the other.

The Council's minutes do not make clear the nature of the Council's involvement in the woodland path project

- 111 A fundamental requirement for effective management of public funds is that the Council must understand its role and responsibilities in relation to projects it enters into. In the case of projects between the Council and the Trust, this requirement is not met.
- 112 It has been suggested to me by Cllr Williams, Cllr Richard and Mr Owen that the Council was always aware of its role in the project. A different view was expressed by Cllr Frame and Cllr Weeks, both of whom stated they were unaware of the project until after the works had been completed and an invoice had been submitted to the Council.

- 113 In a written submission to me in relation to the woodland footpath project, Cllr Richard states that 'although the Minutes are 'vague', in some places, that responsibility for the Grant lies ultimately with Mawr Community Council by our awareness of the situation' [sic].
- 114 In a letter dated 16 June 2013, Cllr Richard states 'It was always my understanding ... that Mr Phil Owen had acted as an 'adviser' to the project and that the whole scheme being undertaken was being done in the name of Mawr Community Council using 100% grant funded money'. In the letter, Cllr Richard also states that the Council acquired land specifically for this scheme. In his response to a draft of this document, Cllr Richard stated Mr Owen was 'effectively managing the project to [sic] the knowledge of the Council. I [Cllr Richard] interpreted this to mean a delegated discharge of powers to open tenders.'
- 115 In an email dated 11 July 2013, Mr Owen provided me with a copy of the minutes for the 6 December 2011 Council meeting and stated that the minutes showed 'that the Council were aware of the project and knew that the land would be owned by them when the project was finished. I understand that it has been made perfectly clear in other Council meetings that this was a joint project between the Council and the Trust. Several previous Councillors, who were involved in the project, are happy to sign that they were aware of this.'
- 116 The Council's minutes first record discussion of the project to construct a woodland footpath at Felindre School, in December 2011. The matter of the footpath was raised at various council meetings in the period up to July 2013. The relevant minutes are summarised in [Appendix 3](#).
- 117 The Council's official records do not make it clear that the pathway project was to be led by the Council as asserted by Cllr Richard. On the contrary, at the December 2011 meeting it appeared that the Trust was to lead the project and simply transfer ownership of the land to the Council. This is confirmed by the minutes of 9 May 2012 in which Cllr Williams clearly stated that the Trust not the Council had acquired the land. Furthermore, the minutes do not record any delegation of authority to either individual members or Mr Owen to act on the Council's behalf in relation to this project.
- 118 Cllr Richards has advised me that the project involved the acquisition of two pieces of land. The first was donated to the Trust and then transferred to the Council and the second purchased by the Council. From the documentation available to me, it is not clear that this was the case and this further demonstrates the overall lack of clarity surrounding the arrangements for the project.
- 119 Notwithstanding this, it is clear to me that some information related to the project had been presented to members at a number of meetings. Therefore, the Council was aware of the existence of the project albeit the Council as a whole had not been informed of the nature or extent of its 'involvement'. It is, therefore, not credible for Cllrs Frame and Weeks to state that they were entirely unaware of the project prior to the Council being presented with an invoice for the completed works.

The award of the contract to construct the woodland footpath was unlawful because a small number of councillors awarded the contract to construct the path without the authority and knowledge of the Council

- 120 As noted above, there is no clear evidence that the Council was aware of its role in this project. Furthermore, the Council does not have sufficient documentary evidence available to determine which individuals were responsible for the events that transpired.
- 121 It is unclear how prospective contractors were identified and who invited them to submit quotations for the work. The Council was unable to provide me with the quotations submitted. Notwithstanding that, the Council did not have the required documents, Mr Owen of the Trust presented me with a specification for the work prepared by the former Clerk and copies of three quotations received. Quotes were addressed to Mawr Community Council and returned to Felindre Welfare Hall.
- 122 Correspondence with Cllr Richard and Mr Owen has, however, identified how the decision to award the contract was made.
Cllr Richard stated in an email 'The Footway Project is in my diary under the scribbled heading 'Felindre Community Woodland' for a 'Meeting at 2pm at Felindre Hall' 19-10-12. Glynn Jones and Dorian Williams and myself got together to witness opening the Tenders for the project. To my recollection the Clerk Robert King had failed to turn up and Phil Owen of Mawr Trust brought in the three envelopes and as I recollect it he opened them before us. There were three tenders...'
- 123 Mr Owen confirms these arrangements in an email dated 11 July 2013, stating 'My understanding is that the quotations were assessed by Cllrs. Dorian Williams, Glyn Jones and Ioan Richard on the afternoon of Friday 19th October and that Cllr. Williams told the contractor that he had the contract'. Mr Owen has, however, stated that he was on leave on 19 October 2012 and took no part in the decision-making process.
- 124 Cllr Williams and Cllr Richard both explained that the three councillors met to deal with the quotations because Cllrs Williams and Jones were local and Cllr Richard was available. But in considering the quotations received for the woodland footpath project, Cllrs Williams, Richard and Jones acted without the authority of the Council. Section 101 of the Local Government Act 1972 allows the Council to arrange for the discharge of its functions by a committee of the council. However, the Council had not established a properly constituted subcommittee with delegated authority to procure a contract for the construction of the footpath. The three members who made the decision to award the contract did so without the knowledge and authority of the Council. Furthermore, the decision to award the contract on behalf of the Council was never communicated to the Council.

- 125 In his response to a draft of this document, Cllr Richard has stated that he has a vague recollection that the meeting held to open the tenders was a special council meeting. He notes that because 'the Mawr Council Minutes are so vague... they certainly cannot be relied upon one way or another'. In his response to a draft of this document, Cllr Williams states that the Council's Clerk had been asked to call a meeting, and it was called at a time most convenient to the majority of the councillors. He asserts that to his knowledge the Clerk contacted all the councillors. Both Cllr Richard and Cllr Williams note that only five councillors were attending meetings at this point in time.
- 126 I do not consider Cllr Richard's and Cllr Williams' explanations to be credible for the following reasons:
- a a properly convened Council meeting requires that at least three clear days' notice is given of a meeting and that the business to be transacted is specified;
 - b the former Clerk had resigned in September 2012 and would not have been in a position to call a meeting in October;
 - c the current Clerk was only appointed at the meeting dated 17 October 2012 and would not have been in a position to contact councillors until 18 October 2012;
 - d I have not identified any minutes or other documentation that would suggest that the meeting held on 19 October 2012, was a properly convened council meeting;
 - e there is no mention of a Council meeting to be held on 19 October recorded in the minutes of the Council meeting held on 17 October 2012; and
 - f neither Cllrs Richard or Williams nor Mr Owen have previously raised this as a possibility during interview.
- 127 In my opinion, the award of the contract for the woodland footpath was unlawful as the members making the decision acted without lawful delegated authority to do so. This results in an item of account (expenditure on the footpath) which is contrary to law.
- 128 Cllr Williams has stated that the three members attending the meeting were the only members available at the time. However, the meeting was neither properly constituted nor recorded as a Council meeting.
- 129 The Council has stated that in any future joint projects, there will be a clear brief and defined roles for all parties involved and that it will expect regular feedback from working parties or committees to ensure it is kept updated and makes formal decisions involving the Council as a whole rather than individual councillors.

The Council has obtained a loan from the Trust without obtaining approval from the Welsh Government and has yet to repay a significant proportion of the loan

- 130 The Local Government Act 2003 provides community councils with powers to borrow money from any willing lender including private individuals and organisations as well as banks. However, such powers come with restrictions:
- a the expenditure to be funded by the borrowing must be capital in nature; and
 - b approval must be sought from the Welsh Government prior to obtaining the loan.
- 131 In an email dated 15 April 2013 to the current Clerk, Mr Owen states 'The Trust lent money to the Council to pay contractors because one of the grants could only be claimed retrospectively. Part of this money has been repaid. The rest needs to be repaid. Could you get authorisation for this, please?'
- 132 In his email dated 22 May 2013, Mr Owen states in respect of the refurbishment of Craig Cefn Parc Welfare Hall:
- a 'This is complete and I have put in a claim for funding on behalf of the Council. Once the money is in your [the Council's] bank account, you will need to refund the money lent to you by the Trust so that the project could go ahead.'
- 133 In a subsequent email dated 11 July 2013, Mr Owen states 'my reference to the Trust giving a loan to the Community Council is a grant advance, rather than a loan. I didn't realise the significance of the difference in the two words.'
- 134 I do not accept Mr Owen's assertion that the 'loan' from the Trust to the Council was a 'grant advance'. It is clear from Mr Owen's email to the current Clerk that the transfer was intended and considered to be a loan. In an interview, Mr Owen confirmed that the Trust had advanced the Council monies to allow the Council to pay bills prior to drawing down the grant funding. Subsequently, the Council repaid the £9,000 to the Trust.
- 135 Community councils must seek approval from the Welsh Government prior to obtaining loans. I can find no evidence that the Council sought or obtained approval for the loan referred to by Mr Owen. Therefore, I consider the Council acted unlawfully in borrowing money from the Trust to finance the Craig Cefn Parc Welfare Hall refurbishment pending receipt of grant funding. This results in an item of account which is contrary to law.
- 136 In his response to a draft of this document, Mr Owen notes that he was unaware of the requirement for borrowing approval. He also notes no approval was obtained for an earlier loan from the City and County of Swansea in respect of works undertaken at Garnswllt Hall. Mr Owen notes that neither 'the Council's solicitors nor the County Council's solicitors mentioned the requirement at that time'. It should be noted that a lack of understanding or knowledge of the statutory framework does not mitigate the impact of the Council's unlawful actions.

- 137 Furthermore, I have been unable to identify any documents that indicate there was any formal loan agreement between the Council and the Trust. Rather, this appears to have been an ad hoc and informal arrangement.
- 138 The Council recognises that this arrangement is unacceptable but notes that the arrangements were made without the knowledge of the Council as a whole. It states that a significant proportion of the loan has now been repaid and this type of arrangement will not take place in the future.

Recommendations

139 My recommendations to the Council are:

R1	The Council should review the recommendations I made in my 2011 report and ensure it has taken appropriate action to address all of the issues I identified in that report.
R2	Individual councillors must ensure that they understand their role and responsibilities as councillors.
R3	Individual councillors must ensure that they comply with the decisions made by the Council as a whole.
R4	Individual councillors must ensure that they declare their interests in all matters considered by and decided upon by the Council.
R5	The Council must ensure that it complies with its own Standing Orders when making decisions.
R6	The Council must ensure that it deals with all audit reports in an appropriate manner, complying with all relevant statutory requirements.
R7	The Council must ensure that the minutes of its meetings comply with the statutory requirements of the Local Government Act 1972 and provide a clear record of the business transacted and decisions made during its meetings.
R8	The Council must ensure that it sets its annual budget and precept in accordance with the 1992 Act.
R9	The Council must ensure that any joint projects undertaken with a third party are subject to formal agreements setting out each party's roles and responsibilities and how the project is to be funded.
R10	The Council must ensure that all applications for grant funding are properly authorised.
R11	The Council must ensure that it is responsible for authorising the engagement of professional advisors.
R12	The Clerk to the Council must ensure that all payments are accurately reported to the Council and properly recorded in the minutes and cash book.
R13	The Council must ensure that it makes proper arrangements for the procurement of goods and services including procedures for awarding contracts and reporting outcomes to the full Council.
R14	The Council must ensure that it obtains borrowing approval for all loans it draws down from all sources.

Action taken by the Council

- 140 In order to effectively serve the people of Mawr, it is important that the Council learns from these events and puts in place the necessary changes to its controls and procedures to minimise the risk of further occurrences.
- 141 The Council has advised me it has taken, or is planning to take, action to address many of the recommendations above and the outstanding recommendations from my 2011 report, including:
- a reviewing the contracts of employment for the Clerk and hall caretakers;
 - b only authorising payments on presentation to the Council of a proper invoice;
 - c developing new financial monitoring reports for presentation to the Council on a monthly and quarterly basis;
 - d separating the role/duties of internal auditor from those properly undertaken by the Clerk;
 - e reviewing the Council's Standing Orders and Financial Regulations to ensure they are fit for purpose;
 - f ensuring minutes are recorded accurately and are subject to appropriate scrutiny before they are approved by the Council and signed by the Chair;
 - g identifying training needs for individual councillors and the Clerk;
 - h ensuring that the 2015-16 budget is set in accordance with the 1992 Act; and
 - i ensuring that future partnerships are established with a clear brief and defined roles for the Council and its partners.

Next steps

- 142 The Council is required by section 25 of the 2004 Act to consider this report at a full meeting of the Council within one month of the date of the report.
- 143 Prior to the meeting, the Council must publish a notice in a newspaper circulating in Mawr, that states the time and place of the meeting, that the meeting is being held to consider an auditor's report and that describes the subject matter of the report.
- 144 At the meeting, the Council will need to decide:
- a whether the report requires it to take any action;
 - b whether the recommendations in the report are to be accepted; and
 - c what action (if any) to take in response to the report and recommendations.
- 145 The Council will then need to prepare a written summary of the decisions made at the meeting and obtain my approval to this summary, and ensure that a notice containing the approved summary is published in a newspaper circulating in the area.



Anthony Barrett
Appointed Auditor

15 January 2015

Appendices

Appendix 1 - The seven principles of public life (the 'Nolan principles')

Appendix 2 - Recommendations in my 2011 report

Appendix 3 - Summary of minutes related to the Felindre School Woodland Path

Appendix 1 - The seven principles of public life (the 'Nolan principles')

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefit for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix 2 - Recommendations in my 2011 report

Recommendation		Action taken by the Council	Action now required
R1	The Council should review the nature and quality of the accounting records and ensure that these are fit for purpose and are kept up to date and complete.	The Council's accounting records are improved and appropriate supporting documentation is now held for payments made.	None noted.
R2	The Council must end the current arrangements of the Clerk making salary payments to caretakers from his own finances and reclaiming the appropriate amount from the Council.	The Council now pays all staff by cheque drawn on the Council's current account.	None noted.
R3	The Council must ensure that it has proper arrangements in place for the payment of payroll, ensuring that all payments are approved by the Council and that there is a full audit trail for all salary payments.	Proper arrangements were adopted on appointment of the current Clerk.	None noted.
R4	The Council should confirm the terms and conditions of employment of all staff including individual salary levels and dates when salary payments will be made.	To date, the Council has not prepared written contracts of employment for its employees.	Written contracts of employment should be prepared as soon as possible.
R5	The Council should ensure that all wages and salary payments including PAYE payments to HM Revenue and Customs, are made on a regular basis and that no payments are made in advance of an employee's entitlement.	Payments are now made to HMRC on a regular basis by the current Clerk.	None noted.
R6	The Council should ensure that cheques or other orders for payment are only drawn up when an invoice has been received and the payment is authorised by the Council.	I understand that cheques are normally now presented for signing along with the related invoices. However, the Council's minutes for the meeting held on 4 November 2012 set out individual councillors' concerns that some councillors eg, Cllr Williams, are asking the Council to approve payments and make out cheques for which no invoice has been presented to the Council. Payment for these items was held back until original invoices had been received.	The Council and individual councillors must ensure that appropriate supporting documentation, eg invoices, are available and work has been carried out to an appropriate standard before payments are made

Recommendation		Action taken by the Council	Action now required
R7	The Council should review the arrangements for reporting payments to the Council for approval and ensure that all payments made are reported.	Examination of the minutes suggest that payments are now being approved by the Council.	None noted.
R8	The Council should establish arrangements	The Council does not receive reports on the financial performance of the Council against its annual budget. The financial information received simply contains details of payments made.	The Council should establish arrangements to receive a summary report of its financial position on a regular basis.
R9	The Council must ensure that it complies with the requirements of section 150(5) of the Local Government Act 1972 that all cheques are signed by a minimum of two members.	Payments since April 2012 have been signed by two members.	None noted.
R10	Members must ensure that they do not sign cheques that are not fully completed and supported by appropriate receipts or invoices.	See R6.	See R6.
R11	The Council must establish arrangements for effective, independent internal audit in order to comply with the Accounts and Audit (Wales) Regulations.	The internal auditor remains responsible for completion of the Council's VAT returns.	The Council should ensure that the internal audit function is independent of the Council's financial management arrangements including the preparation of VAT returns.
R12	The Council must ensure it complies with the legal requirements to maintain proper minutes of its proceedings.	The law requires that each page of loose-leaf minutes is initialled by the chair of the meeting at which the minutes are approved. This issue was also raised as a concern by Cllr Lewis in November 2012 (minute 118/2012). Although the minutes provided to me have been signed and dated by the chair on the front sheet of each set of minutes, they are not initialled on each page.	The Council must ensure it complies with the legal requirements to maintain proper minutes of its meetings.
R13	The Council should review the arrangements for reclaiming VAT on fuel used by the hall committees and ensure that these arrangements have been formally approved by HM Revenue and Customs.	The Council has not obtained confirmation from HMRC that the arrangements for reclaiming VAT for expenditure on village halls are appropriate.	The Council should obtain confirmation from HMRC that the arrangements for reclaiming VAT for expenditure on village halls are appropriate.

Appendix 3 - Summary of minutes related to the Felindre School Woodland Path

Date	Summary of discussion
6 December 2011	Cllr Dorian Williams reported to the Council that the school's head teacher had approached the Trust to seek a grant that would enable land to be purchased between the school and the Welfare Hall. Cllr Williams stated the land would be stepped and made safe for walking. The minutes record that 'The land would, when purchased, be in the community council's ownership'. The minutes record that a councillor proposed that 'the Council should go ahead re. the ownership'. This was agreed unanimously.
21 March 2012	Cllr Dorian Williams asked if the Council would give permission for members of the public to use the newly created footpath from the hall to the school. The Council resolved that members of the public could use the path.
9 May 2012	In relation to discussion about car parking near Felindre School, 'Cllr Williams said that to alleviate this problem was the reason the Development Trust
30 May 2012	During this meeting, Mr Owen addressed the Council and stated 'The woodland was purchased from Felindre School to the Welfare Hall enabling the Trust to construct a path joining the two areas'.
4 November 2012	Cllr Williams explained the urgency of the need to make cheques payable to the Development Trust to cover... a cheque for £1,000 to cover the cost of a deposit placed on purchasing the woodland area in Felindre.
15 February 2013	At a public consultation meeting in relation to development of land at Craig Cefn Parc, 'Questions were raised regarding the purchase of land in Felindre for the woodland walk and Mr Owen responded by saying that part of the land was gifted and another part purchased via a grant and therefore there was no cost to the council'.
15 May 2013	The contractor, Mr Jones, addressed the Council regarding the work he had undertaken and advised the Council that 'he had an agreement with Cllr Williams not the Council'. Mr Owen stated that 'the council need to check the minutes to confirm if the council agreed to this work'. Mr Owen also stated that money paid into the Council's bank account 'was grant funding and would incur no cost to the council'.

Date	Summary of discussion
22 May 2013	<p>This meeting considered the payment of the costs associated with the woodland path. The minutes record:</p> <p>'Mr Owen, representing MDT [the Trust] stated that the MCC [the Council] had agreed to the joint project and he helped MCC apply for grant funding which was matched by MDT.'</p> <p>The Chair noted that the councillors were not aware of the project and asked Mr Owen to show proof that the Council had agreed to the project.</p> <p>'Mr Owen confirmed that he would provide all quotations and copies of grant applications and that he hadn't meant to embarrass the council by submitting the cheque but only to enable Mr Jones to be paid.' The cheque referred to is a cheque drawn on the Trust as their contribution to the project.</p>
19 June 2013	<p>During the meeting, the Chair 'stated that the MCC has not seen the application for the grant for the Felindre woodland path and therefore it has not been approved...'</p> <p>'Mr Jones said that he was authorised to undertake the work in writing by Cllr Williams...'</p> <p>'Cllr Frame raised concern about additional work undertaken by Mr Jones costing £1600 agreed by Cllr Williams and not agreed by MCC. Cllr Harris pointed out that agreement to undertake work did not go through the council for authorisation...'</p>

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