

Audit Committee

Meeting Venue
**Committee Room A - County Hall,
Llandrindod Wells, Powys**

Meeting Date
Monday, 23 March 2020

Meeting Time
2.00 pm

For further information please contact
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County Hall
Llandrindod Wells
Powys
LD1 5LG

17 March 2020

Mae croeso i chi siarad yn Gymraeg neu yn Saesneg yn y cyfarfod.
Rhowch wybod pa iaith rydych am ei defnyddio erbyn hanner dydd, ddau ddiwrnod
gwaith cyn y cyfarfod.
You are welcome to speak Welsh or English in the meeting.
Please inform us of which language you wish to use by noon, two working days
before the meeting.

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Mae'r cyfarfod hwn yn cael ei gynnal yn electronig. Os oes unrhyw aelod o'r cyhoedd yn dymuno cysylltu â'r cyfarfod, cysylltwch â'r person a enwir ar yr agenda.

AGENDA

1.	APOLOGIES
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To receive apologies for absence.

2.	DECLARATIONS OF INTEREST
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To receive declarations of interest from Members.

3.	MINUTES
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To authorise the Chair to sign the minutes of the previous meeting.
(Pages 3 - 8)

4.	SWAP REPORT ON CAPITAL PAYMENT TO THEATR BRYCHEINIOG
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To consider the SWAP report on a Capital Payment to Theatr Brycheiniog.
(Pages 9 - 80)

5.	INTERNAL AUDIT PLAN 2020/21
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To consider the proposed internal Audit Plan for 2020/21.
(Pages 81 - 102)

6.	WAO - AUDIT PLAN 2020/21
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To consider the WAO Audit Plan for 2020/21.
(Pages 103 - 114)

7.	WAO - PENSION FUND AUDIT PLAN 2020/21
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To consider the WAO Pension Fund Audit Plan 2020/21.
(Pages 115 - 128)

8.	COST REDUCTIONS AND AVOIDANCE REPORT AS AT 31ST JANUARY 2020
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To consider the report of the Head of Finance.
(Pages 129 - 136)

9.	ANTI-FRAUD AND CORRUPTION POLICY / SANCTION AND PROSECUTIONS POLICY / ANTI-MONEY LAUNDERING POLICY
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To consider the report of the Head of Finance.
(Pages 137 - 180)

10.	WORK PROGRAMME
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To consider the forward work programme and whether any additional items should be included.
(Pages 181 - 182)

MINUTES OF A MEETING OF THE AUDIT COMMITTEE HELD AT COMMITTEE ROOM A - COUNTY HALL, LLANDRINDOD WELLS, POWYS ON FRIDAY, 7 FEBRUARY 2020

PRESENT:

Mr J Brautigam, In the Chair, County Councillors M Barnes, M J Jones, K Laurie-Parry, K Lewis, DW Meredith, D A Thomas, R G Thomas, T J Van-Rees and A Williams and

Cabinet Portfolio Holders In Attendance: County Councillors G Breeze and A W Davies

Officers: Jane Thomas, Head of Finance

Other Officers In Attendance: Messrs I Halstead and D Hill, SWAP, Mr P Pugh, Ms L Williams and Ms S Leahy, WAO

1. APOLOGIES

Apologies for absence were received from County Councillors J G Morris (Chair), D R Jones, WD Powell, J M Williams and R Williams

2. DECLARATIONS OF INTEREST

County Councillor T J Van Rees declared an interest in item 10, Theatr Brycheiniog as a former Board Member.

3. DISCLOSURE OF PARTY WHIPS

There were no disclosures of party whips.

4. MINUTES

The Chair was authorised to sign the minutes of the previous meeting, held on 19 December 2019, as a correct record.

5. WAO ANNUAL AUDIT SUMMARY 2019

Documents:

- WAO – Annual Audit Summary 2019

Discussion:

- This was a new style report replacing annual audit letters that was being trialled – the WAO would welcome any feedback
- The summary provides a snapshot of work completed in the period October 2018 to December 2019

- The WAO were satisfied with value for money but recognised the challenges in the delivery of timely transformation
- A report regarding Financial Sustainability will be available for the March meeting
- The WAO were also satisfied that planning and reporting requirements were in place to deliver continued improvement
- the Corporate Improvement Plan had been published in October 2019
- Wellbeing of Future Generations examinations show that the Council has acted in accordance with the sustainable development principle, but improvements could be made with regard to schools' infrastructure and the design of the North Powys Wellbeing Programme
- A higher priority needs to be given to transformation
- Ongoing work includes
 - Delivering Vision 2025
 - Growing Mid Wales
 - Assurance and Risk Assessment
 - Financial Sustainability
- The Committee questioned whether the process associated with the use of funds under the Capital Receipts Directive had been considered and whether the projects financed had been sustainable. The requirements of the Directive are quite specific.
- The WAO were asked if there was any discussion with the senior management team regarding the work programme. The WAO combine their knowledge of what is happening within the Council with particular reference to risk. Prior to finalising the Audit Plan, discussions are held with the Chief Executive and other senior managers to discuss what has been included. The work programme will cover specific projects and national projects, but managers will be asked if there are any areas which they think should be included. The WAO would robustly challenge if there was a suggestion by management that an item was not included.
- The WAO were asked how their work programme ties in with the Internal Audit work programme. With regard to financial audit work there is no reliance on the internal audit work programme. However, the outcomes of internal audit reports inform the level of risk to the financial statements and whether any of those risks might lead to misstatements. If this were the case, then more testing would be done in that particular area. A similar process would apply to performance auditing.
- A specific query was raised regarding the Mid Wales Growth Deal – to date no money has been spent but the governance arrangements will be included in the work programme
- A Member asked the WAO if consideration was given to projects that were overspent but was advised that the Authority had responsibility for project management and the WAO would only consider whether funds had been properly accounted for and would not have an impact on the financial statements.
- The WAO were asked if they received good quality data from other sources. There were good relationships with CIW and Estyn. The WAO was also an observer on the Improvement and Assurance Board and could monitor implementation of Action Plans through that forum.
- With reference to Value for Money, the WAO were asked how their opinion had been evidenced. Consideration is given to processes, methods, policies and procedures to ensure money is spent effectively

and efficiently. This will be aligned with good practice and any recommendations included within the final report. There was very little benchmarking analysis, but the Portfolio Holder for Finance indicated that this was the subject of discussion at the Improvement and Assurance Board.

Outcome:

- **The summary report was noted**

6. STRATEGIC RISK MANAGEMENT

Documents:

- Report of the Portfolio Holder for Corporate Governance and Engagement
- Strategic Risk Register
- Heat Map

Discussion:

- Report to end of quarter 3
- 11 risks on the Strategic Risk Register
- CS0009 – this risk had been escalated to the Strategic Register. Even after mitigation the risk remains high.
- Members requested that the date a risk is first included on the register be reported
- ED0022 – inherent risk had been scored at 9 but the residual risk after mitigation had increased to 12
- ED0023 – the score did not improve after mitigation
- Members were concerned that mitigation was not impacting upon the scores – this was apparent in a number of the risks and further information was sought. There was further concern that the service risk registers may be in a similar state.
- Evidence of mitigation actions was required
- Close monitoring was not an adequate mitigation measure
- The report was a Cabinet report and the Committee was unclear what the role of the Audit Committee was in considering this report – the Committee asked that their role be clarified with regards all reports – are reports for information, scrutiny etc
- It was suggested that the outcomes arising from Cabinet's consideration of the report should be considered

Outcomes:

- **The Chair would liaise with senior officers regarding the issues raised relating to the Strategic Risk Register**

7. INTERNAL AUDIT

Documents:

- Report of Internal Audit Activity as at 30 January 2020

Discussions:

- More resource has been added as the year has progressed
- 63% of work has been completed or is in draft
- 31% is work in progress
- 6% is planned
- The top 20 risks across the sector have been reviewed
- There is a clear programme of work going forward
- If Members thought there were any further areas of risk, the Head of Internal Audit would appreciate feedback
- Partial opinions have been given:
 - Patch Management – a technical IT audit has been undertaken. Patches have been loaded straight into the system without testing. It is not clear that the process has been carried out effectively. There was a lack of supporting records.
 - Deprivation of Liberties (DOLs) – the scope of DOLs had widened in 2014 leading to an increase in the number of applications. There has been a significant failure in carrying out assessments in line with timescales. The Committee questioned why a ‘partial’ opinion was given rather than none at all. The Head of Internal Audit advised that the opinion given was based on a wider review.
- Additional work had been undertaken in relation to Theatr Brycheiniog with Schools IT and Commissioning having been postponed.
- Performance is good and the Plan is on track to be delivered by year end

Outcomes:

- **The report was noted**
- **The Internal Audit Working Group would consider those audits where a partial or low opinion was given in more depth**

8.	TREASURY MANAGEMENT
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Documents:

- Report of the Portfolio Holder for Finance

Discussion:

- The Treasury Management Strategy will form part of the document pack for Council when the budget is considered
- A slight improvement in VAT reporting was noted but level of errors was still unacceptable. The team continues with the ‘right first time’ policy but there are notable failures in some areas to submit the correct documentation. Members were concerned that this issue continued despite any failure to claim VAT being charged to the service. This was particularly prevalent in schools.
- The Public Works Loan Board interest rate has increased, and the Committee asked if this had changed the debt management strategy or whether there were any inherent risks. The Head of Finance reported that alternatives were being considered for both short and longer-term loans but that there would be no greater risk provided the strategy was adhered to.

Outcomes:

- **The report was noted**

9. CLOSURE OF ACCOUNTS

Documents:

- Report of the Head of Finance

Discussion:

- A project management approach continues to be taken
- The WAO deliverables list has already been received
- CIPFA have produced information to streamline account preparation and are to run workshops
- Internal workshops are already in hand
- The process was on track and there were no issues to report

Outcomes:

- **The report was noted**

10. THEATR BRYCHEINIOG

The Chair informed the meeting that the review into the grant paid to Theatr Brycheiniog in 2018 had taken longer than expected. The report had been withdrawn in September 2019 pending a further review by SWAP. This is nearing completion and both reports will be considered at an extra meeting of the Audit Committee on 23 March 2020.

11. AUDIT COMMITTEE SELF EVALUATION
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Documents:

- Report of the Chair
- Completed Self-Evaluation questionnaire

Discussion:

- Members were of the opinion that the core principles of an audit committee were not reflected in the Constitution
- The Committee regularly reviews its terms of reference to ensure they remain appropriate – this will be scheduled in the work programme for a future meeting
- A review of Internal Audit had also been carried out and both documents would be checked for consistency

Outcomes:

- **A review of the Audit Committee's Terms of Reference would be included on a future agenda**

12. WORK PROGRAMME

Documents:

- Work programme 2020

Discussion:

- The extra meeting on 23 March 2020 will consider
 - Savings delivery 2019/20
 - Update on risk register report
 - WAO Audit Plan
 - Internal Audit Plan
 - Theatr Brycheiniog
 - WAO Financial Sustainability
 - WAO Assurance and Risk Assessment
- WAO Audit Summary will be considered on 4 September 2020
- WAO Annual Improvement Report will be considered on 10 December 2020

Outcomes:

- **The work programme will be amended to include the items discussed**

**Mr J Brautigam
Chair**



Capital Payment to Theatr Brycheiniog

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Advisory Report – Final

Issue Date: 13th March 2020

Executive Summary

Objectives and Scope

The Audit Committee Chair requested that SWAP Internal Audit undertake a review of the decision by Powys County Council to make a one-off Capital Payment to Theatr Brycheiniog in August 2018. The Client agreed the scope and objectives of the review on the 31st October 2019. These are:

Objectives

The objective of the audit is to determine whether the Council has applied effective governance in the decision-making process to grant the payment to Theatr Brycheiniog.

The governance principles adopted are from Powys' guide to good governance which are:

1. Open decision making
2. Effective engagement in the decision-making process
3. Managing public money responsibly
4. Accountability for decisions made

Scope

The scope audit will review:

A – Decision Making Process

1. Compliance with the agreed constitutional rules, delegated powers, and locally agreed protocols
2. Decision makers have been appropriately advised, relevant information provided (including in relation to the lease) and sufficient time to allow effective challenge
3. Alternative options were reasonably considered together with appropriate risk awareness for each potential outcome.
4. Effective engagement with the relevant stakeholders in relation to agreeing to the funding.
5. Awareness of the risks associated with the decision
6. Formal recording of the decision

B – The Decision – Lessons Learned

1. Financial information associated with the decision was accurate and reflective of the situation
2. Payment in line with Financial rules, in particular those on Capitalisation and State Aid
3. The value of the decision and the sustainability of the desired outcomes.

It should be noted that the review will be limited by the availability of information and actions undertaken by Officers that have now left the employment of the Council.

Conclusion

Key Areas

Outcome

The Council made a one-off capital payment of £189,504 (including VAT) to Theatr Brycheiniog in August 2018. Whilst many of the issues outlined in the sections below identify some concerns with the process, it should be noted that Theatr Brycheiniog were not under scrutiny and were in fact willing contributors to the Internal Audit process.

At the time of the review, the Financial Accounts of Theatr Brycheiniog CYF for 2018/19 had not been agreed, but the Chair of the Theatr indicated that the financial standing was much more resilient. The Directors Report for the year ending 31st March 2018 stated that the one-off payment "...has returned the Theatr to financial stability and is allowing it to pay down creditors and build up some reserves for the future." The subsequent publication of the 18/19 accounts confirms the positive position expressed by the Theatr in the Chair's Report which states "The Theatr's finances are now in recovery with positive indicators for the future."

However, the financial sustainability is contradicted somewhat by the Independent Auditors Report who were unable to offer an opinion. The basis of disclaimer of the opinion stated that "...the charity is heavily reliant on support from its funders and the availability of future grants.". In addition, the report also states "The Charity has significant levels of indebtedness and has not been able to provide corroboratory evidence which would indicate that it has the ability to continue to operate as a going concern for the foreseeable future, although the financial projections that have been prepared by Management indicate that the deficit on the balance sheet will be significantly reduced, but not eradicated, in each of the next three financial years."

Therefore, it is likely that Theatr Brycheiniog's ability to operate as a going concern has much to do with the Council's decision to make the one-off payment. However, its continuing financial sustainability is reliant on the delivery of financial recovery plans and funding from external sources.

Transparency

There has been a lack of documented evidence and audit trail throughout this decision process. Actions may have been undertaken, however without formal records it is hard to clarify if the process was undertaken or followed. The recording of actions helps to protect Officers and Members should questions be raised at a later date.

Inadequate records were kept to support many aspects of the decision-making process.

Property

The Council entered into a full repairing lease that expressly required the responsibility for the repair and maintenance of the building to sit with the Theatr Brycheiniog CYF (tenant). The opinion of the Council's Property Team, as experts in the area, consider that the lease is the primary document and takes precedence. The responsibility for repairs and maintenance is also reiterated by a letter from the Council's Chief Executive in March 2016.

During the course of the lease, a separate Service Level Agreement (SLA) was created by Officers in the Arts, Leisure and Recreation Service. The SLA states that it is to sit parallel to the lease and makes the responsibility for repairs and maintenance less clear. In addition, repairs have been made to Theatr Brycheiniog at the Council's expense.

The Theatr over the years had entered into repeated dialogue requesting funding for property repairs and maintenance. In March 2017, a meeting was held between the Theatr and Council Officers, where the Theatr provided information to support their rebuttal of the Council's Chief Executive Letter in March 2016. Subsequent to this, the Theatre provided the Council with a package of documents for consideration.

The financial accounts indicate that expenditure was made on the property for repairs and maintenance, but the Internal Auditors have been unable to verify if the building remained in a suitable condition as periodic building inspections were not undertaken by the Council.

The remit of this review did not cover the property maintenance concerns; however, it became apparent that two services of the Council had over the years been independently involved in dialogue about property management at the Theatre. This may have led to an uncoordinated approach and at times providing conflicting information. It is believed that the lines of responsibility are now clearer, but it should be emphasised that a more joined up approach needs to be considered in the future for all Council owned buildings.

Constitutional Framework

The Council has approved constitutional rules that outline the procedure when decisions are called in and when decisions are considered as urgent. These rules have been very rarely used by the Council.

The rules allowed certain Senior Executives to approve the use of an urgent decision subject to meeting certain qualifying conditions. In this case, the Executive that approved the use of this power also was the officer that authored the report. Therefore, segregation of duty did not exist between those officers considering whether the decision was urgent and those officers endorsing the decision. Whilst there was no conflict of interest, it could allow others to perceive that a potential conflict occurred. Although, it should be noted that the current Constitutional Framework does not specifically require segregation of duties when approving an urgent decision.

The Council have an appropriate constitutional framework for making urgent decisions. However, some improvements in the segregation of duties could enhance open and transparent decision making even where there is no conflict of interest.

Due Diligence

The Council carried out diligence activities in the following areas during the decision-making process:

- Council Members were Theatr Brycheiniog Board Members and Council Officers attended the Board as observers. They were able to ensure the Council was briefed on the operational and financial position.
- The Council requested, received, and considered financial and business-related information from Theatr Brycheiniog.
- The Council commissioned a report to consider the financial risks associated with granting a loan to the Theatre.
- An officer working group assessed the risks and cost implications to the Council of the Theatre building being unoccupied.
- The Former Acting Deputy Chief Executive was in contact with the Auditors at Theatr Brycheiniog to have a detailed understanding of the financial position prior to proposing financial decisions.

Most of the diligence activities outlined above were carried out under the auspice of the consideration of a loan. This basis was first considered in January 2018 and continued up until the middle of August 2018. The diligence suggested that granting a loan would represent high risk to the Council. The Council did not offer a loan.

There is no visible evidence that the Council conducted any further due diligence in reaching the decision to grant a one-off capital payment other than the contact with the Theatre's auditors. However, the urgent nature of the decision may not have allowed much of an opportunity. It is acknowledged that some of the due diligence for the loan may have been relevant to the capital payment and it is highly likely that the diligence

involved in granting a loan would be more rigorous than making a one-off payment. However, the diligence process was not formalised and therefore it is difficult to link the outcome of the diligence for the loan to the outcome of the diligence for the one-off payment.

Whether it be the award of a loan or a one-off payment, the Council has a responsibility to spend the public purse with due diligence to ensure that it is adequately protected and value for money is achieved. It is clear that effective diligence was undertaken for the loan and whilst there are some common areas it was less clear for the one - off payment. It is acknowledged that the risk to the Council of a one-off capital payment is much less as it is not required to be repaid, the Council should have recorded that due diligence was undertaken and to provide reasonable assurance that public funds would not be invested in an unsustainable organisation. The outcome of the diligence was not clear to the Auditors as the Council did not formally offer a loan to Theatr Brycheiniog.

Urgency

The issue of financial support (loan) for the Theatre is one that had been considered by the Executive Body of the Council since January 2018 on multiple occasions. By August 2018, the Council had not made a decision on the granting of a loan. During this time further requests had been made by the Theatre for financial support with the need becoming increasingly serious. No mention had previously been made in reports or correspondence to suggest that a one-off payment was an option.

It is clear from the evidence submitted that the matter suddenly became more critical to ensure the continued use of the theatre building. Failure to ensure the continuation of a theatre provision may have been in breach of the terms and conditions and may require the repayment of a £1.6m grant to the Arts Council for Wales. This factor was significant in forming the proposal.

The first evidence that an urgent one-off payment was being considered was the 16th August. This was in a meeting between the former Acting Deputy Chief Executive, Leader of the Council, Deputy Leader and Theatr Brycheiniog. It is in the notes of this meeting that the Council first suggest the one -off payment.

The Council published the notice of an Urgent Decision on the 24th August.

The Council did not decide to award the funding until the matter became one of urgency. Earlier actions would have allowed the normal call-in process to be utilised and therefore the option of increased scrutiny.

Report

The former Acting Deputy Chief Executive authored a report titled “Capital Expenditure Contribution: Theatr Brycheiniog” that was dated and published on the 28th August 2018 (attached in Appendix E). The delegated decision report was sponsored by the Portfolio Holder for Finance, Countryside and Transport and the Portfolio Holder for Highways, Recycling and Assets.

The draft report was discussed verbally in outline detail with the chairs of scrutiny by the former Acting Deputy Chief Executive, but they did not have sight of the report until it was officially published. The report itself was subject to the statutory consultations as well as obtaining local member comments apart from the above.

The format of the report used a standard Powys template. The contents of the report included a brief summary recommending that a contribution was made in respect of expenditure incurred on protection of the Council’s asset.

Having considered the report, it was found to contain minimal information to support the requested decision. It did not justify the reason for taking a delegated urgent decision and did not effectively explain the reasoning behind the switch from a loan payment to a capital payment. In general, the content of the report did not provide a great deal of factual information to help support the outcome of the decision. Although the document clearly states the proposed figures.

The report indicates that the payment would be both within budget and in compliance with policy. Whilst not included in the capital programme, it is understood that the funds were available at the time of the decision. During interviews with Council Officers, a relevant policy or standard could not be established that specifically support the use of one-off capital payments for supporting repairs and maintenance for Council owned properties with full repairing leases. The Former Acting Deputy Chief Executive received assurances that funding was available under the capital programme from Finance and that the payment would not have proceeded if funding was not available.

Whilst the payment is clearly labelled as a one-off, it is likely that other bodies in a similar position either currently or in the future could claim that this sets a precedent. The Auditors could not find any background work to identify if such risks were considered and any potential impact. It is not in the Council’s usual course of business to fund such payments, but it is recognised that the Council would incur significant revenue costs if the theatre building was not occupied and may be required to repay the ACW grant of £1.6m.

The Council did not undertake an Equality Impact Assessment (EIA) for this decision. However, the report recommended that a review of the impact would be presented to the portfolio holder/ cabinet for information by the 31st March 2019. There is no evidence that this review was carried out.

Undertaking these actions would have allowed the Council to fully understand the impact of the decision it was making and review whether the desired outcome had been achieved and if any lessons had been learned.

The Urgent Delegated Decision report did not contain enough detailed information to openly and transparently justify the reasoning and support for making such a decision. In addition, there was no reference made to a policy to support this option and that it appears to be a one-off decision that appears to diverge from the Councils normal course of business. However, it is recognised that the Council has the power to undertake such activities.

The need for urgency requires the consideration of more information to make a decision in an open and transparent way. It is acknowledged that the promptness of an urgent decision does not give much time to adequately prepare a detailed report. However, as the decision on funding options for the loan had been considered for some time and the regular contact with Theatr Brycheiniog over financial matters, the Council should have been more prepared so that the matter need not be dealt with such urgency.

Decision

The process followed by the Council to award a one-off capital payment to Theatr Brycheiniog was in accordance with agreed constitutional rules. Whilst the Chairs of the Scrutiny Committees expressed concerns, as they felt under pressure, they agreed to the urgent decision. The Chair of the Audit Committee agreed subject to specific conditions. This involved a two-stage payment of an initial 40% and the remainder being paid following a report to Audit Committee and the Portfolio Holders reflecting on the need to make the payment.

The Audit Committee meeting was held on the 12th September. There was no formal report submitted to the Audit Committee for the purpose of this reflection. Although this meeting fulfilled the requirement, it is unclear from the minutes what the purpose of the meeting was, what was presented and the desired outcome. Although, subsequent to the audit process, Auditors were informed by the Head of Finance of a series of documents that were presented during the meeting as evidence to support the decision.

There is no evidence to indicate that the Portfolio Holders considered their decision to make the payment prior to the final stage payment as requested by the Audit Committee. It is possible that this occurred, however there was no documented evidence of a review. Generally, there is an absence of an audit trail of documented evidence to support the decision-making process.

The decision itself was automatically approved because it was a delegated decision.

The Council complied with its constitutional procedures, but there were issues expressed by Scrutiny Chairs surrounding the decision. However, there were underlying factors as the decision-making pathway was impacted by the urgency of the situation and therefore a form of challenge was agreed that allowed the initial payment to be made whilst allowing some form of scrutiny.

The matter was considered at a meeting of the Audit Committee on the 12th September 2018. There is little formal information available about the reports provided, the purpose of providing those reports and the desired outcome. Overall, it is unclear if the scrutiny made by the Audit Committee resulted in a meaningful and real challenge that was considered by the decision makers. The onus was on the Cabinet / Council Officers to ensure that information was effectively presented to enable that agreed additional level of scrutiny.

Payment

It should be made clear that Theatr Brycheiniog did not determine the amount to be paid, nor did it make a claim for this amount. The Theatr was asked to provide an invoice for the offered amount by the Council.

The Delegated Decision report indicates the foundation of the payment was based on the costs incurred in maintaining the asset by Theatr Brycheiniog and was stated to be the costs from the Audited Accounts incurred for the financial years 2014/15, 2015/16, 2016/17. The value of the published accounts adds up to £156,754 (net of VAT) whereas the invoice value is £157, 920 (net of VAT). The differential between the sums of £1,166 (VAT inclusive- £ 1399.20) is unexplained and cannot be corroborated by supporting records.

In addition, it has been established that another funding body (Arts Council for Wales) had contributed £33,000 towards the cost of maintaining the asset during that period. Given the lack of clarity over the way in which the one-off payment was formulated it difficult to determine whether expenditure has been reduced by this figure. This should have been part of the Council's diligence process and should not reflect adversely on Theatr Brycheiniog.

The Code of Practice in Local Authority Accounting in the UK indicates that the day to day servicing of an asset (e.g. labour and consumables), commonly referred to as 'repairs and maintenance' should not be considered as capital items as it does not add to the future economic benefits.

The invoice for £189,504 (including VAT) was paid from the Capital Budget Code for Arts.

There is insufficient information to categorically determine whether expenditure included on the invoice constituted a legitimate capital payment for the Council. i.e. enhanced the asset. The Auditors do not question that the Theatre incurred such expenditure, but internal records inspected would indicate that some of these items may fall under the guidance of routine repair and maintenance rather than enhancing the asset. The Council

determined the basis of the payment, not Theatr Brycheiniog, and therefore should be certain that those items of expenditure constitute a capital payment.

Areas for Improvement

1. Property

1.1 Finding and Action

Issue	Risk	
The Council have not undertaken periodic building surveys of the Theatre.	There is a risk that the property may not be looked after properly as per the lease agreement.	
Recommendation		
We recommend that the Council undertake periodic inspections.	Priority Score	3
Agreed Action		
The Council will undertake inspections in line with the terms of the lease agreement. The Council is also in the process of procuring a new asset management system which will provide a workflow system which will enhance the management and scheduling building inspections.	Timescale	As per the lease
	Responsible Officer	Gwilym Davies, Head of Property, Planning and Public Protection

1.2 Finding and Action

Issue	Risk	
The Council had a conflicting and uncoordinated approach to building management	There is a risk that the responsibility for maintenance is unclear which may result in it not being addressed.	
Recommendation		
We recommend that the Council should have a coordinated approach to its buildings across all services.	Priority Score	3
Agreed Action		
The Council is in the process of establishing a Corporate Landlord function for all the buildings in its ownership to provide a coordinated approach to their management.	Timescale	31 March 2021
	Responsible Officer	Gwilym Davies, Head of Property, Planning and Public Protection

2. Constitutional Framework

2.1 Finding and Action

Issue	Risk	
The constitutional framework allows a single officer to authorise the use of an urgent decision and to author the report making the recommendation.	There is a risk that there could be a perceived conflict of interest.	
Recommendation		
We recommend that there should be segregations of duties between decision authoriser and report author.	Priority Score	2
Agreed Action	Timescale	30 July 2020
A report will be prepared for Council on 7 July 2020 to amend the Constitutional Framework to ensure a segregation of duty between the report author and the decision authoriser.	Responsible Officer	Clive Pinney, Head of Legal and Democratic Services

3. Due Diligence

3.1 Finding and Action

Issue	Risk	
Financial due diligence is less clear for the one-off capital payment	There is a risk that decisions are not supported, open and transparent.	
Recommendation		
We recommend that robust financial diligence should be documented for urgent decisions. Consideration should be given to carrying out financial diligence checks before making payments to all outside bodies.	Priority Score	1
Agreed Action	Timescale	16 th March 2020
Financial due diligence will be documented for all urgent decisions.	Responsible Officer	Jane Thomas, Head of Finance

3.2 Finding and Action		
Issue	Risk	
Due diligence documentation and evidence was not easily accessible.	There is a risk that the decision cannot be supported.	
Recommendation		
We recommend that all information relevant to the decision that has been made is stored in one place to enable an effective audit trail.	Priority Score	2
Agreed Action	Timescale	16 th March 2020
All information relevant to urgent decisions will be stored electronically in one place to enable an effective audit trail.	Responsible Officer	Clive Pinney, Head of Legal and Democratic Services

4. Urgency

4.1 Finding and Action		
Issue	Risk	
Inactivity by the Council has contributed to the need for an urgent decision. An urgent decision bypassed the normal decision process.	There is a risk that urgent decisions are not subject to scrutiny which may make people question the decision.	
Recommendation		
We recommend that the council needs to closely monitor the position pending decisions to ensure that they don't become urgent, and to consider implementing an escalation process for decisions.	Priority Score	2
Agreed Action	Timescale	Complete (Client Self-assessment)
The Council has a robust risk management system in place to ensure risks are identified along with actions to mitigate them, with a clear escalation process.	Responsible Officer	Jane Thomas, Head of Finance
Recommendation		
Whilst the Council followed its constitutional rules, the principle of good scrutiny should be adopted wherever possible on urgent decision. We recommend that for any future urgent decisions that the Council involves scrutiny at the earliest possible time.	Priority Score	2

Agreed Action	Timescale	16 th March 2020
Relevant Scrutiny Chairs will be involved in future potential urgent decisions at the earliest possible time.	Responsible Officer	Clive Pinney, Head of Legal and Democratic Services

5. Report

5.1 Finding and Action		
Issue	Risk	
The delegated decision report did not contain enough information to adequately support the decision.	There is a risk that incorrect decisions could be made.	
Recommendation		
We recommend that all delegated decision reports should contain adequate information to support the decision. This is an even greater priority in the case of urgent decisions.	Priority Score	1
Agreed Action	Timescale	16 th March 2020
All future reports will have the appropriate level of information.	Responsible Officer	Senior Leadership Team

5.2 Finding and Action		
Issue	Risk	
The decision to award the payment was not clearly linked to an approved Council policy.	There is a risk that decisions are made that are outside the policy.	
Recommendation		
We recommend that all future reports for decision should specify a relevant policy/standard (where appropriate) and the rationale for the decision made.	Priority Score	2
Agreed Action	Timescale	16 th March 2020
All future reports for decision should specify a relevant policy/standard (where appropriate) and the rationale for the decision made.	Responsible Officer	Senior Leadership Team

5.3 Finding and Action		
Issue	Risk	
The Council did not adequately consider the risks and effects that approving this decision would have on other similar situations.	There is a risk that the decision may have wider financial and operational impacts that have not been considered.	
Recommendation		
We recommend that impact assessments should be undertaken where decisions have the potential to impact other organisations or similar situations.	Priority Score	1
Agreed Action	Timescale	16 th March 2020
Where a decision could amount to a precedent for future decisions impact assessments will be undertaken.	Responsible Officer	Senior Leadership Team

6. Decision		
6.1 Finding and Action		
Issue	Risk	
The Council did not formally provide the Audit committee with sufficient information to scrutinise the decision. There were no formal records showing which documents had been shared with the audit committee.	There is a risk that poor decisions are made.	
Recommendation		
We recommend that formal reports should be provided to scrutiny committees to allow affective challenge.	Priority Score	2
Agreed Action	Timescale	16 th March 2020
Formal reports will be provided to scrutiny committees.	Responsible Officer	Senior Leadership Team

6.2 Finding and Action		
Issue	Risk	
There is no evidence from the minutes of the Audit Committee meeting of 12 September that the Committee were satisfied with the decision to make the final payment.	There is a risk that decisions may be seen to be not effectively approved.	
Recommendation		
We recommend that the decision-making process is adequately recorded and that the pathway to agreeing the decision is understood and formalized prior to making the decision itself.	Priority Score	2
Agreed Action	Timescale	16 th March 2020
The decision-making process will be adequately recorded.	Responsible Officer	Clive Pinney, Head of Legal and Democratic Services

6.3 Finding and Action		
Issue	Risk	
The delegated decision report required an internal review of the decision to be undertaken by Council Officers by the 31 st March 2019, no evidence could be found of this.	There is a risk that desired outcomes may not be achieved.	
Recommendation		
We recommend that the Authority fulfills the requirement as stated on the delegated decision report to review the decision.	Priority Score	2
Agreed Action	Timescale	Complete (Client Self-Assessment)
This Internal Audit Review and Report fulfils the requirement and no further action is therefore proposed.	Responsible Officer	Ness Young, Corporate Director

7. Payment

7.1 Finding and Action

Issue	Risk	
There is insufficient evidence to conclude that the capital payment conforms with the definition in Local Authority guidance.	There is a risk part, or all of the payment should not have been made as an item of capital expenditure but should have been made from revenue funding.	
Recommendation	Priority Score	2
We recommend that all capital payments should be in accordance with the rules on capital accounting and that sufficient information is held to support compliance.	Timescale	16 th March 2020
Agreed Action	Responsible Officer	Jane Thomas, Head of Finance
All capital payments will be in accordance with the rules on capital accounting and that sufficient information is held to support compliance.		

Detailed Findings and Outcomes

1. Background

Relevant Background

The Auditors undertook fact-finding interviews with Officers and Members of the Council and an employee and Trustee of the Board of Theatr Brycheiniog (Full list contained in Appendix D). The following relevant background information was established during those interviews.

The Theatr Brycheiniog previously known as the Guild Hall Theatre Company took occupation of the Building in 1997, but did not sign the lease immediately. The Council required a full repairing lease with expressed responsibility for the repair and maintenance of the building, which was signed in 2004. It is believed that the details of this lease were managed by the Property /Legal Section of the Council. Correspondence provided by Theatr Brycheiniog highlighted that the cause of the delay was issues with the restraints within the lease as well concerns about the building's condition. Auditors did not see a copy of the lease that was signed by both parties; however, it was advised that this is a fully binding legal document by a member of the Legal team.

In addition to the full repairing lease, the Leisure, Arts and Recreation department developed a 5-year service level agreement (SLA) that initially ran from 1997 to 2002. Point 4 of the introduction within the agreement states

“It is agreed the Council will lease Theatr Brycheiniog to the company for a period of 28 years. In parallel to the lease there will be a service level/ Management agreement under which the Company will manage the facility for the Council”

Point 6 within the Financial Arrangements (h) states

“In respect of responsibilities for major capital repairs and maintenance of Theatr Brycheiniog this will as a result of the full repairing lease term be vested in the company. However, it is hereby recognised that the council as landlord does accept that with regard to major repairs to the fabric of the building that it will be required to assist with the funding of any works agreed as necessary. The company will therefore have full responsibility for all other repairs and maintenance matters and the supervisory role liaising with the council in respect of major repairs.”

This statement is in contradiction with Section 5.7 “Statutory Obligations” of the full repairing lease signed by the Theatre in 2004:

“ 5.7.1 At the Tenant’s own expense to execute all works and provide and maintain all arrangements upon or in respect of the Premises or the use to which the Premises are being put that are required to be carried out by an occupier of premises under any statute in order to comply with the requirements of any statute (already in the future to be passed) or any government departmental, local authority other public or competent authority or court of competent jurisdiction.”

In a letter on the 1st April 2008 to Andy Eagle (previous Director of the Theatr) from Louise Ingham, former Arts, Culture Manager for Powys County Council, grant support was offered subject to an SLA agreement. This letter highlighted the changes that had been made to the previous SLA agreement, although the majority of the clauses remained the same:

- Point 4 of the introduction was not amended
- Point 5 within the introduction of the original SLA was amended so that the new agreement ran from 1st April 2008 to 31st March 2011.
- Point 6 of the Financial Arrangement Section was amended slightly, “The Council will conduct a survey of the building as and when deemed necessary” was added.

Correspondence in February 2001 displays that the lease was being discussed at the same time as a draft SLA. The Theatr is seen to agree a version of a draft SLA, however it is unclear if they were referring to the final document as a letter from the Council suggests changes are still being made.

There were concerns raised in November 2000, January 2001 and July 2001 from the Theatre surrounding the conditions of the building and the lease. In 2014 the Theatre commissioned an extensive building survey by Mott MacDonald, which identified significant issues with the building. Following this, they sought meetings with the Council to discuss the issues, leading to a meeting in 2015 where the Mott MacDonald report was presented to the Council.

The previous Chief Executive responded to the Theatr’s approaches in a letter in March 2016. The letter confirms the view of the Council at this time:

“the Council has taken the view that subsequent issues that are now being complained of are the result of lack of repair and maintenance”

“ I should however be grateful however, given the issues complained about and my above response, that you arrange as soon as practical for the building to be put back into a good standard of repair and ensure that necessary maintenance is carried out to the building until the expiry of the lease term. Please note, that it is the Councils intention to carry out periodical checks of the building to ensure you are complying with the Theatre’s repair and maintenance obligations under the lease.”

In the notes of the meeting between the Chair and Vice Chair of the Audit Committee and the previous Professional Lead -Strategic Property on the 20th December 2018, it was indicated that the previous Professional Lead felt that “the SLA has no validity as a lease was entered into a later date.” The current Property Manager is of the opinion that the SLA ran before the lease was signed and once agreed the lease superseded the SLA. However, it is the Chair of the Theatr’s opinion that the SLA was heavily relied upon by the trustees as a parallel agreement to mitigate their concerns over the repair and maintenance burden of the lease.

Internal Auditors were given indications by the property team that only one inspection took place. It was also understood that after a request from the Art and Culture Managers the Property Service had previously undertaken maintenance on the building.

In March 2017, the Theatr Board met with officers of the Council to discuss the building. Subsequent to this meeting in June 2017, at the request of the Council, the Theatre submitted a letter and pack of evidence to the Council for consideration. This pack contained the first iteration of the Repairs and Maintenance document (1997-2017), as well as documents for Scheduled Work (2017/18) and Urgent repairs for 2017.

A timeline of events surrounding the property can be seen in Appendix C.

Decision Making Timeline

The following timeline surrounding the decision has been created from official council documents that were located.

Date	Forum	Document	Author/Owner	Comments
9 th January 2018	Cabinet Management Team Report	Theatr Brycheiniog Report (Cashflow Funding	Jane Thomas	This document was never published however it was commented that it was used for part of a Cabinet Management Team discussion.
5 th June 2018	(Pre-Cabinet) Cabinet Management Team Report	Theatr Brycheiniog Update	Jane Thomas	
20 th August 2018		Invoice	Theatr Brycheiniog	Invoice submitted at the request of the Council as per the meeting on the 16 th August. Invoice for net value of £157,920. Description: Contribution to repairs to the Theatr Brycheiniog property costs in Financial years 2014/15, 2015/16 and 2016/17
24 th August 2018	Portfolio Holders	Urgent Decision Notification	Steve Boyd	Provides supplementary information of urgent decision.
28 th August	Portfolio Holders	Delegated Decision Report, Capital expenditure Contribution: Theatr Brycheiniog	David Powell, Aled Davies & Phyl Davies	Delegated Decision approving a one-off capital payment to the Theatr Brycheiniog for £157,920
28 th August 2018	Portfolio Holders	Urgent Decision Notification	Steve Boyd	Notice that the call-in rule 7.37 of the constitution will not apply to the decision.
12 th September 2018	Audit Committee	Minutes		Acting Chief Executive presented information to support the payment to the theatr

Throughout the audit, more information surrounding this decision was provided. A more in-depth timeline was created from this information and can be found in Appendix B.

Constitutional Framework

Scrutiny Committees are required by law to discharge certain overview and scrutiny functions. Scrutiny Committees are there to hold the Cabinet to account and should not shy away from the need to challenge and question decisions.

Version 5 of Powys County Council's Constitution, which became effective from the 12th July 2018, outlines the responsibilities and procedures of the Scrutiny Committee. Extracts of the relevant sections are contained in Appendix A. In summary, a "Call-in" is the vehicle by which Scrutiny Committees may challenge decisions made by the Council as long as they meet certain qualifying criteria. A call-in may occur provided that the Monitoring Officer/ and or the Chief Finance Officer are satisfied that the following conditions are met:

- The decision or action is contrary to the policy, or budget
- The decision maker had not followed procedures or consulted the appropriate people
- The Cabinet had failed to take legal obligations, or regulations into consideration

The potential outcomes of the "call-in" is that the decision will stand or that it will be referred back to the decision-making body for further consideration.

However, the rules of call-in summarised above will not apply where the decision taken is urgent. The Council have rarely used the procedure to suspend Call-in on the basis of urgency.

A decision will be considered as urgent if:

- Any delay likely to be caused by the Call-in process would seriously prejudice the Council or other Public Interests; and
- One of three nominated Senior Executives certifies the above in writing; and
- Chair of relevant Scrutiny Committee agrees in writing to the decision being treated as a matter of urgency; and
- The record of the decision, and notice by which it is made, shall state that the decision is an urgent one and that the matter of urgency has been approve as above.

Decisions approved as urgent can be implemented forthwith but must be reported at the next available meeting of the relevant scrutiny committee outlining the reasons for urgency

Compliance with the Constitutional Framework

There are four conditions for the urgent decision process to be used:

'7.37.1.1 -any delay likely to be caused by the call-in process would seriously prejudice the Council's or other public interests;'

Evidence was provided that suggested, towards the end of the Powys decision-making process, the Theatre was under increasing cashflow pressure. There is both documentary and anecdotal evidence that the urgency of the situation was contributed too by the Council not making a definitive decision on the funding options.

After a decision is made, there is a 5 days grace period in which a call-in decision can be made if it meets the criteria. If a Call-in is requested, the relevant scrutiny committee has 10 days to review the decision and provide their scrutiny. However, the Monitoring Officer, or Chief Finance Officer can turn the request down. Had the Council gone through the normal process and called it in, it would have potentially taken up to 15 days for the decision to go through. (18th September 2018)

It is unclear from the evidence examined whether undertaking the normal decision process would have caused enough delay to damage the Council's Interest.

'7.37.1.2 the Head of Paid Service and / or the Monitoring Officer and / or the Chief Finance Officer certifies in writing that any delay likely to be caused by the call-in process could seriously prejudice the Council, or the public interest;'

Two notices were published at the authorisation of the Chief Finance Officer (also the former Acting Deputy Chief Executive and Section 151 Officer) on the 24th & 28th August (Appendix F&G). These notices confirm that an urgent decision has been made and approved by the Scrutiny Chairs. The Chief Finance Officer also wrote the delegated decision report, which was published on the 28th August. Although, these documents fulfil the constitutional requirement, they do not specifically explain why the call-in process was used nor the urgency of the situation.

There is a lack of segregation of duties within the constitutional framework which allowed an action that could be considered as a potential conflict of interest, in that the Chief Finance Officer is the author of the delegated decision report and approver of the urgent decision process. However, it is noted that in this case the rules within the framework were followed and that there was no conflict of interest.

7.37.1.3 the chair of the relevant Scrutiny Committee agrees in writing to the decision being treated as a matter of urgency. In the absence of the Scrutiny chair then either the Scrutiny vice chair or the chair of Council may agree to the decision being treated as a matter of urgency;

An email from the Scrutiny Chair for Culture to the former Acting Deputy Chief Executive, approves of the decision being treated as an urgent decision. A second email from the former Acting Deputy Chief Executive summarises a conversation that he had with the Chair of the Audit Committee, in which a 40% immediate payment proposed. It is believed that the response was verbal.

7.37.1.4 the record of the decision, and notice by which it is made public, shall state that the decision is an urgent one, and that the urgency of the matter has been approved by the Head of Paid Service and / or the Monitoring Officer and / or the Chief Finance Officer and by the chair of the relevant Scrutiny Committee or Scrutiny vice-chair or the chair of Council

The record of the decision was documented through the delegated decision report. The notification of an urgent decision was published by Cabinet Manager prior to the decision. However, this notification suggests that following an Audit Committee meeting the Portfolio Holders will reflect on whether the full amount will be paid. There was no evidence to support that the outcome of the reflection. The notice does not make it clear who out of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer approved the use of the urgent process, however the delegated report stated the Chief Finance Officers name.

Due Diligence

At the time of the payment, two nominee Council Members were Trustees of the Theatr, and two Council Officers attended the Theatr Board as observers on a regular basis. Occasionally an additional financial officer would also attend the board meetings, to provide the council with updated information and to protect the Council's asset.

In February 2018, Powys County Council commissioned a due diligence report by Link Asset Services to assess the financial risk associated with offering a funding package to Theatr Brycheiniog on a commercial basis. The assessment considered financial statements for 3 years from 1st April 2013 to 31st March 2016 together with unpublished financial record for the year ending 31st March 2017. The report considered the following areas:

- Purpose of the funding
- Organisational and financial position of the Theatr and future projections
- Statutory Considerations to be considered by the Council
- State Aid
- Covenants (conditions)
- Funding options
- Summary

Given the commercial sensitivity of such information, the audit review has not contained any detailed outcomes of the diligence review. Whilst this report was originally intended to assess the viability of a commercial loan, the diligence information was equally as valuable and should have been considered as part of the due diligence process when assessing the financial viability of making the one-off capital payment i.e. Would the payment have a material and sustainable effect?

A group of operational officers carried out a due diligence exercise in August 2018 to determine the financial impact to the Council if the building were to be vacated. The exercise considered the likelihood of the property remaining vacant for some time and any costs that would be associated with that such as business rates, security, statutory testing, and maintenance requirements.

The former Acting Deputy Chief Executive spoke to the Auditors of the Theatr in August and received assurances about the status of 2017/18 financial statements and the on-going financial viability of the organisation. The letter dated 6th August 2018, that was marked “without responsibility” stated that;

“Based on our limited review of the information provided. Theatr Brycheiniog Cyf appears to be achieving its intended aims of:

- Bringing costs and revenue streams into balance....”

“Based on the above, we very much hope to be in a position to be able to provide and unqualified audit report for the Charity for the year ending 31st March 2019.”

This view does not align to the later opinion published by the Auditors in the Financial Accounts published in 2019.

In late August, a decision was made to offer a one-off capital payment to the Theatre. Internal Auditors were informed that this offer was presented to the Theatre during a meeting on the 16th August, which was evidenced by the meeting notes.

4. Urgency

Urgency Timeline

The first documented evidence that the Theatre was under financial pressure was a letter from Mary Philips, former Chair of Theatr Brycheiniog to Councillor Rosemary Harris dated October 2017. The letter explains the situation that the Theatr was in and requests a meeting with the Leader and key Cabinet members to present their proposals on how to deal with the issues.

A meeting was held in November 2017, between Council Officers and the Theatr, however, no minutes or notes of this meeting could be located.

A Cabinet Report from 9th January 2018, which was never published but believed to be used as a discussion document for a pre cabinet meeting, highlighted the issues faced by the Theatr and actions undertaken by the Council. The report informs the Cabinet that the grant funding for 2018/19 had been brought forward as an intermediate measure of helping the Theatr with its cashflow issues, whilst the Council investigated providing the loan.

An Email on the 14th February 2018 from a Council’s finance officer explained the early release of the grant funding and also suggested that the loan be “put back on the table April/May”, whilst alluding that there was reluctance from some of the Cabinet to offer the loan.

A delegated decision took place on the 22nd March 2018 by the Portfolio Holder for Finance, and the Portfolio Holder for Children Youth, Libraries and Leisure Services, to approve bringing the grant payment for 2018/19 forward.

A Letter from Sally Jones, Chair of Theatr Brycheiniog to Rosemary Harris in May 2018, expresses concerns surrounding their request for a loan. The Theatr had been informed that the Cabinet was still considering providing them with a loan and therefore requested an urgent meeting.

“Before this week we understood the loan would be reconsidered in late May/early June. We now understand that Cabinet wishes to monitor the Theatre’s performance against budget for the next few months and are not currently minded to agree the loan”

On the 5th June 2018, a Cabinet meeting took place, where they discussed the request for the loan, and updated the Cabinet on the financial position of the Theatre. There is an option mentioned under the preferred choice section, however this was identified by the Head of Finance as an error on the report. It is unclear if a decision was made at this meeting or whether an outcome was determined.

On the 8th June 2018 the Leader of the Council sent a letter to the Chair of the Theatr asking for more financial information, stating that “Once we have this information we will consider whether a loan is appropriate and, if, so when it could be drawn down.”

On the 25th June 2018, the Chair of the Theatr responded to the Leader’s letter, expressing their concerns about the situation and delay of the decision to award the working capital loan.

“If you recall, we had hoped after our meeting last November for a decision early this year, and the delay in any clear indication from the Council makes the Theatr’s position increasingly precarious”

It is also mentioned within the letter about the Board meeting in July to consider whether they can “continue trading if the Council is not able to make the working capital loan” that was requested.

Internal Auditors were provided with informal notes by the Theatr for a meeting that was held on the 3rd August between themselves and Council Officers and the Leader of the Council. Within the notes, it is clear that the Council is still considering giving the Theatre a loan. The notes discuss both the Theatr and Council’s current positions on the situation. The interest rate of the loan is debated, as well as the options faced by the Theatr following the receipt of professional advice. The outcome of the meeting was for the former Acting Deputy Chief Executive to have a conversation with the Theatre’s Auditor.

A meeting was held on the 10th August between officers of the Council. It is believed that members of the Property, Leisure and Recreation, Legal and Finance teams attended this meeting, however no formal notes could be located. This meeting was held to discuss whether it was viable for

Powys to take on the theatre, and what costs would the authority incur if they did not offer the loan. Although no formal notes were located, auditors viewed an email from a member of the Legal team, providing comments on the discussion.

On the 13th August, the former Acting Deputy Chief Executive sent an email to the Cabinet explaining that a “paper providing additional information to enable Cabinet to make a decision” had been drafted and should be finalised by the 14th. No copies of this paper were seen; however, it is believed that this is not the delegated decision report and was probably a Cabinet report.

A meeting between the Council and the Theatr was held on the 16th August which was attended by the Leader of the Council, Deputy Leader and former Acting Deputy Chief Executive. It is during this meeting that the Theatr is offered a one-off capital payment of £157,920. One of the points from the notes of this meeting stated that:

“The Council will make a £157,920 contribution to the ‘repairs to the property’ costs. This will be payable on receipt of an invoice from the Theatr. The payment is for the total spent in financial years 2014/15, 2015/16 and 2016/17 as per the audited accounts. This represents a full and final contribution towards expenditure of £356,752 incurred since 1997/98”

Emails on the 24th & 28th August between the Chair of the Theatr and the former Acting Deputy Chief Executive highlight the financial position of the Theatr, and the need for rapid payment of the offered amount.

A notice of urgent decision was published on the 24th August.

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Urgency of the Situation

The Theatr first approached the Council in October 2017, the process of agreeing to help them took 11 months. There was some stagnation in the decision-making process, although the Council ensured the appropriate due diligence was undertaken for a potential loan.

A letter from the Theatr on the 25th June 2018 highlighted the urgency of the situation that required immediate attention and the need for it to be resolved by the end of August 2018.

It was indicated by Council officers that the Authority looked into alternative delivery models for the use of the building which may have delayed the decision to offer the loan.

Emails between the two parties towards the end of August highlight the urgent need of funding for the Theatr due to increasing financial pressure. Whilst this supports the decision to use the urgent decision process, it could have been possible to avoid this had the Council acted sooner.

5. Delegated Decision Report

The Report

The Delegated Portfolio Holder Report was published on the 28th August 2018, created by the former Acting Deputy Chief Executive. It was supported by the Portfolio Holders for Finance, Transport & Countryside Services alongside the Portfolio Holder for Highways, Recycling & Assets. The relevant Portfolio Holder for Leisure and Recreation did not sponsor the delegated decision report.

Section 1; The Summary

The Summary provides a brief overview. However, given the urgency of the decision, Auditors feel that there is not enough detail provided to give a reflective of the situation, nor the diligence officers had undertaken in order to get to this point.

Point 1.3 suggests that a joint review between the Council and the Theatr will be undertaken to look at:

- The current model of provision
- The budget going forward including the need to protect the asset
- The longer-term issues affecting the building including its condition and the concerns of the tenant

It is unclear whether this review has taken place. It was commented by the Chair of the Theatr that a review involving the Council, ACW and themselves was currently underway in which points 1 and 2 have been completed, with the third still outstanding. Due to an Officer's absence at the time of this audit, Internal Audit have been unable to confirm this from the Council.

Section 3; Options Considered

There are two options considered; the first to make a payment to the theatr, the second to consider granting the theatr a loan. Neither option was reported in any detail to allow reasonable alternative options. It is also noted that the 'do nothing' was not expressed as an option.

Section 4; Preferred Choice and Reasons

The option to make a payment to the Theatre has been recommended, but the reasoning displayed within the report lacks sufficient supporting information. It is possible that detailed discussion took place and additional information was shared but the auditor found no record to support this option.

Section 5; Impact Assessment

The Council did not undertake an Equality Impact Assessment (EIA) for this decision. Auditors feel that an impact assessment would have been relevant due to this being an unplanned capital budget expenditure and the potential impact on other organisation in a similar position. An impact assessment would have allowed the Council to consider the wider impact of this decision. It would have also helped to explain the due diligence and consideration that had gone into making this decision.

At the end of the report it recommended that a review of the impact would be presented to the portfolio holder/ cabinet for information by the 31st March 2019. There is no evidence that this review was carried out.

Section 6; Corporate Improvement Plan

There is a statement that the "Theatr make a £1.5million contribution to the local economy". The report does not provide any background for this statement, nor explains where the figure comes from. It was commented by the Chair of the Theatr that they provided this figure to the Council during the initial meeting for the request of the loan, and that this figure came from an internal review, undertaken by their treasurer at the time. Internal Auditors did not see this report and cannot comment on its credibility.

Section 11; Scrutiny

The report was not subject to the normal scrutiny process because it was an urgent decision. The Council could have included an explanation of the reasoning for the urgent decision and the agreed steps that had been arranged with the Chair of the Audit Committee.

The report was shared with local members, and several different services within the Council before the decision was published. Given that the opportunity was found for these groups to contribute, it may have been advisable to consult with the Scrutiny Chairs at the earliest stage. Indications that the Council raised the idea of a one-off capital payment on the 16th August 2018.

The table at the end of the report suggests that the decision taken is within policy, and within budget. However, the report does not state which policy or budget is being used. Officers were unable to inform Auditors which policy this decision would fall under. It was commented by the former Acting Chief Executive that the policy for using capital funding to keep the council assets in appropriate condition.

The Decision

A notice of urgent decision was published by the Council on 24th August 2018 on the authorisation of the former Acting Deputy Chief Executive.

The Delegated Portfolio Holder Report on the 28th August written by the former Acting Deputy Chief Executive and sponsored by the Cabinet Portfolio Holders for Finance, Countryside and Transport and the Cabinet Portfolio Holder for Highways, Recycling and Assets. Unless a delegated decision is called for scrutiny then it is automatically approved and officially published a week later.

As required for an urgent decision by the Constitution the former Acting Deputy Chief Executive contacted the appropriate Chairs of Scrutiny who agreed to by-pass their right to call in. However, the Scrutiny Chair of Learning and Skills indicated that he would only be happy if the Chair of Audit agreed with the proposal. The Chair of Audit specified an initial payment of 40% be paid and the rest should be considered following an Audit Committee meeting.

Audit Committee

The Audit Committee met on the 12th September, in County Hall, minutes of this meeting are available on the Modern Gov website. The payment to Theatr Brycheiniog was discussed in a confidential session. The official minutes (Appendix H) provide a brief overview of what was discussed, though did not provide a clear picture of the purpose of the meeting or what the outcome should be. Auditors were provided with bullet pointed notes of the confidential discussion that took place taken by the Clerk. Although these notes provide a clearer picture of what was discussed, the outcome of the meeting is still not definitive.

There were no formal reports provided to the Audit Committee. The Head of Finance informed Internal Auditors that the following documents were presented to the Audit Committee:

- David Metcalfe follow on report in respect of a Financial Review of the Theatr Building Survey conclusions from a report the Theatr had commissioned
- A Creditors and Cashflow position as at 31/07/18
- Management Accounts July 2018
- Details of the Theatr Building spend for the period 1997 – 2015

These documents were not submitted to the clerk as part of the formal record.

The urgent decision notification that was issued on the 24th August stated that an Audit Committee has been called to understand the financial decision and process. It is also stated that:

“40% of the contribution be paid, and the Portfolio holders will reflect on the committee’s discussions following the meeting before payment of the balance.”

This statement is reflected within the confidential notes of the Audit Committee meeting. The Internal Auditors did not see any documents, or evidence to suggest that a reflection took place by Cabinet Portfolio Holders.

7. Finance

The Payment

The Council made a one-off capital payment of £189,504.00 (net £157,920.00) to the Theatre in September 2018. This payment was made in two parts:

- 1st payment - gross payment of £75,801.60 (net £63,168.00) in the Council ledger as a journal entry on 3rd September 2018
- 2nd Payment – gross £ 113,702.40 (Net £94,752.00) in the Council ledger as a Journal entry on the 18th September 2018.

The second payment was paid after the Audit Committee meeting on the 12th September.

The payment was made from the Capital Expenditure code (9C210)- RSC Arts and Museums. Auditors were informed by the Head of Finance that this was paid through the Treasury Management System, and then journalled to the relevant account.

The invoice, amount and its contents were specified by the Council as per the meeting with the Theatr on the 16th August 2018. These notes suggest that the figure came from the 2014/15, 2015/16 and 2016/17 audit accounts. It was commented by Chair of the Theatr, that they were uninvolved in how the figure was calculated.

No documentation could be provided by Council Officers to explain how the figure of £157,920 was calculated. It was believed by some officers that a Maintenance & Repairs 1997-2018 Summary document that had previously been supplied by the Theatr could have been used to calculate this amount. Auditors have been unable to confirm this.

Auditors tried to calculate the figure using the audited accounts, from Companies House and the Charities Commission websites. This information was compared to the Maintenance and Repairs document (1997-2018) to see if the maintenance document had been used to create the payment figure. The table below displays the findings:

	Financial Statement	Maintenance & Repairs listing	Difference
2014/15	£ 27,819.00	£ 28,757.00	-£ 938.00
2015/16	£ 59,891.00	£ 59,891.00	£ -
2016/17	£ 69,044.00	£ 69,044.00	£ -
Total	£ 156,754.00	£ 157,692.00	£ 938.00

Capital Expenditure

The payment made to the Theatr was made as a capital payment. Cabinet Portfolio Holders who agreed to this decision stated that they took the advice of Council Officers that this was a legitimate capital payment. The former Acting Deputy Chief Executive commented that he sought the advice of the Council’s capital accountant before making this decision, but he ultimately signed off the position.

It is unclear what figures were used to calculate the capital expenditure. The table in the previous section, displays that the costings on the financial statement are close to the figures on the Maintenance and Repairs summary.

The Code of Practice in Local Authority Accounting in the UK states:

“4.1.2.18 Subsequent costs arising from day-to-day servicing of an asset (i.e. labour costs and consumables), commonly referred to as ‘repairs and maintenance’, should not be capitalised if they do not meet the recognition principle in paragraph 4.1.2.16 because the expenditure does not add to the future economic benefits or service potential of the asset. Rather the expenditure maintains the asset’s potential to deliver future economic benefits or service potential that it was expected to provide when originally acquired. These subsequent repair and maintenance costs do not, therefore, qualify for recognition as an asset in their own right.”








If the Maintenance and Repairs document, was a reflection of the works undertaken, then Auditors have concerns whether some of the items on the list qualify as capital expenditure.

It has been raised that it is possible some of the capital expenditure for roof repairs had already been paid for by a grant from the Arts Council for Wales (ACW). The Financial Accounts ending in March 2016 show a grant of £33,832 from ACW, which was listed as “other grant income (restricted)” but does not mention the purpose of the grant. However, the Council determined the basis and amount of the one-off payment.

The Theatr commented that they were never asked for information on their capital spending in relation to the payment but were informed that it was based on audited accounts. Iterations of the Repairs and Maintenance documents had been submitted to the council for a different purpose. It was stressed that they were not asked about any grant funding, and if they had been asked about it, they would have been happy to provide the requested information.

Appendix

Documents

 <p>Extracts From Scrutiny Committee .</p>	A. Extracts from the Constitution for the Scrutiny Committee Rules
 <p>Decision Making Timeline .docx</p>	B. Decision Making Timeline
 <p>Property Timeline .docx</p>	C. Property Related Timeline
 <p>List of Interviewees.docx</p>	D. Contributors and Interviewees in the Audit Process
 <p>Portfolio Holder Delegated Decision</p>	E. Delegated Decision Report
 <p>Urgent Decision Notification 24th Au</p>	F. Notice of urgent decision 24 th August
 <p>Notice of Urgent Decision 28th Augu:</p>	G. Notice of urgent decision 28 th August



2018-09-12 Audit
minutes.pdf

H. Audit Committee Minutes from the 12th September

Audit Framework and Definitions

Categorisation of Recommendations

When making recommendations to Management it is important that they know how important the recommendation is to their service. There should be a clear distinction between how we evaluate the risks identified for the service but scored at a corporate level and the priority assigned to the recommendation. No timeframes have been applied to each Priority as implementation will depend on several factors, however, the definitions imply the importance.

Priority 1	Findings that are fundamental to the integrity of the service's business processes and require the immediate attention of management.
Priority 2	Important findings that need to be resolved by management.
Priority 3	Finding that requires attention.

Authors and Distribution

Please note that this report has been prepared and distributed in accordance with the agreed Audit Charter and procedures. The report has been prepared for the sole use of the Partnership. No responsibility is assumed by us to any other person or organisation.

Report Authors

This report was produced and issued by:

Ian Halstead	Assistant Director
Kevin Price	Senior ICT Auditor
Kate Ryde	Auditor

Distribution List

This report has also been distributed to the following individuals:

Caroline Turner	Chief Executive
Ness Young	Corporate Director for Resources and Transformation
Cllr Rosemary Harris	Leader of the Council
Cllr Aled Davies	Deputy Leader and Portfolio Holder for Finance, Countryside and Transport
Cllr Phyl Davies	Portfolio Holder for Education and Property
Cllr John Morris	Chair of the Audit Committee
Cllr John Brautigam	Deputy Chair of Audit Committee
Sally Jones	Chair of Theatr Brycheiniog
David Wilson	Director of Theatr Brycheiniog

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Extract from Version 5 Section 7 on Scrutiny Committee

The following are relevant extracts from the Constitution:

“Scrutiny Committees

7.3 In order to achieve this, the Council will appoint three Scrutiny Committees (and in addition the Council will participate in a PSB Scrutiny Committee) which between them will:”

“7.3.4 exercise the right to call in for reconsideration decisions made, but not yet implemented, by the Cabinet and Officers.”

“General Functions

7.6 Within their terms of reference, Scrutiny Committees will:”

“7.6.4 exercise the right to call-in, for reconsideration, decisions made but not yet implemented, by the Cabinet, a committee of the Cabinet, a member of the Cabinet, an officer exercising functions delegated by the Cabinet. (See Call-In Procedure – Rule 7.37);”

“Call-in Procedure Rules

7.36.1 Where a decision is made by the Cabinet or an individual member of the Cabinet or a Committee of the Cabinet or under joint arrangements with other public bodies, the decision shall be published by the Monitoring Officer,.....”

“7.36.2 The communication to Councillors sending them the decision will (a) bear the date on which the decision is published and (b) will specify the date when the decision will come into force (subject to Rule 7.37.3) and may then be implemented, on the expiry of five clear days (the “Call-in Period”) after the date of publication of the decision, unless the appropriate Scrutiny Committee objects to it and calls it in for review within the Call-in Period.”

“7.36.3 During the Call-in Period the Monitoring Officer shall call-in a decision for scrutiny by the relevant Scrutiny Committee if so requested in the specified format (“the Call-In Request”⁵) by the chair or 4 members of a Scrutiny Committee PROVIDED THAT the Monitoring Officer and / or the Chief Finance Officer are satisfied that the following conditions are met:

7.36.3.1 the decision or action was contrary to the policy framework or budget, or fell outside the functions of the Cabinet; or

7.36.3.2 the Cabinet or decision maker had not followed agreed procedures or failed to consult (where required) before reaching its decision; or

7.36.3.3 the Cabinet had not followed, or had failed to take account of, any legal obligations, including regulations or statutory guidance governing the Council’s actions, or other guidance adopted by the Council.”

“7.36.4 Where the Monitoring Officer and / or the Chief Finance Officer are satisfied that one or more of the conditions set out in rule 7.36.3 above have been met, they shall produce a written report setting out the reasons for coming to this conclusion and the Monitoring Officer will then arrange for a “Call-In Notice”⁶ to be issued in accordance with Rule 7.36.5 below. “

“7.36.5 A Call-In Notice must contain the following:

7.36.5.1 details of the condition set out in rule 7.36.3 above being relied upon;

7.36.5.2 the reasons why it is believed one or more of the conditions are satisfied;”

“7.36.6 The Monitoring Officer shall call a meeting of that Scrutiny Committee on such a date as s/he may determine, where possible after consultation with the chair or vice chair of that the appropriate Scrutiny Committee , and usually within 10 clear days of the receipt of the Call-In Request (the “Scrutiny Period”) (only in exceptional circumstances will the chair of the Scrutiny Committee consider extending this time limit and the period of extension cannot in any circumstances exceed a further 5 clear days).”

“7.36.7 If, having considered the decision, the Scrutiny Committee remains concerned about the decision, then the Committee may refer it back to the decision making body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council for review. If the decision is referred back to the decision maker, the decision maker shall then reconsider the decision within 10 clear days of the date of the reference. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. The final decision cannot be the subject of a further call-in”

“ Call-In and Urgency

7.37.1 The call-in procedure set out in Rule 7.36 above shall not apply where the decision being taken is urgent. A decision will be urgent if:

7.37.1.1 any delay likely to be caused by the call-in process would seriously prejudice the Council’s or other public interests; and

7.37.1.2 the Head of Paid Service and / or the Monitoring Officer and / or the Chief Finance Officer certifies in writing that any delay likely to be caused by the call-in process could seriously prejudice the Council, or the public interest; and

7.37.1.3 the chair of the relevant Scrutiny Committee agrees in writing to the decision being treated as a matter of urgency. In the absence of the Scrutiny chair then either the Scrutiny vice chair or the chair of Council may agree to the decision being treated as a matter of urgency; and

7.37.1.4 the record of the decision, and notice by which it is made public, shall state that the decision is an urgent one, and that the urgency of the matter has been approved by the Head of Paid Service and / or the Monitoring Officer and / or the Chief Finance Officer and by the chair of the relevant Scrutiny Committee or Scrutiny vice-chair or the chair of Council.

7.37.2 Decisions taken as a matter of urgency can be implemented forthwith but must be reported at the next available meeting of the relevant Scrutiny Committee, together with the reasons for urgency.

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Decision Making Timeline

Date	Forum	Document	Purpose	Author/Owner	Comments
October 2017		Letter	Request from theatr to meet with Cabinet members to discuss the current situation of the theatr.	Theatr Brycheiniog	
November 2017	Meeting between PCC and Theatr Brycheiniog	Presentation	Outline Financial situation and requesting a working capital loan on commercial terms of £110k	Theatr Brycheiniog	Requirement for funding first requested
9 th January 2018	PCC Cabinet Management Team	Theatre Brycheiniog Report	Financial Position Overview and option including do nothing, loan and grant advanced payment	Paul Griffiths – SD Place Jane Thomas-Head of Financial Services	First consideration by the Council of Financial position and funding options
22 nd March 2018	Council Members	Delegated Decision	Advanced Payment of 2018/19 grant	Aled Davies, Portfolio Holder for Finance, Countryside & Transport and Rachel Powell, Portfolio Holder for Children Youth, Libraries and Leisure Services	
29 th May 2018		Letter	Letter requesting update from Council regarding the loan request.	Theatr Brycheiniog	Council wishes to monitor the Theatr for a couple more months before agreeing to the loan.

5 th June 2018	PCC Cabinet /Management Team	Theatr Brycheiniog Update - Confidential	<p>Updated financial position. Loan decision deferred on ground of financial sustainability Cabinet looking for reliability of the budget figure. Assesses financial risk of removal of grant funding.</p> <p>Confirms occupation in 1997 and full repairing lease expiring in April 2015 Identifies property issues and risks around the potential return of the grant</p> <p>High TB position that £1.2 m to complete outstanding repairs TB spent over 500k on maintenance works over last five years of which 50 % was for landlord repairs.</p> <p>Recommendation – Updated financial position to be noted</p>	Jane Thomas- Head of Financial Services	<p>Loan deferred. Confirmed advance grant payment of £49.7K March 2018 but with stipulations</p> <p>Deteriorating financial health. Nil balance cashflow forecast for June with deficit highlighted from Jan 19 “...Council had to be mindful that offering a loan to TB does set a precedent as there are likely to be others requesting loans.” Small margin of Risk as trustee liable, Chair of TB “.... Need for an imminent decision regarding consideration of the loan request.”</p>
8 th June 2018		Letter	Letter from the leader of the Council asking for more financial information from the theatr	PCC	
25 th June 2018		Letter	<p>Letter to the Leader of the Council expressing concerns about the situation, and lack of decision on the loan. “If you recall, we had hoped after our meeting last November for a decision early this year, and the delay in any clear indication from the Council makes the theatr’s position increasingly precarious”</p>	Theatr Brycheiniog	Theatr was considering insolvency. Theatr board was meeting in July to discuss this.

			Theatr informs the Council that they may not be able to continue to trade without the loan.		
Prior to June 25 th 2018		Financial Information on Past Repairs and building issues	Discuss Building issues	Theatr Brycheiniog	
3 rd August 2018	Meeting in Brecon between PCC and TB	Internal Notes	Notes of a meeting held between PCC and TB. These were internal notes produced by the Theatr. Notes state that an update was provided, and the situation was considered from both sides. Outcome was that DP was to speak to the theatre auditors	Theatr Brycheiniog	PCC did not provide any notes of the meeting.
5 th August 2018	Internal Report Arts & Culture	Briefing Paper V02 Theatr Brycheiniog - Confidential	Notes for David Powell (Cabinet Consideration) that identifies key issues TB financial position, Building condition. Asking for urgent consideration of £110k loan Contains ACW Commissioned Resilience Reports by David Metcalf dated March 2018 and July 2018. Identifies loan options and shows advantages. Some reference to the risks of each option. Recommends PCC agree a loan and exploring different operational models	Lucy Bevan-Commission Officer for Arts and Culture	

10 th August 2018	PCC	Email	A meeting was held by officers to discuss what would happen with the theatr, if PCC decided not to help. Costs were discussed.	PCC	Email from a member of the legal team, regarding the discussion they held on the previous day.
16 th August 2018	PCC and TB	Informal Meeting	Council raised the option of a one-off payment of £157,920 in recognition of the amount spent on last 3 years audited accounts. TB Board Accepted	David Powell, Acting Chief Executive Rosemary Harris, Leader Aled Davies, Portfolio Holder	
20 th August 2018	PCC Accounts	Invoice to PCC from TB for the value of £189,504.00 (157,920 + VAT)	Contribution to Repairs to the theatr Brycheiniog property costs in Financial years 2014/15, 2015/16 and 2016/17		
24 th August 2018	Portfolio Holders	Notice of Urgent Portfolios delegated Decision	Portfolio Holder for Finance, Countryside and Transport (AD) and portfolio holder for Highways, Recycling and Assets (PD) urgent decision under rule 7.38.1.4 on the constitution	Steven Boyd, Democratic Services	
28 th August 2018	Council Member	Email	Email to the Chief Finance Officer, from Pete Robert Scrutiny Chair, agreeing to not call in decision.	Pete Roberts, Scrutiny Chair	
28 th August 2018	Portfolio Holders	Delegated Decision Report	Report for a Portfolio Delegated Decision approving a one-off capital payment to Theatr Brycheiniog for £157,920.	Owners- Aled Davies, Portfolio Holder for Finance, Countryside & Transport and Phyl Davies, Portfolio Holder for Highways,	Proposed that contribution is made in respect of expenditure incurred on protection of the asset “...., the Council will make a one-off payment of £157,920 to assist with the costs incurred in maintaining the asset. This

				Recycling and Assets. Author-David Powell, Acting Deputy Chief Executive	has been negotiated with the Theatr and is based on costs incurred for the financial years 2014/15, 2015/16, 2016/17.” No Impact Assessment
30 th August	Discussion	Email	Email from the Chief Finance Officer to John Morris, Audit Committee Chair. Confirming the agreement not the call-in the decision. On the agreement to make 40% payment immediately and to review the rest following an audit committee meeting.	David Powell	JM’s response was not seen
5 th September 2018	PCC Accounts	Journal	1 st payment - gross payment of £75,801.60 (net £63,168.00) in the Council ledger	PCC	Only journals could be located.
12 th September 2018	Audit Committee	Minutes	Minutes confirming a meeting of the Audit Committee where the Acting Chief Executive presented information to support the payment		Unclear
18 th September 2018	PCC Accounts	Journal	2 nd Payment – gross £ 113,702.40 (Net £94,752.00) in the Council ledger	PCC	Only journals could be located.

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Property Related Timeline

Date	Document	Purpose	Author/Owner	Comments
1997	Full Repairing Lease	PCC to lease the building to the Theatr Brycheiniog	PCC/Theatr	Original Lease cannot be located. Scans received from both the theatr an PCC. This was not signed straight away, although the theatr did begin to use the building.
1997	SLA (Service Level Agreement)	An agreement between the service and the theatr	PCC (leisure Services)	Original SLA was from 1997-2002 a 5-year agreement. Point 4: 'in parallel to the lease there will be a separate Service Level/Management Agreement under which the company will manage the facility for the Council'
November 2000	Letter to Graham Eales (PCC officer)	Raising concerns over the lease & its contents.	Theatr	Raising concerns about the maintenance burden of the lease and to specific sections of the lease. Briefly mentions the SLA: "I have not entered discussions with the community department regarding service level agreement and wonder whether this should be done before formally entering the lease agreement"
January 2001	Letter to A Eagle	Damage to roof	Theatr	Explains that the department cannot afford to pay for the damage to the roof and therefore will attempt to get this paid via insurance
January 2001	Letter to A Eagle (TB)	Update on circumstances	Theatr	Suggestion that the lease documents is made subject to PCC undertaking work on air chillers. Awaiting information for SLA Cannot guarantee 100% rate relief for all of lease period.

26 th February 2001	Letter to Andy Eagle (TB)	Letter covering a discussion held the previous day re lease.	Theatr	<p>Requests theatr to send information to be included in the draft SLA and attaches a copy of the current draft. Suggests that changes to the SLA are still ongoing.</p> <p>“In respect of the Service Level Agreement please could you let me have a copy of the Boards Constitution or articles of association. I can then insert these into the draft SLA (a copy of which is attached). I would be grateful if you would peruse the attached proposals and let me have your comments in due course”</p> <p>Accepts that difficulties with air conditioning need to be resolved by PCC. Mentions setting aside capital money to address the problem.</p>
28 th February 2001	Letter to Paul Griffiths from Andy Eagle	Response to previous letter.	Theatr	<p>States: “I have read through the draft SLA and can see no problem with it”</p> <p>It is unclear if this draft SLA was the final version. A Eagle suggests that he will recommend to the board that the lease is signed.</p>
July 2001	Letter to Andy Eagle	Explaining PCC position	Theatr	Explains that the undertaking of any work on the theatr will depend on the funding resources within community and leisure services.
January 2004	Paul Griffiths Letter	To get the Theatr to sign the lease.	Paul Griffiths	Letter stating that revenue funding will be withdrawn unless lease is signed.
2005	PCC Capita Building Survey		PCC	Do not have a copy of this document
2008	SLA (Service Level Agreement)	An agreement between the service and the theatr		SLA for 2008-2011

2014	Mott McDonald Survey	Extensive Building Survey, commissioned by the theatr	Theatr	Survey Identified a large number of issues with the building.
Feb 2015	Letter to Jeremy Paterson from Martyn Green	Request to discuss issues	Theatr	
Nov 2015		Mott Macdonald Survey was presented to the Council during a meeting with the Theatr		No minutes of this meeting.
March 2016	Letter from Jeremy Patterson to Martyn Green	Building issues at TB	PCC	The theatr signed a full repairing lease, PCC views that it is not responsible for maintenance issues.
14 th March 2017	Meeting notes	Brief notes on what happened at meeting	Theatr	Theatr spent £415K up to the end of 2015/16 of its revenue fund on the Theatr's repairs including 40K grant from ACW for roof. Discussions on what maintenance theatr had undertaken, and PCCs view on the situation. Theatr to create a bundle of information and send to PCC as soon as possible.
June 2017	Letter to Jeremy Patterson	Building Issues at Theatr Brycheiniog	Theatr	A rebuttal of his previous letter in March 2016, and submission of a "pack of evidence" for a review. Submitted documents: <ul style="list-style-type: none"> • Theatr Brycheiniog 2017 – Urgent Repairs • Maintenance and Repairs 1997-March2017 • Scheduled Work 2017/18
June 2018	Letter to Stuart Mackintosh	To express concerns over a cancelled meeting the previous day	Theatr- Sally	Queries why the meeting was cancelled and requesting an alternative date. Submitted docs: <ul style="list-style-type: none"> • Urgent repairs • Maintenance and repairs log 1997-2018 • Scheduled work log

Contributors and Interviewees in the Audit Process

- Cllr John Morris, Chair of the Audit Committee
- Cllr John Brautigam, Vice Chair of the Audit Committee
- Cllr Aled Davies, Cabinet Portfolio Holder for Finance
- Cllr Racheal Powell, Cabinet Portfolio Holder for Culture, Leisure and Recreation
- Cllr Phyl Davies, Cabinet Portfolio Holder for Property
- Cllr Pete Roberts, Chair of Scrutiny Committee for Culture
- Cllr Gwilym Williams, Chair of Scrutiny Committee for Adults and Children
- Cllr Rosemary Harris, Leader of the Council
- Wyn Richards, Democratic Services Manager
- Lisa Richards, Senior Clerk
- Lucy Bevan, Commissioning Officer for Arts and Culture and TB Board Observer
- Neil Clutton, Property Manager
- Ann Owen, Treasury Manger
- Debby Jones, Professional Lead – Legal
- Clive Pinney, Head of Legal and Democratic Services
- Jane Thomas, Head of Finance and Section 151 Officer
- Sally Jones, Chair of Trustees for Theatr Brycheiniog
- David Wilson, Theatre Director for Theatre Brycheiniog
- David Powell, Former Deputy Chief Executive and Section 151 Officer

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CYNGOR SIR POWYS COUNTY COUNCIL

PORTFOLIO HOLDER DELEGATED DECISION
by
COUNTY COUNCILLOR ALED DAVIES
(PORTFOLIO HOLDER FOR FINANCE, COUNTRYSIDE & TRANSPORT)
&
COUNTY COUNCILLOR PHYL DAVIES
(PORTFOLIO HOLDER FOR HIGHWAYS, RECYCLING & ASSETS)

28 August 2018

REPORT AUTHOR: David Powell, Acting Deputy Chief Executive

SUBJECT: Capital Expenditure Contribution: Theatr Brycheiniog

REPORT FOR: **Decision**

1. Summary

- 1.1. This report seeks approval for a contribution to the capital expenditure costs incurred at Theatr Brycheiniog.
- 1.2. Following discussions with the Theatr it is proposed that a contribution is made in respect of expenditure incurred on protection of the asset. This will also assist the asset going forward. The Theatr has incurred £356,752 of expenditure on the building since 1997/8 and following review of the audited accounts, the Council will make a one-off payment of £157,920 to assist with the costs incurred in maintaining the asset. This has been negotiated with the Theatr and is based on costs incurred for the financial years 2014/15, 2015/16 and 2016/17.
- 1.3. The Council and Theatr will work together to look at a sustainable solution for the building going forward as part of a joint review of the current model of provision and will seek to involve the Arts Council of Wales in the process. At the same time there will be a review of the budget going forward that will include the need to protect the asset. The review will also look at the longer term issues affecting the building given the tenant has raised concerns about the condition since their acquisition of the lease in 1997.

2. Proposal

- 2.1. The proposed payment follows discussions with the Board's representatives since late 2017 about issues facing the Theatr that have affected cashflow. The payment and proposed review not only recognizes the need to secure the Theatr's position going forward but also the importance of securing the Council's asset.
- 2.2. It is clear that the future model of the agreement covering the building will also form part of the discussion whilst noting the lease has a number of years to run. The review will also look at the most appropriate way the Theatr can discharge its responsibility as

a tenant. The Tenant will hereinafter be required to evidence the ongoing obligation they have towards the property and compliance with the same.

3. Options Considered / Available

3.1. The options available are as follows:

3.1.1. That Powys County Council agrees to make the payment to help secure the Theatr's future.

3.1.2. That the Council considers granting a loan at commercial rates to the Theatr. This would increase financial pressure.

4. Preferred Choice and Reasons

The payment/grant (option 3.1.1.) provides security for the Theatr.

5. Impact Assessment

5.1 Is an impact assessment required? No

5.2 If yes is it attached? N/A

6. Corporate Improvement Plan

6.1 The proposal supports the Vision 2025 objective for the economy, noting that the Theatr makes a £1.5million contribution to the local economy.

7. Local Member(s)

7.1 The proposal affects the Brecon area and Councillor David Meredith (St David Within) has indicated his support for the proposal noting that he wishes historic issues affecting the building's condition to be part of the review.

7.2 Cllr Iain Mackintosh (Yscir) comments 'It is highly important that Theatr Brycheiniog continues to contribute around £1.5m to the local economy in and around Brecon. I fully support Powys County Council's help in making sure we don't lose such an important facility in our town and look forward to Theatre Brycheiniog, The Arts Council of Wales and Powys County Council joining forces to make sure a sustainable solution is achieved going forward to keep the theatre open for all visitors and tourists, the residents of Brecon and Yscir, and all surrounding areas.'

7.3 Cllr Matthew Dorrance (St. John) has indicated support for the proposal and welcomes the joint review of provision going forward.

7.4 Cllr Sarah Lewis (St Mary) states: 'The Theatr makes a significant contribution to the Brecon area and I am pleased that Powys Council can support this key facility. The Arts need to be seen as important to the Brecon area as it makes a strong economic contribution to Brecon that including the tourist sector.'

8. Other Front Line Services

Does the recommendation impact on other services run by the Council or on behalf of the Council? No

9. Communications

Have Communications seen a copy of this report? Yes

10. Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)

10.1 Legal confirms that there is no legal obligation on the Authority to assist towards repairs/maintenance of the property, this rests with the tenant. Further, legal services will assist in ensuring compliance with the lease obligations when so advised and in line with the review identified above.

10.2 Finance state the payment contribution will be funded from the capital programme.

10.3 Corporate Property supports the proposal to help protect this important asset for the Council and the Community.

11. Scrutiny

Has this report been scrutinised? No

12. Data Protection

12.1 Not applicable.

13. Statutory Officers

13.1 The Section 151 Officer notes that the proposal can be funded from existing resources.

13.2 The Deputy Monitoring Officer acknowledges the legal comment and notes that Finance have considered this proposal as part of the Capital Funding Programme.

14. Members' Interests

14.1 The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

Recommendation:	Reason for Recommendation:
To approve the capital expenditure contribution to Theatr Brycheiniog.	To help secure the Theatr's financial position.

Relevant Policy (ies):			
Within Policy:	Y	Within Budget:	Y

Relevant Local Member(s):	Cllr. Matthew Dorrance, Cllr. David Meredith, Cllr Iain Mackintosh, Cllr Sarah Lewis
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Person(s) To Implement Decision:	Acting Deputy Chief Executive
Date By When Decision To Be Implemented:	

Is a review of the impact of the decision required?	Y
If yes, date of review	March 2019
Person responsible for the review	Stuart Mackintosh
Date review to be presented to Portfolio Holder/ Cabinet for information or further action	31 st March 2019

Contact Officer:	David Powell, Acting Deputy Chief Executive
Tel:	01597 826464
Email:	david.powell@powys.gov.uk

Background Papers used to prepare Report:

DELEGATED DECISION REPORT TEMPLATE VERSION 6

Public Document Pack



Neuadd y Sir / County Hall, Llandrindod, Powys, LD1 5LG

LEADER AND / OR PORTFOLIO HOLDER(S) - URGENT DECISION Friday, 24th August, 2018

Supplementary Information:

Capital Expenditure Contribution: Theatr Brycheiniog

The report of the Portfolio Holder for Finance, Countryside and Transport and the Portfolio Holder for Highways, Recycling and Assets was published on Tuesday 28th August 2018 and the decision notice was published on Monday 3rd September, 2018.

The Chair of the Learning, Skills and Economy Scrutiny Committee and the Chair of the Health Care and Housing Scrutiny Committee agreed not to call-in the decision on the grounds of urgency.

The Chair of the Audit Committee agreed not to call-in the decision but has called a meeting of the Audit Committee to understand the financial decision and process. As a result it was agreed by the Chair of Audit that 40% of the contribution be paid, and the Portfolio Holders will reflect on the committee's discussions following the meeting before payment of the balance.

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Public Document Pack

Leader and / or Portfolio Holder(s) - Urgent Decision



County Hall
Llandrindod Wells
Powys
LD1 6LG
28.08.18

For further information please contact

Steve Boyd
Stephen Boyd
steve.boyd@powys.gov.uk
01597 826374

NOTICE OF AN URGENT PORTFOLIO HOLDERS DELEGATED DECISION

The Portfolio Holder for Finance, Countryside and Transport, the Portfolio Holder for Highways, Recycling and Assets and the Portfolio Holder for Young People and Culture have received the following report for a decision to be taken under delegated authority. The decision will be taken on **3rd September, 2018**

As set out in Rule 7.38.1.4 of the Constitution [Call in and Urgency] the decision is an urgent one, and the urgency of the matter will need to be approved by the Head of Paid Service and / or the Monitoring Officer and / or the Chief Finance Officer and by the Chairs of The Learning Skills and Economy Scrutiny Committee, the Health Care and Housing Scrutiny Committee and the Audit Committee, prior to the decision being taken.

Therefore the Call-In process as set out in Rule 7.37 of the Constitution will not apply in relation to this decision.

1.	CAPITAL EXPENDITURE CONTRIBUTION: THEATR BRYCHEINIOW
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(Pages 3 - 6)

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MINUTES OF A MEETING OF THE AUDIT COMMITTEE HELD AT COUNCIL CHAMBER - COUNTY HALL, LLANDRINDOD WELLS, POWYS ON WEDNESDAY, 12 SEPTEMBER 2018

PRESENT

County Councillors JG Morris (Chair), J Charlton, L V Corfield, M J Dorrance, D R Jones, K Lewis, WD Powell, E Vaughan, A Williams and J M Williams

Councillors in Attendance: County Councillors P Roberts, Chair, Learning, Skills and Economy Scrutiny Committee and G Williams, Chair, Health, Care and Housing Scrutiny Committee

Cabinet Portfolio Holders in Attendance; County Councillor A W Davies

Officers: David Powell, Deputy Chief Executive, Jane Thomas, Head of Financial Services, Stephen Caple, Deputy Head of Financial Services, Dan Paley, Financial Reporting and Policy Accountant and Ann Owen, Treasury Manager

Officers in Attendance: Messrs P Pugh, A Veale and J Evans, WAO and Ian Halstead, SWAP

1.	APOLOGIES
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Apologies for absence were received from County Councillors M Barnes, B Baynham, Mr J Brautigam (Vice-Chair), E Durrant, M J Jones, K Laurie-Parry, D A Thomas, R G Thomas and T J Van-Rees

2.	DECLARATIONS OF INTEREST
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County Councillor M Dorrance declared a personal interest in item 18, Brecon Theatre as the Theatre was in his ward.

3.	DISCLOSURE OF PARTY WHIPS
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There were no disclosures of party whips.

4.	MINUTES
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The Chair was authorised to sign the minutes of the previous meeting, held on 6 July 2018 as a correct record.

Items 13 and 14 were discussed at this point on the agenda.

5.	STATEMENT OF ACCOUNTS
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5.1. Closure of Accounts

Documents:

- Report of the Head of Financial Services

Discussion:

- A workshop had been held recently to brief Members on the changes that had been made between their consideration of the draft Statement of Accounts and the final version
- A project management approach continues to be used
- The Committee have previously questioned the capacity within the Team, particularly in relation to earlier closing, and the Head of Financial Services reported that an ongoing training plan was in place which added to the resilience of the Team and allowed greater flexibility
- The Accounts were available for public inspection but this opportunity had not been taken up
- There were fewer amendments during the process than had previously been the case
- Challenges for the closure of the 2018/19 accounts will be earlier closure and the implementation of the new finance system – this will be carefully planned and managed

5.2. Audit of Financial Statements Reports

Documents:

- WAO Audit of Financial Statements Report – Powys County Council
- WAO Audit of Financial Statements Report – Powys Pension Fund

Discussion:

- It was noted that it was the Auditor General's intention to provide an unqualified opinion on both sets of Accounts
- The level of materiality had been set at £4.349M for the main accounts and £6.204M for the Pension Fund
- The audit procedures were almost complete but would be ongoing until 25 September 2018
- There were no uncorrected misstatements
- The draft accounts had been of good quality
- Earlier deadlines had been achieved but opportunities remain for further improvements
- A Statutory Recommendation had been made in the 2016 Audit Letter regarding the necessity to ensure savings plans were sufficiently well developed and that the MTFs should be reviewed. Given the level of savings that are not achieved the robustness of the initial plans must be questioned. The Head of Financial Services reported that processes have improved. Those savings that have not been achieved are being considered by Cabinet. Following initial discussions with Cabinet over future savings plans, full business cases and impact assessments are now being prepared.
- The WAO reserve the right to reconsider the Authority's decision regarding the Minimum Revenue Position
- There had been an imbalance on the trial balance and, whilst this was not a significant amount, this should not occur
- The WAO were discussing with officers the earlier closing of the 2018/19 accounts

- With reference to the Pension Fund, one recommendation has been made – to put in place a process which automatically updates changes in contribution rates due to a change in circumstances.
- The WAO thanked officers for their efforts during the auditing process. Early closure was still a challenge but improvements had been made and the WAO would work with officers to overcome these challenges
- The Chair reported that a useful joint meeting had been held between Audit Committee and the Pensions and Investment Committee to improve understanding of each other's roles.

Outcome:

- **The WAO Financial Statements Reports be noted**

5.3. Letters of Representation

Documents:

- Letter of Representation regarding the 2017-18 financial statements
- Letter of Representation regarding the 2017-18 Pension Fund financial statements

Outcome:

- The Letters of Representation were noted

5.4. Statement of Accounts

Documents:

- Statement of Accounts 2017/18 (including the Annual Governance Statement)

Outcome:

- **The Chair was authorised to sign the Statement of Accounts 2017/18 for both the Authority and Pension Fund**
- **The Statement of Accounts 2017/18 would be published by 30 September 2018**

6. BUDGET MONITORING REPORT

Documents:

- Report of the Portfolio Holder for Finance

Discussion:

- Two forecasts are now included within the report – one is the expected position and one the position including those savings where there is a high expectation of achievement
- Officers were asked what was the current level of unachieved savings – there was £1.7M identified by the Income and Cost Improvement Board and £2.2M within Children's Services. These savings will be reassessed as part of the current budget process but could lead to additional pressures within the budget.
- Members were also concerned that a school's deficit is written off if the school closes – this has to be absorbed elsewhere
- The Section 151 Officer reminded the Committee that if a service agrees a saving, then this must be delivered or found from elsewhere

- The Committee were of the opinion that the Children's Services and Delegated Schools budgets were significant risks for the Authority
- The report had already been considered in greater detail in the Finance Scrutiny Panel

Outcome:

- **The report was noted**

7. CAPITAL REPORT

Documents:

- Report of the Portfolio Holder for Finance

Discussion:

- Projects are on track
- 42% of the budget remains to be committed
- No major risks have been identified
- Two virements have been identified

Outcome:

- **The report was noted**

8. INTERNAL AUDIT

Documents:

- SWAP Internal Audit Activity – 1 April to 31 July 2018

Discussion:

- 61% of projects have been completed or started in the first four months of the financial year
- Recommendations are prioritized as follows
 - Priority 1 – fundamental
 - Priority 2 - important
 - Priority 3 - merits attention
- Under the previous scrutiny structure, an Internal Audit Working Group had considered adverse reports – Members asked how this was to be addressed under the new structure. There were two options, firstly to bring those reports to Audit Committee for consideration or secondly to establish a working group arrangement which reports to the Committee. The Working Group had worked well and both the Chair and Portfolio Holder agreed that it allowed more in depth scrutiny of the issues. It was also noted that the structure of scrutiny was to be reviewed to ensure it was fit for purpose and that this matter should be considered as part of that process.

County Councillor K Lewis left the meeting at 3.50

- Members asked when audits of Freedom Leisure contract management and functionality of Heart of Wales Property Services would be available – the Freedom Leisure report was substantially complete and it was likely

that the final report would be released within the month. The audit brief was being developed for the HOWPS review and this would not be complete for three months.

Outcome:

- **The report was noted**

9. WAO - TRANSFORMATION REVIEW

Documents:

- Project Brief – Review of Powys County Council's Organisational Transformation and Efficiency Savings Programmes

Discussion:

- The fieldwork has been completed for part one of the review which covers the planning and arrangements sitting behind transformation
- Conclusions are being formulated and will determine the way forward
- Phase two will consider progress made against the issues and results will be available during the fourth quarter of this financial year or the first of the next financial year
- The WAO will not involve scrutiny or Audit in the discussions as this will take place at a political and administrative level
- Audit Committee will monitor progress
- The Committee asked whether the Council had had any involvement in setting the questions and were advised that this was not appropriate. WAO are seeking assurance that the Authority is making the appropriate progress.

Outcome:

- **The Project Brief was noted**

10. CIPFA FINANCIAL MANAGEMENT MODEL UPDATE
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Documents:

- None

Discussion:

- Audit Committee had previously considered the brief for the CIPFA Financial Management Model

County Councillor J Charlton left the meeting at 4pm

- A survey had been rolled out for completion and interviews have taken place
- Initial feedback will be provided to Management Team

Outcome:

- **The report was noted**

11.	NEW FINANCE SYSTEM - PROJECT IMPLEMENTATION
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Documents:

- Report of the Deputy Head of Financial Services

Discussion:

- A project is ongoing to upgrade the finance system
- The implementation phase is commencing and workshops are underway
- Future Audit Committees will receive updates on the progress of the project
- Members noted that the data will be stored externally and asked whether there was any risk to this – security is in place and most of the data is outside of the GDPR regulations
- Internal Audit had previously considered a review into the safety of data but this had concentrated on the IT side. There had been some issues around rigour but these had been addressed and there were no concerns at present.
- The new system will replace e-financials but will not include council tax
- The system will improve interfaces and the movement of data will be more effective with much less manual intervention

Outcome:

- **The Committee will receive updates on the implementation of the new system**

12.	WORK PROGRAMME
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Documents:

- Scrutiny Work Programme

Outcome:

- **The Finance Scrutiny Panel be added to the work programme**

13.	ACCESS TO INFORMATION
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RESOLVED to exclude the public for the following item of business on the grounds that there would be disclosure to them of exempt information under category 3 of The Local Authorities (Access to Information) (Variation) (Wales) Order 2007).

14.	BRECON THEATRE
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The Committee was briefed on the issues surrounding an urgent decision which needed to be taken and that the Chairs of Scrutiny Committees (including Audit) had waived their right to call in the decision.

Members debated the need for confidentiality but were advised that on this occasion, the information given outweighed the public interest.

The Committee returned to public session

The Chair formally reported that he had been asked to waive the Committee's right to call in the decision of the Portfolio Holders given the urgency of the situation. However, he had been concerned at the lack of information available to him and that a press release had been issued confirming financial support to the Theatre prior to his having been asked.

The Portfolio Holder for Finance was asked if he and the Portfolio Holder for Highways, Recycling and Assets had had sufficient information to enable them to undertake due diligence in making their decision. The Portfolio Holder for Finance confirmed that they had.

The Theatre was thought to benefit the area by £1.5M per annum. However, the Audit Committee sought further information relating to the structural review, a valuation of the asset, the status of the lease and the level of risk of the Arts Council for Wales and EU Regional Fund requiring repayment of grants. They also questioned whether the funding would impact any other capital or revenue project of the Council.

Outcome:

- **The Committee was informed of the urgent request made of the Chair**
- **Further scrutiny may be appropriate and would be agreed and allocated by the Joint Chairs and Vice Chairs Steering Group in due course.**

County Councillor JG Morris (Chair)

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Powys County Council

Proposed 2020-21 Internal Audit Plan and Internal Audit Charter

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The Internal Audit Plan: Summary

The internal audit plan represents a summary of the proposed audit coverage that the internal audit team will deliver throughout the 2020/21 financial year.

Delivery of an internal audit programme of work that provides sufficient and appropriate coverage, will enable us to provide a well-informed and comprehensive year-end annual internal audit opinion.



Introduction and Objective of the Internal Audit Plan

Internal audit provides an independent and objective opinion on the Authority's risk management, governance, and control environment by evaluating its effectiveness.

Prior to the start of each financial year, SWAP, in conjunction with senior management, put together a proposed plan of audit work. The objective of our planning process and subsequent plan is to put us in a position to provide a well-informed and comprehensive annual audit opinion, based on sufficient and appropriate coverage of key business objectives, associated risks, and risk management processes.

The outcomes of each of the audits in our planned programme of work, will provide senior management and Members with assurance that the current risks faced by the Authority in these areas are adequately controlled and managed.

It should be noted that internal audit is only one source of assurance, and the outcomes of internal audit reviews should be considered alongside other sources, as part of the 'three lines of defence' assurance model. Key findings from our internal audit work should also be considered in conjunction with completion of the Authority's AGS.

It is the responsibility of the Authority's Executive Management Team (EMT) and Senior Leadership Team (SLT), and the Audit Committee, to determine that the audit coverage contained within the proposed audit plan is sufficient and appropriate in providing independent assurance against the key risks faced by the organisation.

When reviewing the proposed internal audit plan (as set out in Appendix 1), key questions to consider include:

- Are the areas selected for coverage this coming year appropriate?
- Does the internal audit plan cover the organisation's key risks as they are recognised by the EMT and SLT and Audit Committee?
- Is sufficient assurance being received within our annual plan to monitor the organisation's risk profile effectively?

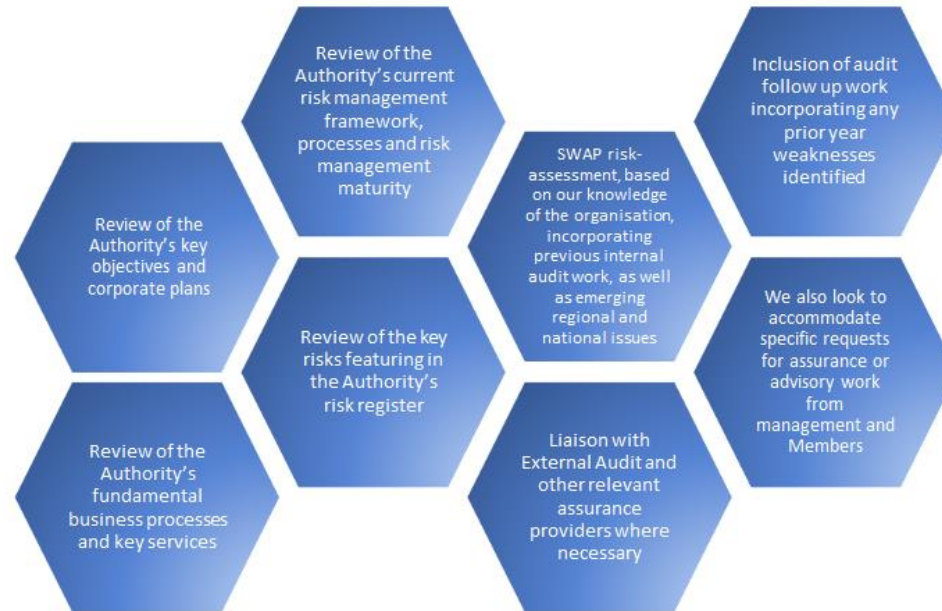
The Internal Audit Plan: Approach

To develop an appropriate risk-based audit plan, SWAP have consulted with senior management, as well as reviewing key documentation, in order to obtain an understanding of the organisation's strategies, key business objectives, associated risks, and risk management processes.



Approach to Internal Audit Planning 2020/21

The factors considered in putting together the 2020/21 internal audit plan have been set out below:



We will regularly re-visit and adjust our programme of audit work to ensure that it matches the changing risk profile of the organisation's operations, systems and controls. Our 2020/21 audit plan therefore reflects an increased contingency allocation, in order that the plan can remain flexible to respond to new and emerging risks as and when they are identified.

The Internal Audit Plan: Risk Assessment

A documented risk assessment prior to developing an internal audit plan, ensures that sufficient and appropriate areas are identified for consideration.

As above, it is the responsibility of the Authority's Leadership Team, and the Audit Committee to ensure that, following our risk assessment, the proposed plan contains sufficient and appropriate coverage.



Internal Audit Annual Risk Assessment

Our 2020/21 internal audit programme of work is based on a documented risk assessment, which SWAP will revisit regularly, but at least annually. The input of senior management as well as review of the Authority's risk register will be considered in this process.

Below we have set out a summary of the outcomes of the risk assessment for Powys County Council:



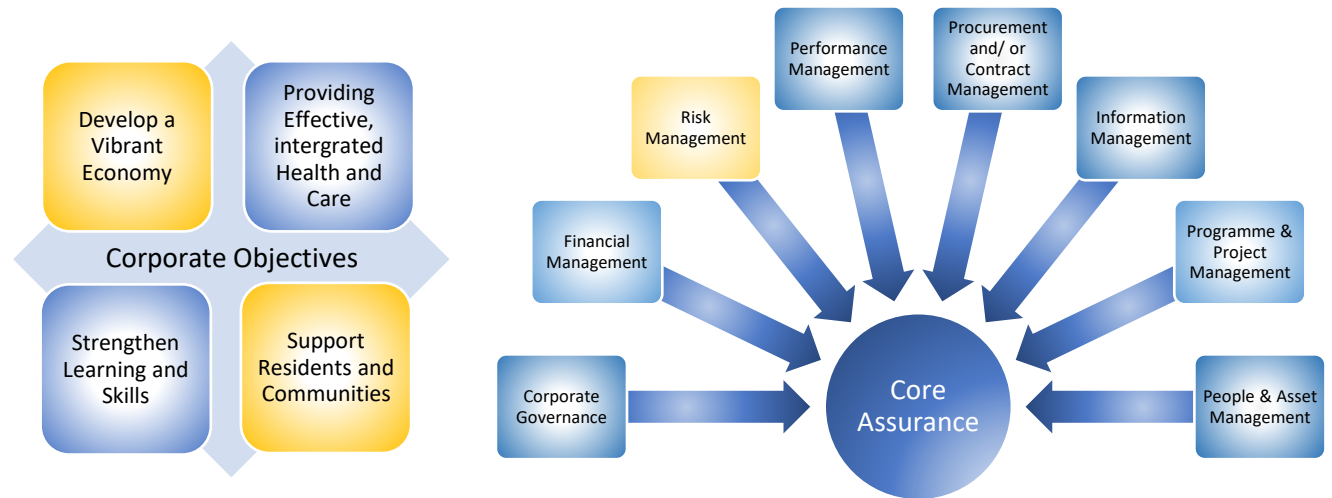
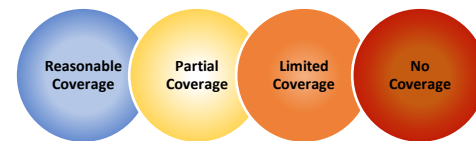
The Internal Audit Plan: Coverage

Following our SWAP Risk Assessment above, we have set out how the proposed 20/21 plan presented in Appendix 1 provides coverage of the Authority's key corporate objectives and risks, as well as our core areas of recommended audit coverage.

Internal audit is only one source of assurance; therefore, where we have highlighted gaps in our coverage, assurance should be sought from other sources where possible in order to ensure sufficient and appropriate assurances are received.

Internal Audit Coverage in 2020/21

Following our SWAP risk assessment, we have set out below the extent to which the proposed plan presented in Appendix 1 provides coverage of the Authority's key corporate objectives and risks, as well as our core areas of recommended audit coverage:



Internal audit coverage can never be absolute and responsibility for risk management, governance and internal control arrangements will always remain fully with management. As such, internal audit cannot provide complete assurance over any area, and equally cannot provide any guarantee against material errors, loss or fraud.

The Internal Audit Plan: Coverage

The page above sets out how our proposed 20/21 internal audit plan provides coverage of the Authority's key corporate objectives and risks, as well as our core areas of recommended audit coverage.




This page highlights any key risk areas where we believe internal audit coverage is currently missing.



Risk Coverage Missing from Proposed 2020/21 Internal Audit Plan

Following our SWAP risk assessment and the preparation of the proposed 20/21 audit plan, we have set out below any areas where we feel coverage of key risk areas is missing.

Where we have highlighted limited or no coverage, Senior Management and the Audit Committee should seek and confirm assurance from alternative sources, or consider re-focussing internal audit resource to provide coverage of these areas:

Key Risk Area	Level of Assessed Coverage
Medium Term Financial Strategy and Delivery of Savings Targets (Assurance will be given by the Wales Audit Office)	
Integrated Business Planning to ensure that Organisational Objectives are aligned and monitored (Assurance will be given by the Wales Audit Office)	
Delivery of the Transformation Programme (Assurance will be given by the Programme Boards and the Wales Audit Office)	

SWAP Internal Audit Services is a public sector, not-for-profit partnership, owned by the public sector partners that it serves. The SWAP Partnership now includes 24 public sector partners, crossing eight Counties, but also providing services throughout the UK.

As a company, SWAP has adopted the following values, which we ask our clients to assess us against following every piece of work that we do:

- Candid
- Relevant
- Inclusive
- Innovative
- Dedicated



Your Internal Audit Service

Audit Resources

The 2020/21 internal audit programme of work will be equivalent to 1000 days. The current internal audit resources available represent a sufficient and appropriate mix of seniority and skill to be effectively deployed to deliver the planned work. The key contacts in respect of your internal audit service for Powys County Council are:

Ian Halstead, Assistant Director – ian.halstead@swapaudit.co.uk, Tel: 01597 826821

Kevin Price, Senior ICT Auditor – kevin.price@swapaudit.co.uk

Millie Jones, Senior Auditor - millie.jones@swapaudit.co.uk

Liam Hosie, Senior Auditor – liam.hosie@swapaudit.co.uk

External Quality Assurance

SWAP work is completed to comply with the International Professional Practices Framework of the Institute of Internal Auditors (IPPF) and the Public Sector Internal Audit Standards (PSIAS).

Every three years, SWAP is subject to an External Quality Assessment of Internal Audit Activity. The last of these was carried out in February 2020 which confirmed general conformance with the IPPF.

Conflicts of Interest

We are not aware of any conflicts of interest within Powys County Council that would present an impairment to our independence or objectivity. Furthermore, we are satisfied that we will conform with our IIA Code of Ethics in relation to Integrity, Objectivity, Confidentiality, & Competency.

Consultancy Engagements

As part of our internal audit service, we may accept proposed consultancy engagements, based on the engagement's potential to improve management of risk, add value and improve the organisation's operations. Consultancy work that is accepted, will contribute to our annual opinion and will be included in our plan of work.

Approach to Fraud

Internal audit may assess the adequacy of the arrangements to prevent and detect irregularities, fraud and corruption. We have dedicated counter fraud resource available to undertake specific investigations if required.

However, the primary responsibility for preventing and detecting corruption, fraud and irregularities rests with management who should institute adequate systems of internal control, including clear objectives, segregation of duties and proper authorisation procedures.

Over and above our internal audit service delivery, SWAP will look to add value throughout the year wherever possible. This will include:

- Benchmarking and sharing of best-practice between our public-sector Partners
- Regular newsletters and bulletins containing emerging issues and significant risks identified across the SWAP partnership
- Communication of fraud alerts received both regionally and nationally
- Annual Member training sessions

Our Reporting

A summary of internal audit activity will be reported quarterly to senior management and the Audit Committee. This reporting will include any significant risk and control issues (including fraud risks), governance issues and other matters that require the attention of senior management and/or the Audit Committee. We will also report any response from management to a risk we have highlighted that, in our view, may be unacceptable to the organisation.

Internal Audit Performance:

As part of our regular reporting to senior management and the Audit Committee, we will report on internal audit performance. The following performance targets will be used to measure the performance of our audit activity:

Performance Measure	Performance Target
<p style="text-align: center;"><u>Delivery of Annual Internal Audit Plan</u> Completed at year end</p>	>90%
<p style="text-align: center;"><u>Quality of Audit Work</u> Overall Client Satisfaction <i>(did our audit work meet or exceed expectations, when looking at our Communication, Auditor Professionalism and Competence, and Value to the Organisation)</i></p>	>90%
<p style="text-align: center;"><u>Outcomes from Audit Work</u> Value to the Organisation <i>(Value of our work has been delivered by the acceptance of recommendations)</i></p>	>90%

Powys County Council Proposed Internal Audit Plan 2020/21

APPENDIX 1

It should be noted that the audit titles and high-level scopes included below are only indicative at this stage for planning our resources. At the start of each audit, an initial discussion will be held to agree the specific terms of reference for the piece of work, which includes the objective and scope for the review.

Service	Risk Assess Rank	Areas of Coverage and Brief Rationale	Audit Sponsor/ Senior Management Lead
Transformation and Communications	1	Impact Assessments	Ness Young, Director of Transformation & Resources Emma Palmer, Head of Transformation & Comms
Transformation and Communications	2	Performance Management	Ness Young, Director of Transformation & Resources Emma Palmer, Head of Transformation & Comms
Finance	3	School Budget Deficits	Ness Young, Director of Transformation & Resources Jane Thomas, Head of Finance
Social Care	4	Direct payments	Alison Bulman, Director of Social Care Michael Gray, Head of Adult Social Care
Finance	5	Creditor Payments	Ness Young, Director of Transformation & Resources Jane Thomas, Head of Finance
Finance	6	Payroll	Ness Young, Director of Transformation & Resources Jane Thomas, Head of Finance
Finance	7	Purchase cards	Ness Young, Director of Transformation & Resources Jane Thomas, Head of Finance

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Housing & Community	8	Rent	Nigel Brinn, Director of Economy, Highways, and Public Protection Nina Davies, Head of Housing and Community
Digital	9	Digital Transformation	Ness Young, Director of Transformation & Resources Diane Reynolds
Housing & Community	10	HOWPS	Nigel Brinn, Director of Economy, Highways, and Public Protection
Cross Cutting	11	Sustainability/ Climate Change / Carbon Reduction	Caroline Turner, Chief Executive
Digital	12	Cyber Security	Ness Young, Director of Transformation & Resources Diane Reynolds, Head of Digital Services
Housing & Community	13	Y Gaer, Breco	Nigel Brinn, Director of Economy, Highways, and Public Protection Nina Davies, Head of Housing and Community
Democratic	14	Effectiveness of the Scrutiny Process	Clive Piney, Head of Democratic Services
Finance	15	Ordering Goods and Services	Ness Young, Director of Transformation & Resources Jane Thomas, Head of Finance
Finance	16	Fin Reg- Compliance (cipfa assess)	Ness Young, Director of Transformation & Resources Jane Thomas, Head of Finance
Schools	17	Schools Governance - Themed Review	Caroline Turner, Chief Executive

			Lynette Lovell, Head of Schools
Finance	18	Fraud risk Assessment (TCWG)	Ness Young, Director of Transformation & Resources Jane Thomas, Head of Finance
Finance	19	Council Tax System	Ness Young, Director of Transformation & Resources Jane Thomas, Head of Finance
Schools	20	School Collaboration - Themed Review	Caroline Turner, Chief Executive Lynette Lovell, Head of Schools
Digital	21	Schools ICT	Ness Young, Director of Transformation & Resources Diane Reynolds, Head of Digital Services
Social Care	22	Corp Parenting -Missing Children Process	Alison Bulman, Director of Social Care
Social Care	23	Continuing Health Care	Alison Bulman, Director of Social Care Michael Gray, Head of Adult Social Care
Social Care	23	Payments to Providers- Soc Care	Alison Bulman, Director of Social Care
Social Care	25	Technology enabled care-cost avoidance	Alison Bulman, Director of Social Care

			Michael Gray, Head of Adult Social Care
Housing & Community	26	Statutory Compliance - Housing	Nigel Brinn, Director of Economy, Highways, and Public Protection Nina Davies, Head of Housing and Community
Planning and Public Protection	27	Statutory Compliance- Property	Nigel Brinn, Director of Economy, Highways, and Public Protection Gwilym Davies, Head of Public Protection
Social Care	28	Decision Panel	Alison Bulman, Director of Social Care
Transformation and Communications	29	LATC	Ness Young, Director of Transformation & Resources Emma Palmer, Head of Transformation & Comms
Housing & Community	30	Housing Void rental properties	Nigel Brinn, Director of Economy, Highways, and Public Protection Nina Davies, Head of Housing and Community
Schools	31	Newtown High School	Caroline Turner, Chief Executive Lynette Lovell, Head of Schools
Schools	32	Calon Cymru High School	Caroline Turner, Chief Executive Lynette Lovell, Head of Schools
Schools	33	Gwernyfed High School	Caroline Turner, Chief Executive Lynette Lovell, Head of Schools

Social Care	34	Third party Top Up - Charging and Financial enforcements	Alison Bulman, Director of Social Care Michael Gray, Head of Adult Social Care
Schools	35	Primary Schools x 10	Caroline Turner, Chief Executive Lynette Lovell, Head of Schools
Social Care	36	Corp parenting- Attendance at schools for Looked after Children	Alison Bulman, Director of Social Care
Schools	37	Grant Certification -Schools	Caroline Turner, Chief Executive Lynette Lovell, Head of Schools
Housing & Community	38	Grant Certification – Housing	Nigel Brinn, Director of Economy, Highways, and Public Protection Nina Davies, Head of Housing and Community
Public Protection	39	Grant Certification – Public Protection	Nigel Brinn, Director of Economy, Highways, and Public Protection Gwilym Davies, Head of Public Protection
Social Care	40	Early Help- Corporate parenting	Alison Bulman, Director of Social Care
Digital	41	GDPR	Ness Young, Director of Transformation & Resources Diane Reynolds, Head of Digital Services
HR	42	Workforce Future Programme	Ness Young, Director of Transformation & Resources Paul Bradshaw, Head of HR

Cross Cutting	43	Agile Decision Making	Ness Young, Director of Transformation & Resources
Social Care	44	WCCIS Records and Information	Alison Bulman, Director of Social Care
Social Care	45	Mental capacity Act or Safeguarding	Alison Bulman, Director of Social Care
HR	46	Culture and Ethics Audit	Ness Young, Director of Transformation & Resources Paul Bradshaw, Head of HR
Highways	47	H&S Management Training	Nigel Brinn, Director of Economy, Highways, and Public Protection Adrian Jervis, Head of Highways, Trans and Waste
Finance	48	No purchase No pay - Continuous Audits (using data analytics)	Ness Young, Director of Transformation & Resources Jane Thomas, Head of Finance
Highways	49	Contractor Checks	Nigel Brinn, Director of Economy, Highways, and Public Protection Adrian Jervis, Head of Highways, Trans and Waste
Fraud	50	National Fraud Initiative Co-ordinator	Section 151 Officer
Finance	51	Virements - Continuous Audits	Ness Young, Director of Transformation & Resources Jane Thomas, Head of Finance
Social Care	52	WCCIS Contract Management	Alison Bulman, Director of Social Care

Cross Cutting		Follow up Audits	TBA
Cross Cutting		Fraud / Requested Work Contingency	TBA
Support		Audit Committee/ Working Group	N/A
Support		Audit Planning/ Performance reporting	N/A
Support		Liasion Groups (WAO/CWAG/ Aud Chairs)	N/A
Support		Audit Support (e.g. AGS, Management team Attendance)	N/A

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<p>Reserve Audits <i>These audits will be used to substitute any work that cannot be progressed during the year for any reason</i></p>	<p><i>Winter Maintenance Out of County Care, Children missing From Education Homelessness Agency Staff Travel Expenses School Funding Formula School Support- Challenge Advisors Modern Slavery/ Ethical Procurement Foster Care Legal Charges – Children EDT Schools Unauthorised Absences ICT Business Continuity ECO 3</i></p>
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The Internal Audit Charter

Purpose

The purpose of this Charter is to set out the nature, role, responsibility, status and authority of internal auditing within Powys County Council, and to outline the scope of internal audit work.

Approval

This Charter is put forward for approval by the Audit Committee on 23rd March 2020 and is reviewed each year to confirm it remains accurate and up to date.

Provision of Internal Audit Services

The internal audit service is provided by the SWAP Internal Audit Services (SWAP). This charter should be read in conjunction with the Service Agreement, which forms part of the legal agreement between the SWAP partners.

The budget for the provision of the internal audit service is determined by Powys County Council at the Members Meeting. The general financial provisions are laid down in the legal agreement, including the level of financial contribution by the organisation, and may only be amended by unanimous agreement of the Members Meeting. The budget is based on an audit needs assessment that was carried out when determining the organisation's level of contribution to SWAP. This is reviewed each year by the S151 Officer in consultation with the Chief Executive of SWAP.

Role of Internal Audit

The Accounts and Audit (Wales) Regulations 2014) state that: *"A relevant body must maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control. A larger relevant body must, at least once in each year, conduct a review of the effectiveness of internal audit."*

Internal audit is an independent, objective assurance and consulting activity designed to add value and improve the Organisation's operations. It helps Powys County Council accomplish its objectives by bringing a systematic disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

Responsibilities of Management, Audit Committee and Internal Audit

Management¹

Management is responsible for ensuring SWAP has:

- the support of management and the organisation; and
- direct access and freedom to report to senior management, including the Chief Executive and the Chair and Vice Chair of the Audit Committee
- Notification of suspected or detected fraud, corruption or impropriety.

Management is responsible for maintaining internal controls, including proper accounting records and other management information suitable for running the Organisation. Management is also responsible for the appropriate and effective management of risk.

Audit Committee

The Audit Committee is responsible for approving the scope of internal audit work, receiving communications from the SWAP Assistant Director on the progress of work undertaken, reviewing the independence, objectivity, performance, professionalism and effectiveness of the Internal Audit function,

¹ In this instance Management refers to the Senior Management Team and Statutory Officers.

and obtaining reassurance from the SWAP Assistant Director as to whether there are any limitations on scope or resources.

Internal Audit

The SWAP Assistant Director, as Head of Internal Audit, is responsible for determining the scope, except where specified by statute, of internal audit work and for recommending the action to be taken on the outcome of, or findings from, their work.

Internal audit is responsible for operating under the policies established by management in line with best practice.

Internal audit is responsible for conducting its work in accordance with the mandatory elements of the Code of Ethics and Standards for the Professional Practice of Internal Auditing as set by the Institute of Internal Auditors and further guided by interpretation provided by the Public Sector Internal Audit Standards (PSIAS) and the CIPFA Local Government Application Note. SWAP has been independently assessed and found to be in Conformance with the Standards.

Internal audit is not responsible for any of the activities which it audits. SWAP staff will not assume responsibility for the design, installation, operation or control of any procedures. SWAP staff who have previously worked for the organisation will not be asked to review any aspects of their previous department's work until one year has passed since they left that area.

Relationship with the External Auditors/Other Regulatory Bodies

Internal Audit will co-ordinate its work with others wherever this is beneficial to the organisation.

Status of Internal Audit in the Organisation

The Chief Executive of SWAP is responsible to the SWAP Board of Directors and the Members Meeting. Appointment or removal of the Chief Executive of SWAP is the sole responsibility of the Members Meeting.

The Chief Executive for SWAP, the Executive Director and Assistant Director also report to the Section 151 Officer, and reports to the Audit Committee as set out below.

The Assistant Director will be the first and primary point of contact for the organisation for all matters relating to the Audit Committee, including the provision of periodic reports, as per company policy. The Assistant Director is also responsible for the design, development and delivery of audit plans, subject to the agreement of the Council.

Scope and authority of Internal Audit work

There are no restrictions placed upon the scope of internal audit's work. SWAP staff engaged on internal audit work are entitled to receive and have access to whatever information or explanations they consider necessary to fulfil their responsibilities to senior management. In this regard, internal audit may have access to any records, personnel or physical property of the organisation.

Internal audit work will normally include, but is not restricted to:

- reviewing the reliability and integrity of financial and operating information used for operational and strategic decision making, and the means used to identify, measure, classify and report such information;
- evaluating and appraising the risks associated with areas under review and make proposals for improving the management and communication of risks;
- appraise the effectiveness and reliability of the enterprise risk management framework and recommend improvements where necessary;

- assist management and Members to identify risks and controls with regard to the objectives of the organisation and its services;
- reviewing the systems established by management to ensure compliance with those policies, plans, procedures, laws and regulations which could have a significant impact on operations and reports, and determining whether the organisation is in compliance;
- reviewing the means of safeguarding assets and, as appropriate, verifying the existence of assets;
- appraising the economy, efficiency and effectiveness with which resources are employed;
- reviewing operations or programmes to ascertain whether results are consistent with established objectives and goals and whether the operations or programmes are being carried out as planned, with performance and accountabilities established.
- reviewing the operations of the organisation in support of their anti-fraud and corruption policy, ethical expectations and corporate values, investigating where necessary.
- at the specific request of management, internal audit may provide consultancy services (including fraud investigation services) provided:
 - the internal auditor's independence is not compromised
 - the internal audit service has the necessary skills to carry out the assignment, or can obtain such skills without undue cost or delay
 - the scope of the consultancy assignment is clearly defined and management have made proper provision for resources the work.
 - management understand that the work being undertaken is not internal audit work.

Planning and Reporting

SWAP will submit to the Audit Committee for approval, an annual internal audit plan, setting out the recommended scope of their work in the period.

The annual plan will be developed with reference to the risks the organisation will be facing in the forthcoming year, whilst providing a balance of current and on-going risks, reviewed on a cyclical basis. The plan will be reviewed on a quarterly basis to ensure it remains adequately resourced, current and addresses new and emerging risks.

SWAP will carry out the work as agreed, report the outcome and findings, and will make recommendations on the action to be taken as a result to the appropriate manager and Director. SWAP will report at least two times a year to the Audit Committee or as agreed. SWAP will also report a summary of their findings, including any persistent and outstanding issues, to the Internal Audit Working Group on a regular basis.

Internal audit reports will normally be by means of a brief presentation to the relevant manager accompanied by a detailed report in writing. The detailed report will be copied to the relevant line management, who will already have been made fully aware of the detail and whose co-operation in preparing the summary report will have been sought. The detailed report will also be copied to the Section 151 Officer and to other relevant line management.

The Assistant Director will submit an annual report to the Audit Committee providing an overall opinion of the status of risk and internal control within Powys County Council, based on the internal audit work conducted during the previous year.

APPENDIX 2

In addition to the reporting lines outlined above, the Chief Executive of SWAP and SWAP Directors and Assistant Directors have the unreserved right to report directly to the Leader of the Council, the Chairman of the Audit Committee, the organisation's Chief Executive Officer or the External Audit Manager.

A Move to Agile Auditing

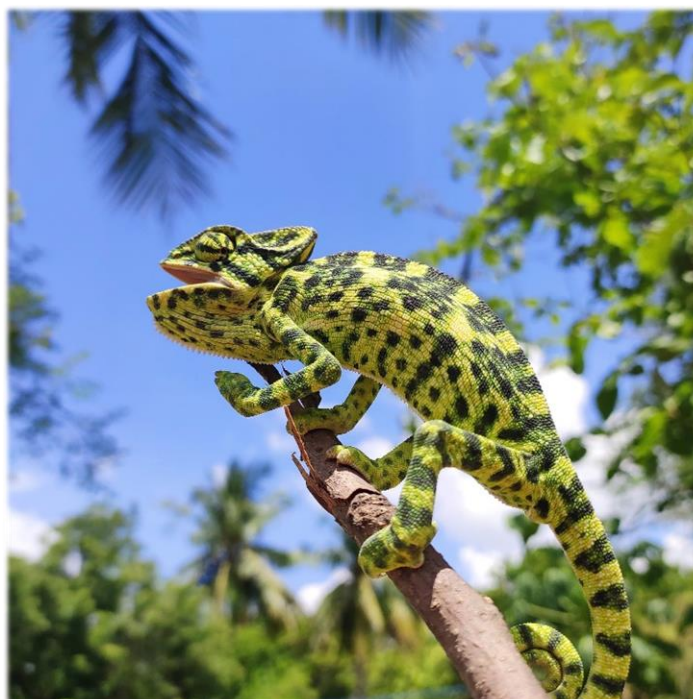
When delivering the 2020/21 Internal Audit Programme of work, as presented, we will be looking to embrace the concept of Agile Auditing.

What is Agile Auditing?

Agile Auditing breaks a typical audit engagement down into several shorter stages, with us reporting any findings as we go. It involves increased communication and collaboration with stakeholders throughout the audit process, with greater speed but also transparency. It is likely to involve a team of audit staff instead of one individual.

Why the move to it?

- We recognise that the speed of change (and subsequent risk) is increasing within our Partners. As auditors we therefore need to adapt in order to be able to react and respond quicker.
- We constantly seek ways in which we can add value to our Partners, in order to help them succeed. Increased communication and collaboration through Agile Auditing will support this.
- We also want to move towards shorter and more impactful audit reports; Agile Auditing will facilitate this.



What will it involve?

As above, an Agile audit engagement is likely to involve a small team of audit staff as opposed to one individual. This will ensure that the audit proceeds and concludes with greater pace.

Although we are likely to require more frequent interaction with staff in the area we are auditing, the interaction will be quicker and more focussed. We are confident that the overall time required from staff will actually be less than through a traditional audit approach.

We will look to discuss any audit findings with staff throughout the stages of the audit. This will ensure that by the time we come to report, we already have agreement to any proposed actions required, and even provide the opportunity for any findings to be actioned prior to the completion of our audit.

What will be the benefits?

- Ability to provide faster assurance
- Enhanced ability to add value
- Audit observations resolved more quickly
- Shorter, more impactful audit reports
- Reduced negotiations at audit report start

We hope you support our move towards Agile Auditing.

If you would like to discuss the concept in more detail, please speak to your SWAP contact.

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WALES AUDIT OFFICE
SWYDDFA ARCHWILIO CYMRU

Archwilydd Cyffredinol Cymru
Auditor General for Wales

2020 Audit Plan – Powys County Council

Audit year: 2019-20

Date issued: March 2020

Document reference: 1801A2020-21

This document has been prepared as part of work performed in accordance with statutory functions.

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In the event of receiving a request for information to which this document may be relevant, attention is drawn to the Code of Practice issued under section 45 of the Freedom of Information Act 2000. The section 45 Code sets out the practice in the handling of requests that is expected of public authorities, including consultation with relevant third parties. In relation to this document, the Auditor General for Wales, the Wales Audit Office and, where applicable, the auditor acting on behalf of the Auditor General are relevant third parties. Any enquiries regarding disclosure or re-use of this document should be sent to the Wales Audit Office at infoofficer@audit.wales.

We welcome correspondence and telephone calls in Welsh and English. Corresponding in Welsh will not lead to delay. Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg a Saesneg. Ni fydd gohebu yn Gymraeg yn arwain at oedi.

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2020 Audit Plan

Our duties

- 1 We complete work each year to meet the following duties.

Audit of financial statements

- 2 Each year we audit Powys County Council's (the Council) financial statements to make sure that public money is being properly accounted for.

Value for money

- 3 The Council has to put in place arrangements to get value for money for the resources it uses, and we have to be satisfied that it has done this.

Continuous improvement

- 4 The Council also has to put in place arrangements to make continuous improvements and we also check if it has done this.

Sustainable development principle

- 5 Public bodies need to make sure that when making decisions they consider the impact they could have on people living in Wales now and in the future. We have to assess the extent to which they are doing this.

Audit of financial statements

- 6 It is my responsibility to issue a certificate and report on the financial statements which includes an opinion on their 'truth and fairness':
 - we plan to give an opinion on the Council's financial statements by 15 September 2020.
 - assess whether the Council's Annual Governance Statement and Narrative Report were prepared in line with the CIPFA Code and relevant guidance. We also review whether they were consistent with the financial statements prepared by the Council and with our knowledge of the Council.
- 7 In addition to our responsibilities for auditing the Council's financial statements, we also have responsibility for:
 - certifying a return to the Welsh Government which provides information about the Council to support preparation of Whole of Government Accounts;
 - responding to questions and objections about the accounts from local electors (additional fees will be charged for this work, if necessary);
 - auditing the Council's pension fund accounts (a separate audit plan has been prepared for the audit of the pension fund) by 15 September 2020; and

- the certification of a number of grant claims and returns by various dates agreed with the funding bodies.
- 8 There have been no limitations imposed on me in planning the scope of this audit.
- 9 Further information about our work is provided in our Statement of Responsibilities, which is available on our website (www.audit.wales).

Financial Statement Audit Risks

10 The following table sets out the significant risks I have identified for the audit of the Council.

Exhibit 1: financial statement audit risks

This table summarises the key financial statement audit risks identified at the planning stage of the audit.

Audit risk	Proposed audit response
Significant risks	
<p>The risk of management override of controls is present in all entities. Due to the unpredictable way in which such override could occur, it is viewed as a significant risk [ISA 240.31-33].</p>	<p>My audit team will:</p> <ul style="list-style-type: none"> • test the appropriateness of journal entries and other adjustments made in preparing the financial statements; • review accounting estimates for biases; and • evaluate the rationale for any significant transactions outside the normal course of business
<p>New financial system</p> <p>The Council has implemented a new financial system from 1 April 2019 from which the financial statements will be produced. As part of this implementation the Council had introduced a new chart of accounts and coding structure. In addition, the Council has changed the way it reports its financial information internally and to Cabinet following changes to its senior management structure.</p> <p>As the Comprehensive Income and Expenditure Statement (CIES) and Expenditure and Funding (EFA) statement are required to be prepared in line with the internal reporting structure, the prior year's CIES and EFA will need to be restated.</p>	<p>My audit team will ensure that:</p> <ul style="list-style-type: none"> • all balances from the previous financial ledger have been transferred accurately to the new system; • the new chart of accounts and coding structure allows the financial statements to be prepared on a consistent basis to the prior year; • ensure that there are appropriate interface procedures and controls in place between the material feeder systems and the new ledger; and • the restated CIES and EFA balances are reported accurately in line with the revised reporting structure.

Audit risk	Proposed audit response
Other areas of audit attention	
<p>Revaluation of Council Properties</p> <p>A fifth of the Council owned land and buildings will be subject to revaluation as at 31 March 2020 in order to comply with the requirement of the CIPFA Code of Practice. As these assets were last revalued five years ago, it is possible that the 2020 revaluation exercise could result in material movements on the Council's Balance Sheet.</p>	<p>My audit team will:</p> <ul style="list-style-type: none"> • review management's processes and assumptions for the calculation of the estimate, including review of the work performed by management experts; • review the competence, expertise and objectivity of any management experts used; • undertake testing to ensure information on revaluations is correctly input to the Council's Fixed Asset Register; and • evaluate management's processes to ensure the carrying value of assets not revalued during the year is not materially different from the current value at the balance sheet date.
<p>McCloud judgement</p> <p>In 2015 the Government introduced reforms to public sector pensions, meaning most public sector workers were moved into new pension schemes in 2015.</p> <p>In December 2018, the Court of Appeal ruled that the 'transitional protection' offered to some members of the judges' and firefighters' schemes, as part of the reforms, amounted to unlawful discrimination. On 15 July 2019 the Government announced that they accept that the judgment applies to all of the main public service pension schemes.</p> <p>The impact of the judgement is likely to have a significant impact on the IAS 19 disclosed liabilities.</p>	<p>My audit team will review the provision made in relation to the McCloud judgement and monitor progress on the development of proposals for a remedy to be applied in the LG pensions scheme.</p>
<p>Impact of IFRS16</p> <p>The Introduction in 2020-21 of 'International Financial Reporting Standard 16 Leases' may pose implementation risks if the Council Board has not made good progress to date with its preparatory work.</p>	<p>My team will undertake some early work to review preparedness for the introduction of IFRS 16 Leases.</p>

Performance audit

- 11 In addition to our Audit of Financial Statements we also carry out a programme of performance audit work to discharge the Auditor General's duties set out on [page 4](#) in relation to value for money, continuous improvement and sustainable development. For 2020-21 this work is set out below.

Exhibit 2: Performance Audit Programme 2020-21

This table summarises the performance audit programme for 2020-21.

Performance audit programme	Brief description
Improvement audit and assessment work including improvement planning and reporting audit	Audit of discharge of duty to publish an improvement plan, and to publish an assessment of performance.
Well-being of Future Generations Act (Wales) 2015 (WFG Act) examination	A project common to all local councils that will focus on the theme of 'prevention'.
Assurance and Risk Assessment	Project to identify the level of audit assurance and/or where further audit work may be required in future years in relation to risks to the Council putting in place proper arrangements to secure value for money in the use of resources.
Financial Sustainability	A project common to all local councils that will assess financial sustainability in light of current and anticipated future challenges building on work undertaken during 2019-20.
Vision 2025 Follow Up	Transformation remains a crucial focus for the Council as a means of delivering its corporate improvement objectives and Medium-Term Financial Strategy. This project aims to gain further insight and assurance relating to the Council's delivery of its transformation programme.
Scrutiny Follow Up	This project aims to follow up on our 2018 Scrutiny report and review the new scrutiny arrangements implemented by the Council in 2019. This review is to be conducted jointly with SWAP and the Council.
Corporate Safeguarding Arrangements	A project aimed at reviewing the effectiveness of corporate safeguarding arrangements building on the study previously undertaken by the Auditor General in this area.

Certification of grant claims and returns

- 12 I have been requested to undertake certification work on the Council's grant claims and returns.
- 13 The number of grant claims that are required to be audited by the Welsh Government for 2019-20 are less than in previous years.
- 14 My estimated audit fee for this work is set out in [Exhibit 3](#).

Fee, audit team and timetable

- 15 My fees and planned timescales for completion of the audit are based on the following assumptions:
- the financial statements are provided in accordance with the agreed timescales, to the quality expected and have been subject to a robust quality assurance review;
 - information provided to support the financial statements is in accordance with the agreed audit deliverables document;
 - appropriate accommodation and facilities are provided to enable my audit team to deliver the audit in an efficient manner;
 - all appropriate officials will be available during the audit;
 - you have all the necessary controls and checks in place to enable the Responsible Financial Officer to provide all the assurances that I require in the Letter of Representation addressed to me; and
 - Internal Audit's planned programme of work is complete and management has responded to issues that may have affected the financial statements.
- 16 If I do receive questions or objections, I will discuss any potential impact on audit fees at the time.

Fee

- 17 Your estimated fee for 2020 is set out in **Exhibit 3** below. There have been some small changes to my fees rates for 2020, however, my audit teams will continue to drive efficiency in their audits to ensure any resulting increases will not be passed to you. This represents a 5.3% decrease compared to your actual 2019 fee, primarily due to a reduction in the number of grant claims that are required to be audited.

Exhibit 3: audit fee

This table sets out the proposed audit fee for 2020, by area of audit work, alongside the actual audit fee for last year.

Audit area	Proposed fee (£) ¹	Actual fee last year (£)
Audit of accounts ²	207,830	207,830
Performance audit work ³	110,090	110,180
Grant certification work ⁴	£50,000	70,688
Total fee	367,920	388,698

- 18 Planning will be ongoing, and changes to my programme of audit work and therefore my fee, may be required if any key new risks emerge. I shall make no changes without first discussing them with the Council.
- 19 Further information on my [fee scales and fee setting](#) can be found on our website.

Audit team

- 20 The main members of my team, together with their contact details, are summarised in [Exhibit 4](#).

¹ Notes: The fees shown in this document are exclusive of VAT, which is not charged to you.

² Payable November 2019 to October 2020.

³ Payable April 2020 to March 2021.

⁴ Payable as work is undertaken.

Exhibit 4: my audit team

This table lists the members of the local audit team and their contact details.

Name	Role	Contact number	E-mail address
Anthony Veale	Engagement Director and Engagement Lead – Financial Audit	02920 320585	anthony.veale@audit.wales
Huw Rees	Engagement Lead – Performance Audit	02920 320599	huw.rees@audit.wales
Phil Pugh	Audit Manager (Financial Audit)	02922 677839	phil.pugh@audit.wales
David Burridge	Audit Lead (Financial Audit)	02922 677839	david.burridge@audit.wales
Lisa Williams	Audit Manager (Performance Audit)	07970 246975	lisa.williams@audit.wales

Timetable

- 21 Financial accounts work will be undertaken over the period February to September 2020. The timing and exact scope of individual performance audit projects will be confirmed by the Audit Manager with responsibility for performance audit work in due course.
- 22 There is one potential conflict of interest that I wish to bring to your attention. This relates to a member of my financial audit team who holds a voluntary role as Treasurer of a charity which has a contract to provide a service within Adult Social Care. I have introduced appropriate arrangements to ensure that this officer does not undertake any audit work in respect of this area of the Council's operations. I can confirm that, with the exception of the above, all other members of my team are independent of the Council and your officers.

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WALES AUDIT OFFICE
SWYDDFA ARCHWILIO CYMRU

Archwilydd Cyffredinol Cymru
Auditor General for Wales

2020 Audit Plan – Powys Pension Fund

Audit year: 2019-20

Date issued: March 2020

Document reference: 1802A2020-21

This document has been prepared as part of work performed/to be performed in accordance with statutory functions. Further information on this is provided in [Appendix 1](#).

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2020 Audit Plan

Summary

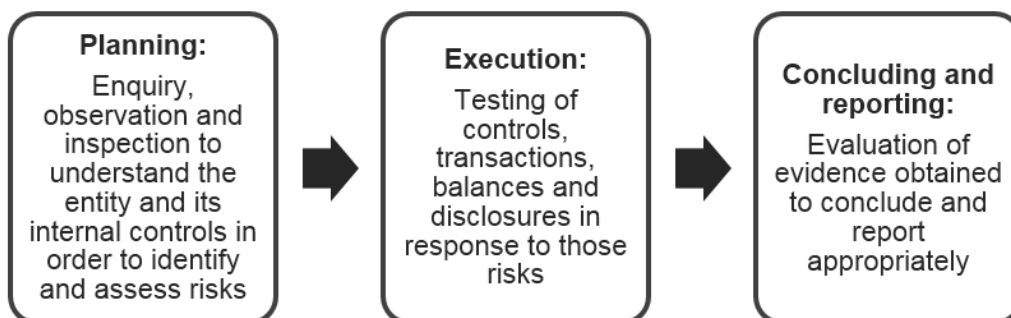
- 1 As your external auditor, my objective is to carry out an audit which discharges my statutory duties as Auditor General and fulfils my obligations under the Code of Audit Practice to examine and certify whether Powys Pension Fund (the Pension Fund) accounting statements are 'true and fair'.
- 2 The purpose of this plan is to set out my proposed work, when it will be undertaken, how much it will cost and who will undertake it.
- 3 There have been no limitations imposed on me in planning the scope of this audit.
- 4 My responsibilities, along with those of management and those charged with governance, are set out in [Appendix 1](#).

Audit of Pension Fund accounts

- 5 The audit work I undertake to fulfil my responsibilities responds to my assessment of risks. This understanding allows us to develop an audit approach which focuses on addressing specific risks whilst providing assurance for the Pension Fund accounts as a whole. My audit approach consists of three phases as set out in [Exhibit 1](#).

Exhibit 1: my audit approach

This table summarises the three phases of my financial audit approach, being planning, testing and reporting.



- 6 The risks of material misstatement which I consider to be significant and which therefore require special audit consideration, are set out in [Exhibit 2](#) along with the work I intend to undertake to address them. Also included are other key areas of audit attention my team will be focusing on.

Exhibit 2: financial audit risks

This table summarises financial audit risks and the corresponding audit work planned in response.

Financial audit risks	Proposed audit response
Significant risks	
<p>Management Override</p> <p>The risk of management override of controls is present in all entities. Due to the unpredictable way in which such override could occur, it is viewed as a significant risk [ISA 240.31-33].</p>	<p>My audit team will:</p> <ul style="list-style-type: none"> • test the appropriateness of journal entries and other adjustments made in preparing the financial statements; • review accounting estimates for biases; • evaluate the rationale for any significant transactions outside the normal course of business;
Other areas of audit attention	
<p>Wales Pension Partnership</p> <p>The eight Pension Funds in Wales have created an ‘all-Wales’ pooled investment vehicle which will be overseen and reported on by a joint governance committee: the Wales Pension Partnership.</p> <p>2019-20 will be the first year that this joint committee will produce full financial statements overseen by the Carmarthenshire County Council Finance Department.</p> <p>Powys Pension Fund transferred £72 million of funds into this new arrangement during 2018-19 and a further £37.4 million during 2019-20.</p> <p>We understand that a consistent disclosure note will be provided to all Pension Funds by the lead authority for inclusion in individual pension fund financial statements.</p>	<p>My team will work with the auditors of the joint governance committee to:</p> <ul style="list-style-type: none"> • obtain the assurances needed on the valuation of the funds transferred into the Wales Pension Partnership arrangement; and • obtain the assurances needed on the disclosure note provided for individual pension funds by the lead authority.

Financial audit risks	Proposed audit response
Other areas of audit attention	
<p>Investment Management</p> <p>The systems and records of the investment managers generate account entries made to the Pension Fund Account and Net Assets Statement.</p> <p>The investment managers provide internal control reports on the investments held on behalf of the Pension Fund. These are independently audited and provide the Pension Fund with assurance on a wide range of controls eg the valuation of the investment portfolio held.</p> <p>There is a risk that the internal control reports will not be available in the necessary timescales and, when received, highlight specific control weaknesses.</p>	<p>My audit team will:</p> <ul style="list-style-type: none"> • assess the investment managers as a service organisation; • check that investments have been made in accordance with the Investment Strategy Statement; • obtain direct confirmation from the investment managers and custodian of year-end investment balances and holdings; and • assess whether the investment managers' internal control reports for all investment managers provide assurance over a wide range of relevant controls, including the valuation of investments held.
<p>Private Equity Investments</p> <p>The year-end valuation of private equity investments is provided by investment managers which are based on forward looking estimates and judgements and industry guidelines. With no quoted market price information, there is greater risk with regard to the reasonableness of the valuation basis of these investments.</p>	<p>My audit team will:</p> <ul style="list-style-type: none"> • confirm the reasonableness of the estimation basis of the value of these investments included within the financial statements; and • seek additional assurance over the valuation basis from control assurance reports where available.
<p>McCloud Judgement</p> <p>In 2015 the Government introduced reforms to public sector pensions, meaning most public sector workers were moved into new pension schemes.</p> <p>In December 2018, the Court of Appeal ruled that the 'transitional protection' offered to some members of the judges' and firefighters' schemes, as part of the reforms, amounted to unlawful discrimination.</p> <p>On 15 July 2019 the Government announced that they accept the judgement applies to all of the main public service pension schemes.</p>	<p>My audit team will:</p> <ul style="list-style-type: none"> • review the provision made by the actuary in relation to the McCloud judgement and monitor progress on the development of proposals for a remedy to be applied in the Local Government Pension Scheme; and • ensure that this is adequately disclosed in the financial statements.

Financial audit risks	Proposed audit response
<p>The impact of the judgement is likely to have a significant impact on the IAS19 liabilities and there is a risk that this is not adequately disclosed in the financial statements.</p>	
<p>Guaranteed Minimum Pension (GMP)</p> <p>GMPs were the minimum pensions employers had to provide when they opted their employees out of the State Earnings Related Pensions Scheme (SERPS) between 1978 and 1997, usually through a defined benefit scheme.</p> <p>GMPs were calculated by reference to state pension age which used to be 60 for women and 65 for men. That made pension payments unequal and contravened the 1990 Barbour judgement.</p> <p>The 2018 Lloyds Banking Group judgement has provided clarification on whether and how GMPs should be equalised and creates an obligation to equalise GMPs dating back to 1990.</p> <p>No allowances have previously been made for GMPs in pension liability calculations as HM Treasury made an announcement in 2019 that public service schemes already had a method in place to achieve equalisation. However, further guidance is anticipated in the coming months, including relating to the calculation of indexation/pension increases on GMPs.</p> <p>There is a risk that appropriate allowances are not made in 2019-20 pension liability calculations for the impact of GMPs.</p>	<p>My audit team will:</p> <ul style="list-style-type: none"> • review any provision made by the actuary relating to the outstanding GMP issues and monitor progress on the development of guidance and clarification of the potential impact; and • ensure that this is adequately disclosed in the financial statements.

7 I do not seek to obtain absolute assurance that the Pension Fund accounting statements are true and fair but adopt a concept of materiality. My aim is to identify material misstatements, that is, those that might result in a reader of the accounts being misled. The levels at which I judge such misstatements to be material will be reported to the Audit Committee as those charged with governance for the

administering authority of the Pension Fund as a whole, prior to completion of the audit.

- 8 For reporting purposes, I will treat any misstatements below a trivial level (set at 5% of materiality) as not requiring consideration by those charged with governance and therefore I will not report them.
- 9 My fees and planned timescales for completion of the audit are based on the following assumptions:
- the financial statements are provided in accordance with the agreed timescales, to the quality expected and have been subject to a robust quality assurance review;
 - information provided to support the financial statements is in accordance with the agreed audit deliverables document¹;
 - appropriate accommodation and facilities are provided to enable my audit team to deliver my audit in an efficient manner;
 - all appropriate officials will be available during the audit;
 - you have all the necessary controls and checks in place to enable the Responsible Financial Officer to provide all the assurances that I require in the Letter of Representation addressed to me; and
 - Internal Audit's planned programme of work is complete, and management has responded to issues that may have affected the financial statements.

Statutory audit functions

- 10 In addition to the audit of the accounts, I have statutory responsibilities to receive questions and objections to the accounts from local electors. These responsibilities are set out in the Public Audit (Wales) Act 2004:
- Section 30 Inspection of documents and questions at audit; and
 - Section 31 Right to make objections at audit.
- 11 Audit fees will be chargeable for work undertaken in dealing with electors' questions and objections. Because audit work will depend upon the number and nature of any questions and objections, it is not possible to estimate an audit fee for this work.
- 12 If I do receive questions or objections, I will discuss potential audit fees at the time.

¹ The agreed audit deliverables document sets out the expected working paper requirements to support the financial statements and include timescales and responsibilities.

Fee, audit team and timetable

Fee

- 13 Your estimated fee for 2020 is set out in [Exhibit 3](#). There have been some changes to my fee rate structure for 2020, however, my audit teams will continue to drive efficiency in their audits to ensure any resulting increases will not be passed onto you. The estimated fee for 2020 is in line with the actual fee for 2019.

Exhibit 3: audit fee

This table sets out the proposed audit fee for 2020 alongside the actual audit fee for 2019.

	Proposed fee for 2020 (£) ²	Actual fee for 2019 (£)
Audit of pension fund accounts	34,599	34,599

- 14 Planning will be ongoing, and changes to my programme of audit work and therefore my fee, may be required if any key new risks emerge. I shall make no changes without first discussing them with the Head of Financial Services.
- 15 Further information on my [fee scales and fee setting](#) can be found on our website.

Audit team

- 16 The main members of my team, together with their contact details, are summarised in [Exhibit 4](#).

Exhibit 4: my audit team

This table lists the members of the local audit team and their contact details.

Name	Role	Contact number	E-mail address
Anthony Veale	Engagement Lead – Financial Audit	02920 320585	anthony.veale@audit.wales
Phil Pugh	Financial Audit – Audit Manager	02922 677837	phil.pugh@audit.wales
Gareth Rees	Audit Lead – Senior Auditor	02921 051815	gareth.rees@audit.wales

² The fees shown in this document are exclusive of VAT, which is not charged to you.

17 I can confirm that my team members are all independent of the Pension Fund and its officers. In addition, I am not aware of any potential conflicts of interest that I need to bring to your attention.

Timetable

18 I will provide reports, or other outputs as agreed, to the Pension and Investment Committee, Audit Committee and Council covering the areas of work identified in this document. My key milestones are set out in [Exhibit 5](#).

Exhibit 5: timetable

Planned output	Work undertaken	Report finalised
2020 Audit Plan	December 2019 to March 2020	March 2020
Financial accounts work: <ul style="list-style-type: none"> • Audit of Financial Statements Report • Opinion on Financial Statements • Opinion on Pension Fund Annual Report 	February to August 2020 September 2020 October 2020	September 2020 September 2020 October 2020
2021 Audit Plan	December 2020 to March 2021	March 2021

Future developments to my audit work

19 Details of other future developments including the Wales Audit Office's Good Practice Exchange (GPX) seminars and my planned work on the readiness of the Welsh public sector for Brexit are set out in [Appendix 2](#).

Appendix 1

Respective responsibilities

The Council is the administering authority of the Pension Fund. This Audit Plan has been prepared to meet the requirements of auditing standards and proper audit practices. It provides the Council with an outline of the financial audit work required for the Pension Fund accounts.

As amended by the Public Audit (Wales) Act 2013, the Public Audit (Wales) Act 2004 sets out my powers and duties to undertake your financial audit. It is my responsibility to issue a certificate and report on the Pension Fund accounting statements which includes an opinion on their 'truth and fairness', providing assurance that they:

- are free from material misstatement, whether caused by fraud or error;
- comply with the statutory and other applicable requirements; and
- comply with all relevant requirements for accounting presentation and disclosure.

My audit work does not relieve management and those charged with governance of their responsibilities which include:

- the preparation of the financial statements and Annual Report in accordance with applicable accounting standards and guidance;
- the keeping of proper accounting records;
- ensuring the regularity of financial transactions; and
- securing value for money in the use of resources.

Management agrees to provide me with:

- access to all information of which management is aware that is relevant to the preparation of the financial statements such as records, documentation and other matters;
- additional information that I may request from management for the purpose of the audit; and
- unrestricted access to persons within the authority from whom I determine it necessary to obtain audit evidence.

Management will need to provide me with written representations to confirm:

- that it has fulfilled its responsibilities for the preparation of the financial statements;
- that all transactions have been recorded and are reflected in the financial statements;
- the completeness of the information provided to me for the purposes of the audit; and
- to support other audit evidence relevant to the financial statements or specific assertions in the financial statements if I deem it necessary or if required by ISAs.

Appendix 2

Other future developments

A. Good Practice Exchange

The Wales Audit Office's GPX helps public services improve by sharing knowledge and practices that work. Events are held where knowledge can be exchanged face to face and resources shared online. The main areas of work are regarding financial management, public-sector staff and governance. Further information, including details of forthcoming GPX events and outputs from past seminars can be found on the [GPX section of the Wales Audit Office website](#).

B. Brexit: preparations for the United Kingdom's departure from membership of the European Union

The Auditor General has reported on preparations in Wales for a 'no-deal Brexit', publishing a report in February 2019 and a follow-up letter to the External Affairs and Additional Legislation Committee in September 2019. At the time of reporting, there was a possibility that the UK would leave the EU without a Withdrawal Agreement in place (the no-deal scenario), which would potentially have had significant consequences for Welsh public services and the wider economy and society.

Following the general election, the United Kingdom ceased membership of the European Union on 31 January 2020 under the terms of the Withdrawal Agreement concluded between the EU and UK in October 2019. The next phase will involve negotiating and agreeing the future relationship between the UK and EU.

There will be a transition period to 31 December 2020, during which the UK will continue to participate in EU programmes and follow EU regulations. The Withdrawal Agreement provides for the transition period to be extended by up to two years, with the agreement of the UK and EU. The deadline for agreeing to extend the transition period is 30 June 2020. The UK Government has said that it does not intend to extend the transition period.

Despite there being an agreement on the terms of withdrawal, there remain some significant uncertainties:

- given the very tight timetable for reaching agreement, there is a possibility of the UK leaving the transition period at the end of 2020 without an agreement about the future relationship in place. In this scenario many of the issues previously identified around a 'no-deal Brexit', such as disruption to supply chains, would arise again.
- the UK Government's position of seeking a future relationship based on a free trade agreement (rather than a closer relationship aligned to the single market) has implications that are not yet clear but which create opportunities and risks for Wales' economy, society and environment.

- there are also significant unresolved constitutional questions around how powers in areas where devolved governments were directly applying EU law, such as regional development and agriculture, will be exercised across the UK after the transition period.

In light of these uncertainties, the Auditor General will continue to keep a watching brief over developments and will make a decision later in the year as to what, if any, further work is required to look at public bodies' preparations for either a new relationship or a no-trade-deal exit from the transition period.

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CYNGOR SIR POWYS COUNTY COUNCIL

Finance Panel 20th March
and Audit Committee 23rd March 2020

REPORT AUTHOR: Head of Finance

SUBJECT: Cost Reductions and Avoidance Report as at 31st January 2020

REPORT FOR: Information

1 Purpose

- 1.1. To provide an update on the delivery of 2019-20 cost reductions and avoidance measures as at 31 January 2020.

2 Background

- 2.1. The 2019-20 budget includes approved cost reduction proposals of £12.99 million, which includes £1.88 million of proposals that were planned but not delivered in previous financial years.
- 2.2. The 2019-20 budget also included £8.70 million of cost avoidance measures in Adult Services and Children's Services, to mitigate anticipated cost and demand pressures facing these services.
- 2.3. Appendix A sets out the value of proposals to be delivered by each service, the amount expected to be achieved in 2019-20 and the amount outstanding.
- 2.4. In December 2019 the Finance Panel requested a report to set out any cost reduction or avoidance proposals that would not be delivered in 2019-20, explaining the reasons for non-delivery and subsequent action.

3. Advice

- 3.1 In total the 2019-20 budget included cost reduction or avoidance measures of £21.69 million - £14.95 million had been achieved as at 31 January 2020, comprising £9.33 million in cost reductions (71.8% of £12.99 million) and £5.62 million in costs avoided (64.6% of £8.70 million). A further £1.30 million is expected to be delivered by 31 March 2020 - £0.60 million in cost reductions and £0.70 million in cost avoidance. This would bring the total delivered in 2019-20 to £16.25 million (74.9%).
- 3.2 As at 31 January 2020 £3.06 million of cost reductions were not expected to be delivered in 2019-20 and £2.38 million of costs in Social Services were not expected to be avoided.

- 3.3 £300k of the cost reductions achieved in 2019-20 are not delivered on a permanent basis as they have been funded by a temporary source of funding. These remain unachieved for 2020-21.
- 3.4 A further £1.475 million of savings are expected to be delivered in 2020-21. Leaving £4.26 million permanently undelivered.
- 3.5 The table below summaries the proposals, the reason for non-delivery and action that is being taken. Further detail is shown in Appendix B.

Table 1

Ref	Description of proposal	Amount (£)	Reason for non-delivery	Action
Cost Reductions:				
18/19 b/f	Increase income Roadmaster	35,170	Over ambitious income target	Reinstate budget
18/19 b/f	Reduce HTR sickness costs	100,000	Unrealistic with existing T&Cs	Reinstate budget
18/19 b/f	Reduce 3 rd party HTR cost	50,000	Over ambitious income target	Reinstate budget
HTP10	HTR Transformation	467,850	Identified late in 2019-20 budget setting process, unrealistic proposal not developed by the service	Reinstate £400,000 Deliver £67,850 in 2020-21
LRP04	Increase catering income	230,000	Over ambitious income target	Reinstate budget
CEP02	Reduce leisure service senior management	100,000	Identified late in 2019-20 budget setting process, unrealistic proposal not developed by the service	Reinstate budget
PRP07	Regeneration Review	150,000	Grant Funding application was not successful in 2019/20. No alternative proposal developed.	Reinstate budget
CEP02	Property Management savings	200,000	Identified late in 2019-20 budget setting process, unrealistic proposal not developed by the service	Reinstate budget
TSP05	Increase Trading Standards income	20,000	Delay in Welsh Government plans	Reinstate budget
PRP05	Reduce cleaning costs	75,000	Proposals not progressed by the service	Reinstate budget
18/19 b/f	Increase income from HOWPS	75,540	Over ambitious income target	Reinstate budget

CEP02	Valuation Staff savings	100,000	Identified late in 2019-20 budget setting process, unrealistic proposal not developed by the service	Reinstate budget
ODP01	Reduce corporate training budget	200,000	Identified late in 2019-20 budget setting process, unrealistic proposal not developed by the service	Reinstate budget
18/19 b/f	Children's Services cost saving	98,000	Carried forward from 2018-19 without delivery plan	Reinstate budget
FSP02	Internal finance charge	123,000	Change of policy	Reinstate budget
SCP20	Increase in catering income	120,000	Duplicate proposal (ref LRP04)	Reinstate budget
Total cost reductions undelivered		2,144,560		
Cost Avoidance:				
	Transforming respite service	400,000	Provision changed to accommodate high need individual	Reinstate budget
	Transfer transport costs	100,000	Cost shunting between services	Reinstate budget
	Reduce Children's legal costs	203,000	Unrealistic proposal based on 2018-19 spend	Reinstate budget
	Reduce Children Looked After Costs	1,000,000	Strategy did not result in reduced cost however the overall number of placements reduced.	Reinstate budget
	Invest to save - fostering	63,000	Proposal not developed	Reinstate budget
	Reduce agency costs	350,000	Workforce Strategy now developed but not impacting on 2019-20 to realise savings	Reinstate budget
Total costs not avoided		2,116,000		
TOTAL NOT DELIVERED		4,260,560		

3.6 The reinstating of these budgets ensures that the budget for 2020-21 is sustainable.

3.7 The Finance Team has undertaken a review of the impact assessments completed for the 2019-20 budget and have found that the assessments tended to focus on the impact of proposals on residents and communities rather than on the risks around their implementation. As such the reasons for potential non-delivery were not identified in the risk assessments for the proposals highlighted in Table 1 above.

3.8 The quality of Impact Assessments has improved in the 2020-21 budget development process and there was more rigorous challenge and scrutiny of proposals this year. Several budget challenge events have been held with officers to test the deliverability of each proposal, this includes Cabinet, the Executive Management Team and Scrutiny Committees. That said there is still room for further improvement. The Senior Leadership Team will review the 2019-20 and 2020-21 impact assessments in the first half of 2020-21 to learn lessons and design a quality assurance process ahead of the 2021-22 budget round.

4. **Resource Implications**

There are no financial implications arising from this report which is for information. Provision for the reinstating of these budgets has been approved within the budget approved for 2020-21.

5. **Legal Implications**

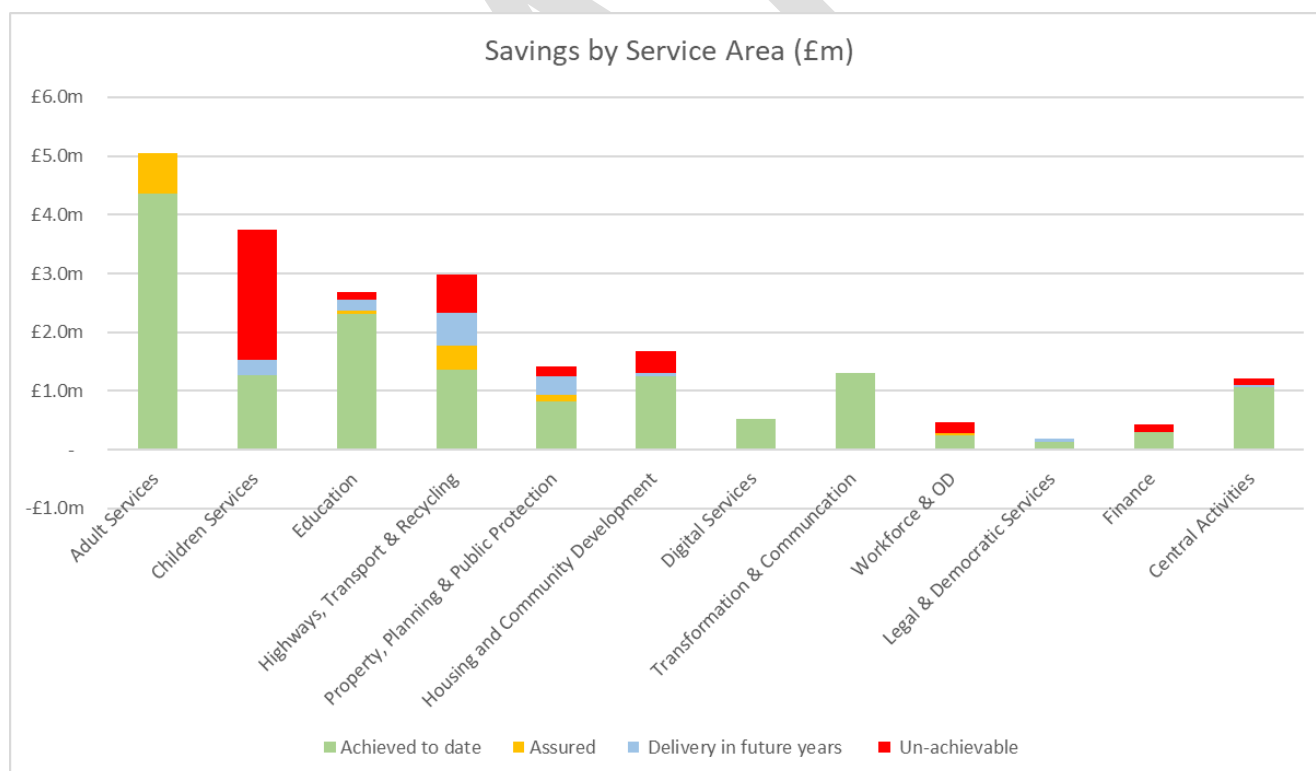
There are no legal implications arising from this report.

6. **Recommendation**

The Finance Panel / Audit Committee is invited to note and comment on this report.

Appendix A – Table Showing Savings Delivery 2019-20 (as at 31st January 2020)

Service	Total To Be Achieved	Actually Achieved	Assured	Delivery in future years	Un-achievable	% Achieved 19/20
Children Services	98	-	-	-	98	-
Education	2,681	2,319	45	197	120	86%
Highways, Transport & Recycling	2,986	1,364	410	559	653	46%
Property, Planning & Public Protection	1,421	819	119	313	171	58%
Housing and Community Development	1,678	1,248	-	50	380	74%
Digital Services	530	530	-	-	-	100%
Transformation & Communcation	1,302	1,302	-	-	-	100%
Workforce & OD	473	247	26	-	200	52%
Legal & Democratic Services	183	131	-	52	-	72%
Finance	430	307	-	-	123	71%
Central Activities	1,207	1,062	-	45	100	88%
Total	12,989	9,329	600	1,215	1,845	72%
Memo Items						
Adult Efficiencies	5,052	4,350	702	(0)	(0)	86%
Childrens Efficiencies	3,651	1,275	-	260	2,116	35%
Total	8,703	5,625	702	260	2,116	65%
Savings achieved by temporary one year funding					300	
Overall Total	21,692	14,953	1,303	1,475	4,261	69%



Appendix B – Undelivered Savings and Reasons for non achievement			
Service	Undelivered Savings - Explanation	Impact Assessment Comment	£K
HTR	<p>£185,170 - This is an element of the savings carried over from 18/19 (total c/f £840,610). The permanent reduction is made up of shortfall of £35,170 income generation for the Roadmaster machines, £100,000 shortfall against reduced sickness absence costs and £50,000 against reduction of 3rd party cost.</p> <p>The income target for the Roadmaster machines was over ambitious, especially with the reduced revenue budget available for highway maintenance and the increased reliance and use of the machines to meet our statutory duty. They were introduced into the service for this very reason and have produced significant savings. We will continue to look at market/income opportunities but it would be a case of procuring an additional machine, which there is insufficient confidence for at present. Sickness absence has been reduced and savings have been realised, but it is considered that the target carried forward (and subsequently increased for 19/20 is unrealistic within the parameters of our policies and in comparison to other authorities performance. The target for 3rd party spend is unachievable after exhausting avenues through working with our commissioning team and other WG consultants. Although some savings have been achieved, and there are potential other gains that have arisen from the work with companies, it is unrealistic to bank on any further saving at present.</p>	<p>The impact assessment was not written at a level of detail that shows a particular risk against these specific projects.</p>	653
	<p>£467,850 - This is the undeliverable element of the £1,106,280 Transformational savings (ref HTP 10). Much has and continues to be achieved through our drive on improving attendance, driver behaviour (reduced damage & fuel use), changes in work patterns being introduced through the year and again next year, expected but delayed increase in Sustainable Drainage application fees and income, changes to Winter service delivery. The undeliverable element is made up of £67,850 against increased 3rd Party spend target; with similar reasoning outlined above, increase sickness absence cost reduction; as above, although an improvement has been made it is unrealistic to bank on any additional. The remaining £400k is the increased saving allocated to HTR out of the £3M budget shortfall.</p>	<p>The impact assessment written in 2018 does not suggest there is a significant risk of non delivery of these savings, the IA sets out the following risks to delivery:</p> <ul style="list-style-type: none"> Improvement achieved does not meet forecast / target is too ambitious Deter usage of services where prices are increased Unable to secure new markets for services <p>The IA does not forewarn about the difficulties in delivering this saving, although it does mention the undelivered savings from 2018/19 - and some of those savings expectations are replicated in 2019/20 such as third party savings and staff sickness</p>	
HCD	<p>£230,000 - Income gen and reduce food waste . Catering Service are monitoring data closely. Unfortunately, at present, the service is trying to rectify coding errors on parentpay which is causing problems with up to date financial information in respect of school meal income. There has undoubtedly been a downwards trend in school meal takeup which has continued through this financial year. The service are looking to offer alternative school meal offers in order to try and increase demand and are working to improve marketing and promotion. The food offer in County Hall is to be reviewed with changes happening in Q2 and Q3 which are anticipated to increase income. The current forecasts are based on the information currently in the financial ledgers.</p>	<p>The impact assessment written in 2018 does not suggest there is a significant risk of non delivery of these savings, the IA sets out the following risks to delivery:</p> <ul style="list-style-type: none"> The proposal to close the restaurant at Neuadd Brycheiniog will impact on staff using the service within the building and the meals provided to Arosfa day centre. The introduction of an increased school meal price will impact on parents who pay for their children to have school meals. Modernising County Hall restaurant will affect customers and staff who use the facility, with reduced hot meal service and providing a coffee shop style offer. <p>Risk Identified and Inherent Risk Ratings are set out below: Loss of jobs and employment opportunities - Low. The proposal to increase school meal prices has the impact to drive down uptake - Low County Hall Restaurant not making full cost recovery - Low</p>	480
	<p>£100,000 - reduction in senior management in leisure staffing</p> <p>£150,000 Regeneration review - The outline Priority 5 application will be assessed in the autumn and the Service will know at that time whether it will be invited to submit a full application. If and when the funding were to be received, it would be backdated to April 2019 and therefore would cover this saving requirement in full. If the application is not approved to go to the next stage in Sept, the HOS has plans to urgently the review the service. Update : Funding has not been awarded for 2019/20.</p>	<p>Proposed late in process no Impact Assessment provided</p> <p>Proposed late in process no Impact Assessment provided</p>	
PPPP	<p>£200,000 - property management savings</p>	Proposed late in process no Impact Assessment provided	471
	<p>£20,000 - New proposals to increase income from Trading Standards - additional functions from UK and Welsh Government - delayed by WG so cannot implement any time soon</p>	no impact assessment identified	
	<p>£75,000 - undelivered of savings on cleaning of corporate and council buildings - expectation was to reduce cleaning to minimum levels</p>		
	<p>£75,540 - Property Services Joint Venture Company: HOWPS - Set up jointly owned company to deliver a range of property services. Increase income generation by trading more widely than the Council. Transfer Asset Management Team towards the end of 2016/17. With the current performance it is unlikely there will be sufficient savings to cover this target</p>	no impact assessment identified	
	<p>£100,000 - valuation staff saving</p>	no impact assessment identified	

Service	Undelivered Savings - Explanation	Impact Assessment Comment	£K
HR	<p>£200,000 HR Training - Unfortunately the premise behind the saving was flawed and the service was not provided with an opportunity to advise or comment. I was advised after the event that the saving was based on a premise that the Council spent more on training than other Welsh councils and it was felt that the Council's spend could therefore be reduced by £200k. Unfortunately this was flawed for a number of reasons, firstly once you exclude externally funded training and the training delivered through the schools budgets the Council only delivers/controls circa £300k of training and not the £1m that was used at the budget meeting for the purpose of comparison and the decision. Secondly rather than tie the decision to the subject matter and the premise for it, the accountants then tied it to the staffing lines in the Council's corporate Organisational Development Team. Whilst it was never the intention or rationale for the saving, had the saving been taken from this team, it would have required 6 or 7 staff from a small team to have been made redundant, leaving just one or two staff to look after all of the Council's organisational development, leadership/management development, coaching, corporate and mandatory training, employee engagement, induction, appraisal etc, basically it would leave little to no organisational development in Powys. This was discussed during January with the S151 officer and subsequently with the relevant Corporate Director and the service was ultimately advised that it would not be required to deliver the saving and asked if we could seek to partly mitigate c£50k of the value.</p> <p>As this budget cut was not consulted or explored before it was made no impact assessment was sought or completed. I did however review this once I was aware of it and I provided a detailed report to the S151 officer during late January / early February advising how it would not be possible to find the savings for the reasons stated.</p>	Proposed late in process no Impact Assessment provided	200
Children	£98,000 - No detail provided but they were b/f from 2018/29	no impact assessment identified	2,214
	£400,000 - Transformation of respite provision - no additional detail given	no impact assessment identified	
	£100,000 - Home to school transport - transferring costs across services	no impact assessment identified	
	£203,000 - Legal savings unrealistic because annual spend been in excess of £600k, and unable to reduce	The impact assessment does not comment on how likely are you to successfully deliver the proposals and what is the risk of non delivery of savings. They did set out some risks to service delivery: - Increase in Children Looked after will place more pressure on placing children away from their home area very high - Insufficient external placement budget to meet Children Looked After needs. Very high	
	£1,000,000 - CLA children closer to home and looked after - not delivered in 2019/20, and new savings added for 2020/21	no impact assessment identified	
£63,000 - Invest to save re inhouse fostering	The impact assessment does not comment on how likely are you to successfully deliver the proposals and what is the risk of non delivery of savings.		
£350,000 - Cutting agency and restructuring which has not yet materialised			
Finance	£123,000 - Highlight, review and correct processes that require significant manual intervention or rectification within the finance function - not taken forward as new plans and saving drawn up for 2020/21	The impact assessment did suggest that the level of deliverable savings will be unknown until the explore phase of the project is concluded - but was never followed up with a detailed business case proposal and plan to take the proposals forward	123
Catering	£120,000 - Increase in school meals take up not happened	This proposal looks to be a duplication of the HCD catering proposal set out above - and has not been delivered. The monthly cabinet reports confirm that since the cost of meals has increased, the take up has fallen	120
			4,261

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**CYNGOR SIR POWYS COUNTY COUNCIL.
Audit Committee
23rd March 2020**

REPORT AUTHOR: Jane Thomas
Section 151 Officer and Head of Financial Services

REPORT TITLE: Anti-Money laundering Policy/ Anti-Fraud and Corruption/
Fraud Sanctions and Prosecution Policy

REPORT FOR: Discussion and Information

1. Purpose

- 1.1 Powys Council has a duty to protect the Public Purse and these suite of policies are intended to strengthen Powys response to the dangers of money laundering and fraud and corruption. This will ensure it is well managed and fulfils its statutory duties as part of the overall framework of good corporate governance.
- 1.2 The purpose of the Anti-Money Laundering Policy is to clearly demonstrate that the Council embraces the underlying principles of money laundering legislation and is taking reasonable steps to minimise the likelihood of such activities occurring.
- 1.3 Powys County Council is opposed to all forms of fraud and corruption, including bribery, and is determined to protect itself from such actions whether attempted from within the Council or by an outside individual, group or organisation. This policy intends to provide a robust framework to tackle such issues.
- 1.4 Where necessary to combat Fraud or Corruption, the Council will seek the appropriate sanctions against any individual or organisation that defraud, or seek to defraud, it. The use of sanctions will be governed by the Sanctions Policy and the principles of it shall apply equally to any fraud against the Council or against funds for which the Council has responsibility.
- 1.5 Audit Committee will have a role in the policies and therefore it is invited to comment on the policies prior to approval by EMT.

2. Background

- 2.1 Money laundering is a term designed to cover a number of offences. These offences relate to the improper handling of funds that are the proceeds of criminal acts, or terrorist acts, so that they appear to come from a legitimate source. It relates to both the activities of organised

crime but also to those who benefit financially from dishonest activities such as receiving stolen goods.

- 2.2 Fraud can be any act of deception by the intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain. Bribery is the offering, giving or soliciting of an inducement or reward which may influence a person to perform a function or activity improperly. Corruption is the giving and/or acceptance of an inducement or reward which influences the action of any person.

3. Advice

- 3.1 It is proposed that Financial Services own the policies and are responsible for ensuring the outworking of the policy and its review.
- 3.2 Given the key link between fraud and employment, it is also proposed that the policies are stored and available for staff as part of the suite of Employment Policies.
- 3.3 Also all employees should be required to read and accept the policies as part of the log in procedures and where staff don't log into the intranet that the appropriate Head of Service ensures that the policies have been read and accepted by those employees.
- 3.4 As bribery, corruption, fraud and money laundering affect all services, it is further recommended that Senior Management Team also have sight and an explanation of the policies.
- 3.5 It is also recommended that Audit Committee annually review the reports from audit and the risks for the Council and service areas and recommend works for the Corporate Fraud Team to undertake as part of its forward work plan for the next year.

4. Resource Implications

- 4.1 There are known resources implications for these policies.

5. Recommendation

- 5.1 Audit Committee are provided the draft policies for information and invited to comment on them prior to approval.

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Head of Service:	Jane Thomas
Corporate Director:	Ness Young

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ANTI MONEY LAUNDERING POLICY

Author	Yvette Kottaun David Morris Income and Awards
Date	Dec 19
Document Status	Final Draft v3
Date Approved	
Date due for review	

Contents

INTRODUCTION TO THE POLICY

1. Context
2. Scope of the Policy
3. What is Money Laundering
4. The Legal and Regulatory Framework and Obligations that it places on the Council

HOW THE COUNCIL WILL RESPONSE

5. The Council's response
6. The Money Laundering Reporting Officer
7. Reporting to the Money Laundering Reporting Officer
8. Customer Due Diligence
9. Training
10. Further Information
11. Review of the Policy

Appendix 1 - How the Council may be exposed to Money Laundering

1. Guidelines to staff and members on concerns and suspicions
2. The types of activities that may be affected

Appendix 2

- Money Laundering Report Form
- Money Laundering Disclosure Form – to be completed by the Money Laundering Reporting Officer

INTRODUCTION

1 Context

- 1.1 This Policy, and the accompanying procedures and reporting forms, represents an important part of the Council's approach to dealing with the risk of fraud and corruption. This Policy seeks to complement the Anti-Fraud, Corruption and Bribery Policy and Whistleblowing Policy and contribute to the overall framework of Corporate Governance established to ensure that the Council is well managed and fulfils its statutory and regulatory duties in a proper and responsible manner.
- 1.2 The risks to the Council of contravening money laundering legislation is low and some aspects of the legal and regulatory requirements do not apply to public authorities. However, it is recognised that the Council is not completely immune from the risks surrounding money laundering. The purpose of the Anti-Money Laundering Policy is to clearly demonstrate that the Council embraces the underlying principles of money laundering legislation and is taking reasonable steps to minimise the likelihood of such activities occurring, by developing a suitable framework of arrangements to safeguard itself against action of this nature, whilst making satisfactory provisions to achieve compliance to legal and regulatory requirements, where appropriate.
- 1.3 The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the 2017 Money Laundering Regulations), provide numerous and prescriptive requirements with regards to risk assessments, policies and procedures and customer due diligence checks, amongst other things, all of which are designed to minimise the risk of businesses inadvertently or otherwise becoming involved in money laundering or terrorist financing.
- 1.4 Whilst local authorities are not bound by the requirements of the 2017 Money Laundering Regulations), even when undertaking regulated activities within the meaning of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, it is prudent and responsible practice for local authorities to comply with the underlying spirit of the legislation and to have in place appropriate and proportionate anti-money laundering safeguards.
- 1.5 Whilst local authorities do not strictly fall within the scope of the 2017 Money Laundering Regulations, they are bound by the Proceeds of Crime Act 2002 and the Terrorism Act 2006, both of which place a number of duties and responsibilities on local authorities and employees and members of the same, in order that they do not find themselves subject to criminal prosecution.
- 1.6 This policy seeks to address both the underlying spirit of the 2017 regulations whilst ensuring responsibilities under the Proceeds of Crime Act 2002 and Terrorism Act 2006 are clear.

2 Scope of the Policy

- 2.1 This Policy applies to all employees whether permanent or temporary, and Members of the Council. It aims to prevent criminal activity through money laundering and to enable employees and Members to respond to a concern that they have in the course of their dealings for the Council.

It is extremely important that all members and employees are familiar with their legal responsibilities and are vigilant at all times. Serious criminal sanctions may be imposed for breaches of the legislation. The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer (MLRO).

- 2.2 Failure by any employee to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy and Procedure.

3 What is Money Laundering?

- 3.1 Money laundering is a term designed to cover a number of offences. These offences relate to the improper handling of funds that are the proceeds of criminal acts, or terrorist acts, so that they appear to come from a legitimate source. It relates to both the activities of organised crime but also to those who benefit financially from dishonest activities such as receiving stolen goods. The Proceeds of Crime act 2002 (POCA), as amended by the Serious Organised Crime and Police Act 2005, creates a range of criminal offences arising from dealing with proceeds of crime. The four main offences that may be committed under money laundering legislation are:

- Concealing, disguising, converting, transferring or removing criminal property from anywhere within the UK;
- Entering into or becoming concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person;
- Acquiring, using or possessing criminal property*;
- Entering onto or being concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property ** by concealment, removal, transfer or in any other way:

It is also an offence to attempt to conspire or incite to commit any of the above offences and to aid, abet, conceal, procure or commission any of the above offences.

**Criminal property is something which constitutes a person's benefit from criminal conduct or represents such benefit; it is not limited to money and there is no minimum amount.*

***Terrorist Property includes money or other property likely to be used for terrorism, proceeds of terrorist acts, and proceeds of acts carried out for the purposes of terrorism.*

There are also two 'third party' offences:

- Failing to disclose information relating to money laundering offences (in respect of both criminal property and terrorist property) where there is reasonable grounds for knowledge or suspicion *** ; and,
- Tipping off or informing someone who is, or is suspected of being involved in money laundering activities, in such a way as to reduce the likelihood of or prejudice an investigation.

**** It is important to note that whilst the disclosure obligations and tipping off offences in relation to criminal property will not always strictly apply to local authorities all individuals and business' have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from terrorism, proceeds of acts carried out for the purposes of terrorism or fiancé likely to be used for terrorism, where that information has come to them in the course of their business or employment.*

3.2 The Money laundering offences cited above carry a prison sentence of up to 14 years. A defence is available if it can be shown that any knowledge or suspicion of money laundering was reported to the National Crime Agency (NCA) and as a result that any resultant transaction was put on hold until consent to proceed was given.

4 The legal and regulatory framework and the obligations that it places on the Council

4.1 The main laws and regulations which set out the money laundering regulations are:

- The Proceeds of Crime Act 2002 (amended by the Serious Organised Crime and Police Act 2005 and further amended by the Serious Crime Act 2015)
- The Terrorism Act 2000 (amended by the Anti-Terrorism and Security Act 2001 and Terrorism Act 2006 and further amended by the Money Laundering Regulations 2007)
- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. (which supersede the money laundering regulations 2007, 2012 and 2015)

4.2 The Terrorism Act 2000 makes it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism or resulting from acts of terrorism. Under the Terrorism Act 2000, all individuals and businesses in the UK have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from, or finance likely to be used for terrorism or its laundering, where it relates to information that comes to them in the course of their business or employment.

4.3 The 2012 Money Laundering Regulations and The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 establish that as long as businesses are not operating within the "regulated sector", then the offences of failing to disclose suspicions of money laundering, and tipping

off, do not apply. The list of businesses within the regulated sector does not include local authorities, and as such these offences do not apply to the Council. Furthermore, the 2003 Money Laundering Regulations, which preceded the 2012 regulations, made organisations responsible for undertaking “relevant business” to have appropriate systems in place for the reporting of money laundering, staff training, and identifying and keeping records of money laundering

4.4 The Chartered Institute of Public Finance and Accountancy (CIPFA) issued 2 sets of guidance on how legal and regulatory provisions impact on public authorities. CIPFA has confirmed that local authorities were not a “relevant business” in terms of the 2003 Money Laundering Regulations and are therefore not required to have systems in place to identify, record and report money laundering.

4.5 However, CIPFA has also advised that ‘it is prudent and responsible practice for public service organisations, including those outside the scope of the regulations, to put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements, designed to enable them to detect and avoid involvement in the crimes described in the legislation and regulations.’ There could also be a “substantial reputational risk for an authority which does not have such procedures in place”.

4.6 This Policy and the working practices aligned to it have been designed to address the risk the Council may face if it does not properly address the potential for money laundering. As a responsible authority, we need to be mindful that a money laundering offence could be committed by an employee, or the Council could be a victim of such an offence.

5 THE COUNCIL’S RESPONSE

5.1 The Council is responsible to undertake the following:

- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from Members or employees of money laundering activity (their own or anyone else’s)
- Implement a procedure to enable the reporting of suspicions of money laundering
- Maintain client identification procedures (see Section 7.0) in certain circumstances and
- Maintain records

6 The Money Laundering Reporting Officer

6.1 All employees and Members are obliged to report any suspicion of money laundering or terrorist financing to the Council’s Nominated Officer(s). The Council has nominated the Head of Financial Services as the Money Laundering Reporting Officer (MLRO). In their absence, the Head of Finance (and Deputy S151 Officer)

will be the Deputy Money Laundering Reporting Officer.

7 Reporting to the Money Laundering Reporting Officer (MLRO)

7.1 The primary duty of any employee, member or third party under this Policy is to ensure that any suspicions or concerns that money laundering has occurred, or is likely to occur, should be reported to the MLRO as soon as the suspicion arises. The disclosure should be within 'hours' of a suspicious activity coming to an individual officer's attention, rather than several days or weeks later.

Delays or failure to report may leave you personally liable to prosecution.

7.2 To support the above process, **Appendix 1** provides information on the types of activities where the Council may be subject to money laundering offences and guidance to staff on situations where money laundering activities could occur.

7.3 All available information needs to be given to the MLRO to enable them to make an informed judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable them to prepare a report to the National Crime Agency (NCA) NCA, for example:

- Full details of the people involved (including yourself, if relevant) e.g. name, date of birth, address, company names, directorships, phone numbers etc.
- Full details of the nature of their / your involvement
- The types of money laundering activity involved. (The MLRO can help identify this)
- The dates of such activity, including whether the transactions have happened, are ongoing or are imminent
- Where they took place
- How they were undertaken
- The (likely) amount of money / assets

7.4 Suspicions can be raised through direct contact with the MLRO; however it is preferable to use the reporting form which has been developed at **Appendix 2**, and e-mail / post the completed form to the MLRO.

7.5 The employee, Member or third party should not make any further enquiries into the matter themselves and any further action must be with the approval of the MLRO. Those who have raised a concern should ensure that they do not then voice their suspicions to the suspect or tell them that you have reported the transaction. Otherwise you may commit a criminal offence of 'tipping off' which carries a maximum penalty of 5 years imprisonment and unlimited fine.

- 7.6 Upon receipt of a disclosure report the MLRO must acknowledge receipt and confirm the timescale within which they expect to respond.
- 7.7 The MLRO is required to promptly evaluate any concerns/disclosures raised and determine whether they require further investigation and hence referral to the NCA, by means of a Suspicious Activity Report (SARs) using the reporting forms included at **Appendix 2**. The MLRO should not undertake investigation of any concerns themselves. Where legal professional privilege may apply, the MLRO must liaise with the Solicitor of the Council to determine the further action to be taken.
- 7.8 Where money laundering is suspected the MLRO will report to NCA, by making a Suspicious Activity report and will also notify Internal Audit and the Monitoring Officer.
- 7.9 In some cases, it may be necessary to seek approval from NCA before the Council can undertake any further activity in respect of the transaction. Where the MLRO has made such a referral to NCA, they will notify the person raising the concern, and again inform the individual when NCA has provided permission for the transaction to proceed.
- 7.10 If a request for consent has been made to NCA, no action should occur for a period of 7 days or until NCA gives consent. If this results in a transaction having to be deferred or delayed, it should be carefully handled to ensure that the customer is not tipped off as to the money laundering concern.
- 7.11 After 7 days, if NCA does not notify otherwise, they are deemed to have given consent to the transaction. If NCA instead notifies they refuse to give consent, they have a further 31 calendar days to take action, a moratorium period of 31 days starts on the day the Council receives the refusal notice. During this period, the Council cannot proceed with the matter for which the consent was applied. At the expiry of the 31 days if we have not heard anything, NCA is deemed to have consented to the request and the Council can proceed.
- 7.12 The MLRO should retain the details of any referrals made, including correspondence with the necessary bodies, using the forms included in **Appendix 2**. All information should be retained for a minimum of 6 years.
- 7.13 To ensure the Council minimises the risk of tipping off, and to minimise any reputational damage should the suspicion be unfounded, the confidentiality of the matter will be respected at all times; the MLRO will only inform anyone of the suspicion where there is a genuine business need.

8 Customer Due Diligence

- 8.1 The Council does undertake activities that may be considered, under the Money Laundering Regulations, to be regulated, however it does not undertake these activities by way of business, and therefore would not normally be expected to undertake due diligence in respect of any clients to whom it provides these services. The types of activities that are regulated are:

- Credit and Financial institution,
- Legal, Auditors, Accountants and Tax Advisers,
- Trust of Company service providers
- Estate Agents
- Casinos,
- High value dealers i.e. dealing in goods of any description whenever a transaction involves accepting a total cash payment of more than €10,000 (£8,750).

8.2 However, it is good practice that wherever the Council does enter into such activities with a third party then due diligence checks should be actioned before the establishment of a relationship/transaction with the third party. Anyone entering into such transactions should refer these to the MLRO to undertake due diligence checks.

8.3 Undertaking customer due diligence checks can take a number of forms. HM Revenues and Customs have issued “core guidance” in this area. Consideration should be given to taking one or more of the following, where applicable:

- Confirming the identity of the client via documentation, data or information obtained from a reliable and independent source, e.g. passport, and/or position within an organisation, where appropriate.
- Obtaining confirmation from Companies House as to the registration details of the Company and details of the Company business.
- Seeking electronic verification, e.g. performing credit checks.
- Obtaining confirmation to regulated industries bodies (e.g. in the case of accountants, checking to CCAB certified bodies).
- Requesting copies of financial statements.
- Requesting details of interests and beneficial ownerships – with reference to the latter this is any individual who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.
- Obtaining information on the purpose and intended nature of the business relationship.

8.4 Examples of other available internal information that may be considered relevant are:

- Reviewing other transaction patterns and volumes
- The length of any business relationship involved
- The number of any one-off transactions and linked one-off transactions
- Any identification evidence held

8.5 Any checks undertaken should remain proportionate to the risks of the individual business and the relationship. Additional checking may need to be performed if the person is not physically present to be identified, or they are politically exposed, by virtue of holding a prominent public function. Details of such checks should be recorded on the reporting forms in **Appendix 2** and retained for a minimum of 6 years, with an electronic copy of every customer due diligence record being retained by the MLRO to meet the requirements of the regulations and in case of inspection by the relevant supervising body.

8.6 There is also now an ongoing legal obligation to check the identity of existing clients and the nature and purpose of the business relationship with them at appropriate times. One option to review these matters might be to do so as part of the ongoing monitoring of the business arrangements, as is usually provided for in the Terms of Business Letter, Service Level Agreement or other written record, as well as scrutinising transactions as they occur, paying particular attention to complex or unusually large transactions, unusual patterns of transactions and/or unexpected transactions, etc.

8.7 Once the MLRO has evaluated the disclosure report and any other relevant information, they must make a timely determination as to whether:

- There is actual or suspected money laundering taking place; or
- There are reasonable grounds to know or suspect that is the case and
- Whether they need to seek consent from NCA for a particular transaction to proceed.
- Where the MLRO concludes a referral is needed then they must disclose the matter as soon as possible to the NCA

8.8 Where the MLRO suspects either:

- Money laundering but has reasonable excuse for nondisclosure: or
- Concludes that there are no reasonable grounds to suspect money laundering:

They must note the report accordingly and give immediate consent for any ongoing or imminent transactions to proceed.

8.9 Where money laundering is suspected the MLRO will report to NCA, by making Suspicious Activity report and also notify the Head of Internal Audit, and the Monitoring Officer.

9 Training

9.1 The Council will take appropriate measures to ensure that all employees are made aware of the law relating to money laundering and will arrange targeted, ongoing training to key individuals most likely to be affected by the legislation.

10 Further Information

10.1 Further information can be obtained from the MLRO and the following sources:

- <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/national-economic-crime-centre> – website of the National Crime Agency

- Anti-Money Laundering Guidance for the accountancy sector , published by CCAB www.ccab.org.uk
- Anti-Money Laundering Guidance for the legal sector at www.lawsociety.org.uk
- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 at: <https://www.legislation.gov.uk>

11 Review of the Policy

- 11.1 The Policy will be reviewed at least every 3 years, and confirmed by Audit Committee with any substantial changes.
- 11.2 On an annual basis, Section 7 of the Policy, which provides details of the key parties responsible for money laundering reporting activities, shall be reviewed by the Money Laundering Reporting Officer, the Head of Internal Audit and Corporate Risk Officer to ensure that details remain relevant and up-to-date. This review will not require re-endorsement of the Policy.

How the Council may be exposed to Money Laundering

1 Guidelines to staff and members on concerns or suspicions

It is anticipated that the most likely scenario in which a money laundering issue may arise is where officers unwittingly become concerned or involved in an arrangement which we know or suspect enables criminal property to be retained or acquired by a third party.

- 1.1 If you do have any suspicions or concerns about an individual or transaction then it is always better to raise those concerns appropriately. If necessary, you may wish to use the Council's Whistleblowing Policy for further support and guidance on how to raise a concern. Conversely, if in doubt, seek advice from the MLRO.
- 1.2 Although some offences and suspicions may be fairly apparent, some can be more difficult to identify. The simple guidance is to be vigilant, and not be afraid to question something if you don't think looks right. If you think something looks suspicious, then the probability is someone else may also think the same. It is better for the Council to be safe when handling public money – it would not reflect well on the Council's reputation if it was found we had taken monies that were obtained through theft, drug trafficking, terrorism, etc.
- 1.3 It is recognised that a lot of the Council's activities are sensitive in nature, and in cases what, to some people, may be suspicious or concerning behaviour, from a money laundering perspective may not necessarily be in line with the activity occurring. However, people should always be mindful of genuine concern and suspicion.

2 The types of activities that may be affected

- 2.1 The following table sets out the types of activities that might be suspicious, and how the Council may come across those activities. It is not intended to be exhaustive, and just because something you are suspicious about is not on the list, it doesn't mean you shouldn't report it.

Activity	The types of activity that may be affected
New customers with high value transactions	<ul style="list-style-type: none"> • Selling property to individuals or businesses • Renting out property to individuals or businesses • Entering into other lease agreements • Undertaking services for other organisations
Secretive clients	<ul style="list-style-type: none"> • Housing benefit claimants who have sums of money entering into / out of their bank account (even if we do not award them benefit, we should still consider money laundering implications) • People buying or renting property from the Council who may not want to say what it is for • People receiving grant funding who refuse to demonstrate what funding was used for
Customers who we think are acting dishonestly or illegally	<ul style="list-style-type: none"> • People paying for Council services who do not provide details about themselves • People making odd or unusual requests for payment arrangements

Illogical transactions	<ul style="list-style-type: none"> • People paying in cash and card then requesting refunds • Requests for the Council to pay seemingly unconnected third parties in respect of goods / services provided to the Council • Requests for the Council to pay in foreign currencies for no apparent reasons
Payments of substantial sums by cash	<ul style="list-style-type: none"> • Large debt arrears paid in cash • Refunding overpayments • Deposits / payments for property
Movement of funds overseas	<ul style="list-style-type: none"> • Requests to pay monies overseas, potentially for “tax purposes”
Cancellation of earlier transactions	<ul style="list-style-type: none"> • Third party “refunds” grant payment as no longer needed / used • No payment demanded even though good / service has been provided • Sudden and unexpected termination of lease agreements
Requests for client account details outside normal course of business	<ul style="list-style-type: none"> • Queries from other companies regarding legitimacy of customers • Council receiving correspondence / information on behalf of other companies
Extensive and over-complicated client business structures / arrangements	<ul style="list-style-type: none"> • Requests to pay third parties in respect of goods / services • Receipt of business payments (rent, business rates) in settlement from seemingly unconnected third parties
Poor accounting records and internal financial control	<ul style="list-style-type: none"> • Requests for grant funding / business support indicates third party not supported by financial information • Companies tendering for contracts unable to provide proper financial information / information provided raises concerns • Tender for a contract which is suspiciously low
Unusual property investments or transactions	<ul style="list-style-type: none"> • Requests to purchase Council assets / land with no apparent purpose • Requests to rent Council property with no apparent business motive
Overcomplicated legal arrangements / multiple solicitors	<ul style="list-style-type: none"> • Property transactions where the Council is dealing with several different parties

MONEY LAUNDERING REPORT FORM

Employee Details

Name _____

Department / Section _____

Date Reported _____

Contact details _____

Offence Details

Give full details of the name(s) and address (es) of the person(s) / Company (s) / public body (s) / Directorship (s) involved Identities of the person(s) / company (s) subject to the enquiry

Nature, value and timing of the activity involved – please include full details of whether this has already occurred, is on-going or is likely to occur, where / when this occurred, how it arose and the amount of money / assets involved and why you are suspicious. Please continue on another sheet if necessary.

Investigations – has any investigation already occurred, as far as you are aware? If so, please detail below.

Discussions – have you discussed your suspicions with anyone – including any advisory bodies? Please identify who you have contacted and why such discussions were necessary.

Disclosure – is there any reason why you believe this should not be disclosed to National Crime Agency (NCA)?

Further Information – if there is any further information you believe to be relevant, please include here:

Signed _____

Date _____

Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described. This form, upon completion, should be passed directly to the Money Laundering Reporting Officer.

MONEY LAUNDERING DISCLOSURE FORM – TO BE COMPLETED BY THE MONEY LAUNDERING REPORTING OFFICER

Date of Money Laundering Report Form being received _____

Date when acknowledgement receipt of Money Laundering Report Form

Report Form related to _____

Report Form completed by: _____

Officer contact details _____

Action taken to review Report Form

Findings of review

Are there reasonable grounds for suspecting money laundering activity? If yes please give details.

If yes, please complete the following details:

Date or report to NCA:
Details of liaison with NCA regarding the report:
Notice Period:
Moratorium period:

Is consent required from NCA? Has consent been received?

--

Date consent given by MLRO to employee for Council to proceed with the transaction

Date consent given to MLRO to employee for any prohibited act transactions to proceed:

Other relevant information

--

Signed _____

Name _____

Date _____



ANTI-FRAUD & CORRUPTION POLICY

Author	Yvette Kottaun David Morris Income and Awards
Date	Dec 19
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Date Approved	
Date due for review	

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Appendix 1	The Seven Principles of Public Life
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1 INTRODUCTION

- 1.1 Powys County Council is opposed to all forms of fraud and corruption, including bribery, and is determined to protect itself from such actions whether attempted from within the Council or by an outside individual, group or organisation.
- 1.2 The Council recognises that fraud, bribery and corruption will undermine the standards of public service, which it promotes. It also reduces the resources available for the good of the whole community. Such activity may therefore impact on the ability of the Council to achieve its corporate objectives, as set out in Vision 2025 and its Corporate Plans.

In response to this, the Anti-Fraud & Corruption Policy is designed to:

- Encourage prevention;
- Promote detection; and
- Support investigation

2 DEFINITIONS OF FRAUD, BRIBERY & CORRUPTION

- 2.1 Fraud is defined as:

The intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain.

- 2.2 This may involve:

- Dishonestly making a false representation to make a gain, to cause loss or to expose another to a risk of loss.
- Dishonestly failing to disclose information for which there is a legal duty to disclose, in order to make a gain, to cause loss or to expose another to a risk of loss.
- Dishonestly abusing a position, where the person occupying the position is expected to safeguard, or not act against, financial interests to make a gain, to cause loss or to expose another to a risk or loss.

- 2.3 Fraud can be any act of deception which acts to the financial detriment of the Council. Acts such as misappropriation or petty theft will therefore also be considered by the Council as fraud and treated under the arrangements within this Policy.

- 2.4 Bribery is defined as:

The offering, giving or soliciting of an inducement or reward which may influence a person to perform a function or activity improperly.

2.5 Corruption is defined as:

The giving and/or acceptance of an inducement or reward which influences the action of any person.

3 THE COUNCIL'S COMMITMENT

3.1 In developing and operating its anti-fraud, bribery and corruption arrangements, the Council will:

- Where possible, take action to prevent fraud, bribery and corruption activity occurring.
- Encourage the detection of such activity.
- Promote Member, officer, the general public and other stakeholder awareness of fraud, bribery and corruption.
- Offer specific training on these issues to officers in key positions within the organisation.
- Encourage Members, officers, the general public and other stakeholders to report any concerns or suspicions.
- Investigate any substantiated concerns or suspicions in a fair and confidential manner.
- Take action as appropriate based on the outcomes of investigations.

4 PREVENTION OF FRAUD, BRIBERY & CORRUPTION

Recruitment and induction

- 4.1 The Council recognises that a key preventative measure in the fight against fraud, bribery and corruption is to take effective steps at the recruitment stage to verify the propriety and integrity of the previous records of potential employees of the organisation. The Council has a Recruitment and Selection Policy, Procedure and Guidance which should be adhered to in recruiting both permanent and temporary/contract staff. This guidance requires a number of checks at the recruitment stage to establish and confirm the previous records of potential employees, including the take up of written references and Disclosure and Barring Service checks for certain identified posts.
- 4.2 The Council has developed a formal induction process for new employees. This is intended to assist them in understanding the Council, its decision-making arrangements and the requirements of the Officers' Code of Conduct.
- 4.3 As elected representatives of the local community, newly-elected Members are also required to complete an induction to assist them in understanding the Council, its decision-making arrangements and the requirements of the Members' Code of Conduct.

Training

- 4.4 The Council recognises that training is a vital tool in ensuring that both officers and Members clearly understand their roles and responsibilities within the organisation and carry these out within the Council's framework of policies and procedures. Training is particularly important where employees are required to operate within financial systems or handle monies or personal/confidential information.
- 4.5 The Council will promote a general awareness of fraud, bribery and corruption to all employees and Members, with specific training provided to officers engaged in the prevention and detection of such activity to ensure that they have the necessary skills to carry out these functions. Officers involved in investigatory work will be provided with relevant specific training that meets their needs and allows for continuous professional development.

Internal Control Arrangements

- 4.6 The Council as a whole operates within a framework of policies and procedures intended to direct the activity of the Council and ensure transparency in decision making. The Constitution is a key arrangement and includes the Council's financial procedure rules and contracts procedure rules.
- 4.7 Responsible officers are expected to ensure that effective internal control arrangements are incorporated into the design or development of systems and procedures. Such arrangements would include ensuring adequate segregation of duties, authorisation and physical security controls to protect the Council from error, misappropriation or loss.
- 4.8 Members and officers are required to declare any financial and other interest in any outside bodies or organisations which could be considered or perceived as having an influence on their actions on behalf of the Council.
- 4.9 The Council has established a Standards Committee to deal with matters relating to the Members' Code of Conduct.

Organisational Culture and Conduct

- 4.10 The Council is determined that the culture and tone of the organisation will continue to be one of honesty and opposition to fraud, bribery and corruption. The Council operates a zero-tolerance approach towards fraud, bribery and corruption activity.
- 4.11 The Council supports the Seven Principles of Public Life identified by the Nolan Committee and recognises that these are fundamental to developing an effective working environment which does not allow or tolerate fraud, bribery and corruption activity. Further information on the Seven Principles of Public Life can be found at Appendix 1 to this document.
- 4.12 The Council expects that Members and officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices. In particular, Members and officers are expected to adhere to their

relevant Code of Conduct and declare any interests they may have that could or could be perceived to influence them in any decision-making they may be involved in relating to Council business. Members (where the value is more than £100) and Officers are also required to declare any gifts or hospitality they are offered relating to their role or Council business, whether these are accepted or declined.

- 4.13 Managers should strive to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. There is also a Whistleblowing Policy in place to enable staff to raise any concerns where staff feel unable to raise concerns with their manager.
- 4.14 The Council also expects that individuals and organisations, e.g. suppliers, contractors, partners and service providers that it comes into contact with will act with integrity in their dealings with the Council and without thought or actions involving fraud and corruption. Powys has an Anti-Money Laundering Policy which includes responsibility by all Officers and Members to be aware of the potential dangers and relevant Officers to ensure good practice and scrutiny of financial transactions.

Internal Scrutiny Arrangements

- 4.15 The Council has an internal audit function which has the responsibility to objectively examine, evaluate and report on the adequacy of the control environment by evaluating its effectiveness in achieving the organisation's objectives. The work of internal audit will include review of the existence and effectiveness of the Council's internal control arrangements. Any review work undertaken by the internal audit function will give due consideration to the risk of fraud or corruption within the area subject to audit.
- 4.16 Assurance of the effective operation of internal control arrangements is requested from management annually as part of the Council's arrangements for preparing the Annual Governance Statement. Managers are required to specifically provide assurance on the effective operation of internal control arrangements and staff awareness of this Policy. Managers also have a responsibility to carry out regular risk reviews and to raise concerns if they identify any areas where there is a potential weakness in internal controls.
- 4.17 The Audit Committee has a role in providing independent assurance to the Council on the adequacy of the Council's control environment. This role is discharged by the Committee through the receipt of regular reports on the work and findings of internal and external audit, and the Council's governance and risk arrangements. The Committee will review these reports and the Council's risks and look to direct any key areas of concern that warrant investigation to the Corporate Fraud Team to form part of their annual work plan.

External Scrutiny Arrangements

- 4.18 The Council is subjected to a high degree of external scrutiny of its affairs by a variety of bodies and people, for example, External Audit (Wales Audit Office) and Central Government Departments including DWP and Defra through statutory returns.
- 4.19 As part of its statutory duties, the External Auditor (Wales Audit Office) is required to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud, bribery and corruption.

Working with Others

- 4.20 The Council is committed to working with other organisations to prevent and detect fraud, bribery and corruption through undertaking specific initiatives and ensuring that arrangements are in place to encourage the exchange of information between the Council and other agencies. Though not intended to be exhaustive, the Council currently works with the DWP, Dyfed Powys Police, the Cabinet Office (National Fraud Initiative) and a number of networking groups.

5 DETECTION OF FRAUD, BRIBERY & CORRUPTION

- 5.1 The Council has put in place a range of internal control arrangements within its systems and processes to detect inappropriate or dishonest activity, including budget monitoring and reconciliations. These arrangements are designed to detect fraud, corruption and bribery activity should this occur. The Council recognises, however, that the detection of such activity is often as a result of the alertness of Members, employees, the general public and other stakeholders.
- 5.2 Members, employees, the general public and other stakeholders are encouraged to come forward and report any concerns or suspicions they may have through one of the following:
- Line Manager or Service Manager
 - The Council's Internal Audit Team
 - The Council's Corporate Anti-Fraud Team: fraud@powys.gov.uk
 - Online at: <http://www.powys.gov.uk/en/benefits/report-fraud/>
 - The Council's Whistleblowing Policy
 - Chief Executive / Monitoring Officer / Section 151 Officer
 - The Council's External Auditor, Wales Audit Office
- 5.3 The Council's Financial Procedure Rules require Chief Officers to immediately notify the Section 151 Officer of any financial irregularity or suspected financial irregularity.
- 5.4 The Council recognises that on occasions, employees, Members and organisations working with the Council may not want to express their

concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice. In such instances, persons are urged to report concerns or suspicions through the channels set out in the Council's Whistleblowing Policy.

- 5.5 The Corporate Fraud team operates a proactive detection service. It is essential that services co-operate fully to support the fraud detection process with the provision of information, data, systems or officer access along with updated customer privacy notices.

6 INVESTIGATION

- 6.1 Any Manager with information about suspected fraud, bribery or corruption activity must report this immediately to the Corporate Anti-Fraud Team or Internal Audit Team.
- 6.2 Managers may have an employee issue which initially would indicate being dealt with as a disciplinary issue in partnership with Workforce and OD. The Council now requires a co-ordinated approach to the investigation of allegations as a whole to ensure the effective use of the skills and resources within the organisation based on the nature of the allegation and the investigatory skills required.

Therefore a decision must now be made by the Section 151 Officer, Workforce and OD and the service area to agree the appropriate investigation route prior to any investigation starting for any matter.

This decision point is also key to ensuring that the recording and securing of evidence that is received and collected is sound and adequately supported, so that the Council's disciplinary procedures and/or criminal procedures can be utilised effectively.

- 6.3 The Council has a formal procedure for conducting such investigations which allows for investigations to be carried out impartially and with complete confidentiality. As well as looking to confirm or refute allegations of fraud and corruption activity reported, investigatory work will also look to identify any improvements in internal control, training needs or other suitable solutions to prevent or deter the reported activity from recurring.
- 6.4 The Council's disciplinary procedures will be used where the outcome of an investigation indicates improper behaviour as opposed to criminal actions, by a Council employee.
- 6.5 Where financial impropriety is discovered or it appears that a criminal offence may have been committed, the Council's presumption is that the issue will be pursued by the Corporate Anti-Fraud Team. Matters may also be referred to

the Police. Any such decision will not be seen to prohibit and should not unnecessarily delay action under the disciplinary procedure.

- 6.6 When making decisions about prosecutions, the Council will have regard to the Code for Crown Prosecutors issued by the Director of Public Prosecutions.
- 6.7 The Council will seek, where appropriate, to maximise the recovery of any loss to the Council.
- 6.8 The investigation process must not be misused. The Council will treat any reporting of unfounded malicious allegations seriously. Where employees are concerned, any such finding from the investigation process may be treated as a disciplinary matter.
- 6.9 Elected Members and employees will be given advice and support, where considered necessary, if they are the subject of any unfounded malicious allegation.
- 6.10 The Corporate Anti-Fraud Team is responsible for investigations relating to: Bribery, redirection of payments & grants, misuse of council property, theft of time, payroll/employment, procurement fraud, failure to declare declarations of interest, blue badge fraud, personal budgets/direct payments, housing tenancy fraud, council tax reduction scheme & council tax support, right to buy fraud, business rates, insurance payments, schools/education fraud (*this list is not exhaustive)

7 RESPONSES TO REPORTED CONCERNS AND SUSPICIONS

- 7.1 Any person or organisation reporting concerns or suspicions of fraud or corruption activity may request to be kept informed of the progress of any investigation or its outcome. The Council reserves the right to not fulfil this request where doing so may be to the detriment of the effectiveness and confidentiality of the investigation process.
- 7.2 Where people or organisations have raised a concern or suspicion about fraud or corruption activity but are not satisfied with the response they received, they may pursue the matter further by referring the issue through one of the following channels:
 - the Council's complaints procedure
 - An Elected Member
 - The External Auditor, Wales Audit Office
 - Public Concern at Work
 - A relevant professional or regulatory body
 - A solicitor or the Police

8 ACTION TO DETER FRAUD, BRIBERY & CORRUPTION

- 8.1 All anti-fraud, bribery and corruption activities undertaken by the Council, including the update of this Policy will be publicised in order to make employees, Members, the general public and stakeholders aware of the Council's commitment to taking action on such activity, when it occurs.
- 8.2 The Council will endeavour to act robustly and decisively when fraud, bribery or corruption is suspected and proven. This will be demonstrated through disciplinary action and/or prosecution.
- 8.3 The Council will take action to help ensure the maximum recoveries for the Council.
- 8.4 The Council's Communications team is responsible for optimising the opportunities available to publicise to the public any anti-fraud, bribery and corruption activity being undertaken within the Council. Once notified of such cases, the Communications Team is also responsible for endeavouring to ensure that the results of any investigations undertaken, including prosecutions, are reported in the local press.

9 MEASURING THE EFFECTIVENESS OF THIS POLICY

- 9.1 The Council has recognised the importance of measuring the effectiveness of its anti-fraud, bribery and corruption arrangements and that this cannot consist of one single measure. The Council will demonstrate the effectiveness of this Policy through a number of measures focusing on outcomes and will include assessments of:
- Awareness levels
 - Number of suspicions and concerns reported per annum
 - Number of investigations undertaken
 - Outcomes of investigations undertaken
 - Level of losses identified
 - Sanctions applied
 - Financial savings or gains generated.
- 9.2 This information will be reported to the Audit Committee on at least an annual basis.

10 REVIEW AND APPROVAL OF THIS POLICY

- 10.1 The Anti-Fraud and Corruption Policy will be reviewed every 3 years with any substantial changes being approved by the Audit Committee.

Annex 1**The Seven Principles of Public Life**

Selflessness - Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty - Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership - Holders of public office should promote and support these principles by leadership and example.

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POWYS COUNTY COUNCIL



FRAUD SANCTION & PROSECUTION POLICY

Author	Yvette Kottaun David Morris Income and Awards
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Date due for review	

1 Policy Statement

The Council will use the full range of sanctions available to it, including criminal prosecution, civil recovery, internal discipline and referral to professional bodies in order to deter fraud, corruption, bribery and associated offences.

The Council will utilise own in-house legal services or agent solicitors to conduct prosecutions, as well as the Crown Prosecution Service, where appropriate.

The Council will refer matters to other law enforcement agencies or regulators where appropriate and support those agencies in bringing proceedings.

This policy only relates to investigations undertaken by the Corporate Anti-Fraud Team on behalf of the Council.

2 Introduction

2.1 The Councils Anti-Fraud and Corruption Policy sets out our aims and objectives with regard to both deterring and tackling fraud and associated offences. The Anti-Fraud and Corruption policy states that the Council will seek the appropriate sanctions against any individual or organisation that defraud, or seek to defraud, it. The use of sanctions will be governed by this policy and the principles of this policy shall apply equally to any fraud against the Council or against funds for which the Council has responsibility.

2.2 The objectives of this policy are:

- To ensure that the Council can apply a full range of sanctions in a just and consistent manner.
- To ensure that sanctions are applied in an effective, proportionate and cost efficient manner.
- To ensure that the sanction decision making process is stringent, robust, transparent and properly considers the public interest.
- To make it clear that the Council will not tolerate fraud and will take appropriate action
- To punish those who to seek to defraud public funds.

3 Determining the Appropriate Sanction Route

3.1 This policy is designed to provide a framework to ensure the most appropriate resolution to a case is reached. The sanction decision will have regard at all times to the Anti-Fraud and Corruption Policy objectives, the individual circumstances of the persons concerned and the overall impact of the punishment to both the individual and the community.

3.2 A range of sanctions are available to the Council in relation to identified fraud and corruption. These include disciplinary action, civil proceedings, criminal proceedings and civil/financial penalties. Where appropriate, the Council may

take more than one form of action. For example, where staff commit fraud or corruption disciplinary, prosecution and civil recovery action may all be appropriate.

- 3.3 One sanction available to the Council is criminal prosecution. We recognise that this is a serious step to take and the decision to refer cases for prosecution will not be taken lightly. The ultimate decision on prosecution will be taken by the prosecuting body. In some cases this will be the Council, through the Head of Financial Services, in others the Crown Prosecution Service.

Other than where the Crown Prosecution Service is the most appropriate prosecuting authority, the Council will utilise internal legal services to undertake criminal prosecutions.

- 3.4 The decision to refer cases for prosecution to legal services or to recommend the issue of civil/financial penalties as alternatives to prosecution, where permitted by certain legislation, will be taken by the Sanction Panel. This will consist of a Solicitor, input from the service Senior Manager and the Income and Awards Senior Manager, in conjunction with the Councils Head of Financial Services.

- 3.5 Alternatively, Corporate Anti-Fraud Team or the Council may refer cases to the police for investigation who may then refer matters to the Crown Prosecution Service or other prosecutor. This may occur in cases of staff fraud or where the fraud is complex and/or of a very serious nature or linked to Safeguarding issues.

This policy outlines various penalties/sanctions or criminal proceedings that may be considered by the Council, as permitted by legislation, where offending contrary to any of the following has occurred, although this list is not exclusive:

- Theft Acts 1968/ 1978
- Forgery and Counterfeiting Act 1987 (FCA)
- Computer Misuse Use Act 1990
- Social Security Administration Act 1992 (SSAA)
- Local Government Finance Act 1992 (LGFA)
- Data Protection Act 1998 (DPA)
- Identity Card Act 2006
- Fraud Act 2006
- The Bribery Act 2010
- Welfare Reform Act 2012 (WRA)
- The Prevention of Social Housing Fraud Act 2013. (PoSHFA)

4 The decision to prosecute

- 4.1 The Council will apply the Director for Public Prosecutors Guidance on Charging to ensure that decisions to charge criminal offences and other

prosecution decisions are fair and consistent and fully comply with the Police and Criminal Evidence Act, the PACE Codes of Practice and the Code for Crown Prosecutors.

- 4.2 When considering a case for prosecution the Council will apply the most recent edition of the Code for Crown Prosecutors and ensure that all cases accepted for prosecution meet the Full Code Test namely that there is sufficient evidence to have a realistic prospect of a conviction and that it is in the public interest to prosecute.
- 4.3 The two stages of the Full code test will be considered as follows:-

(1) The Evidential Stage

Prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. They must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.

If the case passes the evidential stage it will then be considered under the Public Interest Stage.

(2) Public interest test

A prosecution will usually take place unless:

- the prosecutor is sure that there are public interest factors tending against prosecution which outweigh those tending in favour
- the prosecutor is satisfied that the public interest may be properly served, in the first instance, by offering the offender the opportunity to have the matter dealt with by an out of court disposal.

The more serious the offence, or the offender's record of criminal behaviour, the more likely it is that a prosecution will be required to meet the public interest. Aggravating and mitigating factors will be taken into consideration when deciding on the appropriate sanction as set out in the Code for Crown Prosecutors.

5 Members / Staff / Support Staff

5.1 In all cases of:

- fraud, and / or
- theft, and / or
- financial misconduct, and / or
- serious and intentional breach of financial regulations, and /or
- corruption

committed by employees of the Council, we will seek disciplinary action in accordance with the Councils Discipline Policy and/or prosecution as appropriate.

- 5.2 Where a fraud involving an elected Member is identified this will be reported to the Council's Monitoring Officer and potentially the Standards Board Committee.
- 5.3 Where a financial loss has been identified we will always seek to recover this loss either through the civil or criminal process. In addition, where staff are members of professional bodies or are subject to national codes of conduct such as teaching and social services staff, we will refer cases to the relevant professional body.
- 5.4 Where appropriate under this policy we will refer cases to the relevant prosecuting authority for criminal prosecution.

6 'Welfare' Fraud

- 6.1 This includes any local or national benefit/allowance administered on behalf of the Council or central government, for example, housing benefit, council tax reduction support, social fund, direct payments, some council tax discounts/exemptions and any national benefits which the council is empowered to investigate, such as job seekers allowance, income support and employment support allowance (under any pilots or agreed partnership.)
- 6.2 Under amendments to the Local Government and Social Security legislation there are often options to consider financial penalties as an alternative to prosecution and these should always be considered. However, in serious cases of fraud or where repeat offending occurs, the option to prosecute offenders will be kept under review.

7 Civil Penalties

- 7.1 The *Local Government Finance Act*, the *Council Tax Reduction Schemes (Detection of Fraud and Enforcement)(Wales) Regulations 2013* and the *SSAA* (as amended by the *WRA*) both provide councils with the ability to impose financial penalties where a person fails to report a material fact affecting their benefits or where a person fails, without good reason, to correct an error.
- 7.2 Each 'Act' lays out its own requirement for such a penalty to be imposed:
- As a general rule the penalties are fixed one-off 'fines' to be added to a person's liability to pay.
 - They can only be offered where a person fails to report a material fact or is negligent in some way and that failure resulted in an overpayment of benefit or a reduction in Council Tax liability.
 - These penalties can only be imposed where no criminal charges or other administrative penalties are offered.
 - The person receiving the penalty can appeal against the imposition of it, if permitted by legislation.

8 Administrative Penalties.

8.1 Section 115A of the *SSAA and Regulation 11 Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013*, provide for financial/administrative penalties as alternatives to prosecution. The legislation allows for financial penalties amounting to 50% of the gross overpayment/reduction can be offered if the following conditions are met:

- There is a recoverable overpayment or excess award of benefit/reduction as defined by the relevant legislation.
- There is no overpayment or excess award but that an application has been made where an individual has knowingly made a false statement.
- The cause of the overpayment is attributed to an act or omission on the part of the defendant.
- There are grounds for instituting criminal proceedings for an offence relating to the overpayment upon which a penalty is based.
- The person offered such a penalty has the ability to repay it within a reasonable timescale and the imposition of such a penalty will not overburden them if they have existing priority debts.

8.2 In all cases of fraud the Council will seek to recover the overpaid benefit/reduction/award. In all cases considered for sanction, it is essential that each case is subject to scrutiny on the basis of its own particular details. The circumstances of each individual case will ultimately determine the eventual sanction route. The Council will consider any previous prosecutions, cautions or administrative penalties from; the Council, other Local Authorities the Department of Work and Pensions, the Police, or other enforcement agencies.

9 Housing/Tenancy Fraud

9.1 In all cases of fraudulent housing or homeless applications, where a tenancy has been obtained, the Council will seek repossession of the property and recovery of any financial losses. The Councils view is that one property lost to fraud is one less property available to use for genuine applicants.

9.2 Where a false statement is made on a housing or homeless application, or a Right to Buy or Succession application, the Council will also consider prosecution. Fraud and illegal subletting committed by applicants will be considered for criminal prosecution using the Theft Act, Fraud Act, Housing Acts and/or PoSHFA.

9.3 The factors that will affect our decision to prosecute will be based on the evidential and the public interest tests.

10 Other Fraud

- 10.1 This includes, Grants, Reliefs and exemptions, council tax or non-domestic rates and other applications for financial assistance.
- 10.2 In cases where the Council suffers a financial loss, or risk of loss, we will always seek recovery. Where an organisation is involved in the fraud, the Council will also make referrals to the relevant governing body as and when appropriate, i.e. Charities Commission, Registrar of Companies.
- 10.3 The Council will also consider criminal prosecution. The factors that will affect our decision to prosecute will be based on the evidential and the public interest test. This will include cases of attempted fraud i.e. applications for renovation grants where the financial estimates are deliberately misstated; false applications for direct care payments.

11 Proceeds of Crime

- 11.1 The Council in partnership with Corporate Anti-Fraud Team will use the Proceeds of Crime Act 2002, Criminal Justice Act 1988 and the provisions of PoSHFA 2013 to obtain Confiscation Orders to include Compensation Orders as well as recovery of the full criminal benefit figure where possible.
- 11.2 The Council may use its own accredited Financial Investigators, or those attached to other law enforcement agencies in order to conduct investigation, obtain orders and present evidence.

12 Recording Penalties Sanctions and Prosecutions

- 12.1 For an effective regime of sanctions to be successful it is a requirement that accurate records of all convictions, penalties and cautions are maintained. This will enable the correct decisions to be made taking full account of the defendant's background. Therefore, it is important that a record of each is maintained.
- 12.2 Any/all sanctions must be recorded by both Corporate Anti-Fraud Team and the Council, and copies of all documents used to consider and issue the sanction should be retained, in accordance with the relevant Retention Policies. Relevant paperwork must also be sent to the National Anti-Fraud Network to be retained on its central data-base. In the case of prosecution, all cases that result in successful convictions will be reported to Dyfed-Powys Police for recording on the Police National Computer (PNC) central databases.

13 Publicity

- 13.1 It is Councils intention to positively promote this policy as well as the outcome of any prosecutions, which will deter others from fraudulent activity and reassure the public that the authorities take action to prevent fraud.

14 Reporting and Review

- 14.1 Summary information on cases and action taken will be reported to the Councils Communications team in line with the Procedures for Publishing Press Releases Referencing Criminal Convictions. An annual report will be produced for the Chief Executives, Senior Management Team and Audit Committees of the Council of all cases where sanctions or prosecutions have resulted from investigations conducted by Counter Fraud Officers.
- 14.2 This policy will be reviewed every 3 years or when changes in legislation require it by the Council's Head of Legal Services, and the Income and Awards Senior Manager. Any minor or consequential changes will be made with the agreement of the Head of Legal Services.

15 Further reading and guidance that supports this policy

- The Councils own Anti-Fraud and Corruption Policy
- Issue of Civil Penalties- Council Tax Reduction Scheme (Enforcement & Fraud) Regs 2013.
- Issue of Administrative Penalties and Prosecution in CTRS criminal cases- CTRS
- (Enforcement & Fraud) Regs 2013. Fraud Act 2006.
- Issue of Civil Penalties and Prosecution for Council Tax Fraud (SPD/Student exemptions & Discounts etc.) Local Government Finance Act 1992. Fraud Act 2006. Theft Act 1978 (S2)
- Prosecution for Tenancy Fraud and civil/criminal recovery of unlawful profits. Prevention of Social Housing Fraud Act 2013. Fraud Act 2006. Proceeds of Crime Act 2002.
- Prosecution for Housing Application/Homelessness Fraud- Housing Act 1996. Fraud Act 2006
- Blue Badge Abuse, Disabled Persons' Parking Badge Act 2013. Road Traffic Acts. Fraud Act 2006
- Staff/Members- Disciplinary Process/Standards Board. Prosecution: Fraud Act 2006
- NNDR Fraud. Penalties and Prosecution. Theft Act 1968 and Fraud Act 2006
- Prosecution for Application Fraud. Theft Act 1968 and Fraud Act 2006.

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Audit Committee Work Programme	
Date	Items for consideration
2020	
22/01/20	Seminar - self-evaluation
07/02/20	Strategic Risk Management Internal Audit - Performance Monitoring Q3 Treasury Management Q3 Closure of Accounts Audit Committee Self Assessment
23/03/20	Capital PaymentTheatr Brycheiniog 2020/21 Draft Internal Audit Plan Cost Reduction and Avoidance as at 31 January 2020 WAO Audit Plan Anti Fraud and Corruption Policies
07/05/20	WAO Financial Sustainability WAO Assurance and Risk Assessment Review of Internal Audit Annual Report on Settlement Agreements Strategic Risk Management Internal Audit - Performance Monitoring Treasury Management Q4 and Annual Review Closure of Accounts Draft Annual Governance Statement Fraud
	AGM
14/05/20	Seminar - draft statement of accounts
12/06/20	Seminar - final statement of accounts
28/08/20	Statement of Accounts 2019/20
04/09/20	WAO Audit Summary Annual Audit Opinion Strategic Risk Management Internal Audit Performance monitoring - Q1 Fraud
10/12/20	WAO Annual Improvement Report Strategic Risk Management Internal Audit Performance monitoring - Q2 Treasury Management Fraud

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