

## AUDIT AND GOVERNANCE COMMITTEE 29/11/18

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**Present:** Councillor R. Medwyn Hughes (Chair)  
Councillor John Brynmor Hughes (Vice-chair)

**Councillors:** Aled Ll. Evans, Alwyn Gruffydd, Aled Wyn Jones, Berwyn Parry Jones, Charles Wyn Jones, Elin Walker Jones, Huw G. Wyn Jones, Sion W. Jones, Dewi Wyn Roberts, Paul Rowlinson, Angela Russell and Cemlyn Williams.

**Lay Member:** Sharon Warnes

**Others invited:** Councillors Peredur Jenkins (Cabinet Member for Finance), Dafydd Meurig (Cabinet Member for Environment - for Item 5 on the agenda) and Edgar Owen (Ex-officio Member).

**Also in Attendance:** Dafydd Edwards (Head of Finance Department), Dewi Morgan (Senior Revenue and Risk Manager), Ffion Madog Evans (Senior Finance Manager - for Items 6 - 8 on the agenda), Caroline Lesley Roberts (Investment Manager - for Item 9 on the agenda), Luned Fôn Jones (Audit Manager), Dafydd Wyn Williams (Head of Environment Department - for Item 5 on the agenda) and Bethan Adams (Member Support Officer).

**Apologies:** Councillors John Pughe Roberts and Gethin Glyn Williams.

### 1. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

### 2. MINUTES

The Chair signed the minutes of the previous meeting of this Committee held on 27 September 2018, as a true record.

### 3. FRAUD AND CORRUPTION: EXPRESS MOTORS

The Senior Revenue and Risk Manager set out the background and context of the report. It was reported that four defendants had been found guilty at Caernarfon Crown Court on 2nd October 2018, on charges of fraud involving claims for subsidies by Express Motors for running the concessionary fares scheme in Gwynedd. A fifth defendant had pleaded guilty at an earlier hearing. It was noted that on 31 October 2018, all defendants had been sentenced at Mold Crown Court to prison for periods of between 12 months and seven and a half years. It was noted, as the matter had been subject to court proceedings, it had not been possible until now for the Committee to discuss the matter at a public meeting.

It was noted that the matter had been referred to Internal Audit by the Regulatory Department in 2014, within a few weeks of discovering fraud at the Bws Padarn company. It was explained that the matter had been referred due to the Department's concerns and furthermore they had received complaints from customers that bus travel cards were being swiped more than once (when stepping onto the bus and when leaving) for journeys made with Express Motors.

The Senior Manager explained that the Wayfarer system by Parkeon was the system used to record concessionary fare data for bus operators. It was noted that it was difficult to get the relevant data out of the system to gather evidence that could be discussed with the Monitoring Officer to see if there were grounds to refer the matter to the police. It was noted that it was not possible at the time to produce an exceptions report from the system, however this was now possible.

It was noted that risks remained with a great deal of money in question and the Council using the national system.

The Cabinet Member for Environment noted that he was not in his role at the time of the fraud, however, he was when the matter went to court. He emphasised what was important was what would be done from now on. He suggested that the situation perhaps highlighted that there was an over dependency on grants and Welsh Government understood this and was undertaking work to get to grips with the issue.

The Head of Environment Department explained that following the fraud discovered at Bws Padarn company that it appeared there was over-claiming of concessionary tickets from Express Motors company. He noted that the Internal Audit had investigated Express Motors before fraud was found at Bws Padarn, but there was no evidence. The fraud at Bws Padarn had highlighted the over-claiming at Express Motors, due to the expectation that the subsidy level for both companies would be fairly similar. He explained that it was difficult to extract data from the national system and therefore the Council had to pay a company to seek the data. He noted that pressure would be placed on Welsh Government to improve the system, and some improvements had been made, however, difficulties in terms of extracting data easily from the system continued.

The Head of Environment Department noted that the Welsh Government had recently placed a requirement on authorities who wish to continue to be part of the concessionary fares scheme to sign a new contract. The new contract stated that local authorities will be held liable for any fraud discovered. He noted that if the national system was suitable then the Council would be willing to commit to this requirement. He elaborated that they had written to the Welsh Government to state this.

During the ensuing discussion the following main observations were noted by members:

- Was there evidence or suspicion that both companies were working together?
- There may be a weakness in terms that some operators had their own back office that enabled them to produce their own reports and send them directly to the Department, rather than uploading their data from the national system to Flintshire County Council as the majority of companies did;
- That there were risks attached to the national system, bearing in mind that it was not easy to extract data from the system. That it was frightening that the situation had been allowed to develop and if customers had not complained then the fraud might have continued. There was an over dependency on some companies and the situation raised issues in terms of internal control and Welsh Government management.
- How had Flintshire County Council not noticed the overuse when they were responsible for the administration of the national system?
- Amazement that it was possible to use a card more than once in a short period of time. Welsh Government should be asked to investigate the period of time in order to prevent fraud.
- Was the national system sufficient in terms of data extraction? Concern that a risk remained and committing to the requirement for the Council to be held liable for any fraud discovered in the new Welsh Government contract maximised the risk to the Council. Did councils come together to discuss the matter with the Welsh Government?
- Would it have been possible for officers to look at CCTV footage to check for fraud?
- The existing national system was not sufficient and as it was a Welsh Government national system, they should be responsible for this;
- That investment was required in the system to improve this. Had other councils sent correspondence to Welsh Government regarding this?
- Did the Council have steps to mitigate risk if they commit to the new contract?
- To thank the Environment Department for their work with Express Motors that indicated that Gwynedd Council was on top of its game. Would the money be reclaimed?

- There was no choice but to commit to the new contract as stopping the concessionary fares scheme would lead to a loss for the most vulnerable persons. Had such an investigation been undertaken in any other area of Wales, either prior to this case or currently? Were there any suggestions noted in court regarding the deficiencies of the national system that could persuade Welsh Government to change and improve the system?
- Many people believed that the Council was responsible as fraud had not been discovered earlier, however, this was not true and the Council was not at fault.
- The officers were congratulated on their work in light of the difficulties to gather evidence. In accordance with what was suggested, the Committee should send a letter to Welsh Government regarding the system;
- A member had been present to hear the Senior Manager, Revenue and Risk submitting evidence in court, and the member praised that he had submitted evidence in a professional manner.
- If a letter should be sent by the Committee to Welsh Government regarding the system, it should be shared with other councils and the Welsh Local Government Association;
- To request that the Committee receive information at the next meeting on the steps that can be taken to mitigate the risk the new contract with Welsh Government will place on the Council.

In response to the above observations, the officers and the Cabinet Member for Environment noted:

- There was no evidence of collaboration between both companies. The nature of the fraud in both companies was quite different, with Bws Padarn using their own personal back office system to change the 6 week data use to look like a period of a month, whilst Express Motors had over-used 4 bus travel cards that led to inflating the concessionary travel figures over a number of years;
- In terms of Bws Padarn, the only way they could have conducted the fraud was through their own back office system. The fraud at Express Motors would have been undertaken without or with their own back office. There was a valid benefit for companies to have their own back office, as they could generate management reports etc. There was one company on the County's boundary that had recently received permission to have their own back office, the Environment Department was not completely happy with the situation, however, if the back office was used appropriately then it would be acceptable.
- That alarms had sounded prior to 2014 regarding Express Motors. In 2007, an officer from Internal Audit travelled on buses to see what was going on, however there was no evidence, and at the time the system was that the driver pressed a button. The Smart Card was issued by Welsh Government partly following discussions regarding concerns about the system at the time. Criticism was accepted to a degree, however, at the time of the court case it became apparent that when a card was deleted from the system as a result of the user losing it or following the user's death, the cards then came back into use after 3 days. The Council had delivered in terms of controlling the use of the cards in accordance with Welsh Government requirements, it was difficult to see how the Council could have identified the overuse. Although some companies had high usage percentages, there may be valid reasons for the numbers. In order to find the fraud it was necessary to go further than the requirements to get evidence. Risks remained with the national system;
- That the machine on the bus recorded the use of the card to the system. The data of smaller companies went to Flintshire County Council's system who produced reports for them whilst larger companies produced their own reports;
- That officers from Flintshire County Council contacted the machine providers to get the data. With the Council's internal systems, parameters could be set that would highlight the issues, however, in this situation Council officers had no access to the information;

- Officers had mentioned to Welsh Government about the period of time and they were looking into the matter. In the Express Motors fraud case, changing the period of time when the card may be used more than once would not have totally prevented fraud as several cards were used;
- Furthermore, it was necessary to consider if it was reasonable in terms of the period of time between using an individual card, bearing in mind that users changed buses when travelling;
- Withdrawing from the concessionary fares scheme would be politically contentious. The solution was a better national system and in the long term there should be a system similar to the Oyster Card that operates in London;
- That the report noted the work undertaken by Internal Audit. In terms of CCTV footage, it was the Police who were entitled to look at footage to gather evidence. Officers were not expected to look at hours of CCTV footage;
- No response had been received thus far to the letter sent to Welsh Government. It was possible for the Council to work with other councils;
- If the Council was not willing to accept the risk in terms of the new contract then the Council would not be part of the concessionary fares scheme. There would be a financial saving of £0.5 million as a result of this, but bus users eligible for the scheme would suffer. The risk would have to be accepted when committing to the new contract;
- That the current situation in terms of the national system was unacceptable, however, it was not possible to face the option of not committing to the new contract. Therefore, the best option was to commit to the new contract and that the Environment Department continues to lobby the Welsh Government for improvement. The Committee could reinforce the Department's viewpoint by sending a letter to the Welsh Government noting that the Council was being placed in a corner without much choice but to sign a contract that was not acceptable and asking them to readdress the situation;
- The fraud was on applications processed by Welsh Government and discussions would continue regarding the money, however, under the current contract the Council had no responsibility for the money lost through fraud. There was potential for the money to be recovered by the Crown Prosecution Service under the Proceeds of Crime Act;
- That the Judge had stated that it was the pure dishonesty of the individuals that was responsible for the fraud;
- Officers were unaware of such an investigation in Wales, however they could confirm that currently there was no investigation in Gwynedd;
- That good work had been undertaken by the Environment Department and the Finance Department to find evidence for the Police. It could not be proven how much earlier the fraud had commenced, with the evidence submitted based on robust facts received from the system. Officers had been witnesses in the court case and at the end of the proceedings the thorough work undertaken by Council officers was praised. That risks remained, however, the ability to mitigate the risk was out of the hands of officers as it was a national system.

**RESOLVED:**

- (i) To accept the report as a background of the fraud perpetrated at Express Motors against the Council, and what the Council had done in response;**
- (ii) To note the risk that the new contract with the Welsh Government imposes on the Council;**
- (iii) Send a letter to the Welsh Government stating that the Council was being placed in a corner without much choice but to sign a contract that was not acceptable, asking them to readdress the situation and share the letter with other councils and the Welsh Local Government Association;**
- (iv) That the Committee receives information at its meeting on 14 February 2019, regarding the steps that can be taken to mitigate the risk that the new contract with Welsh Government imposes on the Council.**

#### 4. REVENUE BUDGET 2018/19 - END OF AUGUST REVIEW

The report was submitted by the Senior Finance Manager, who gave the context and elaborated on the contents of the report that had been submitted to Cabinet on 16 October 2018. She noted that the end of August review of the budgets indicated a mixed picture, however, specific actions were required for the Education Department, Children and Families Department together with the Highways and Municipal Departments to ensure control of their budgets by 31 March 2019.

Attention was drawn to the Cabinet's decision:

"To accept the report on the end of August 2018 review of the Revenue Budget and consider the latest financial situation regarding the budgets of each department/service.

- To ask the Cabinet Members for Children, Education and Highways and Municipal services to ensure that the departments have a clear implementation plan to reduce the financial deficit and to discuss those plans with me so that I can be confident that they are reasonable.
- Reimburse the Economy and Community Department £40k, which is the income loss resulting from the closure of the Arfon swimming pool over the summer.
- Harvest (£1,904) of the net underspend on Corporate budgets, with (£40k) to be used to reimburse the Economy and Community Department for the income loss while the Arfon swimming pool was closed. With the remaining (£1,864) to be transferred to the Supporting the Financial Strategy Reserve to support the inevitable one-off pressure on the Council's budget."

During the ensuing discussion, officers and the Cabinet Member for Finance responded to members' enquiries as follows:

- That the Arfon swimming pool was closed for ten weeks over the summer to enable adaptations to be undertaken. In fairness to Byw'n Iach Cyf, who will be responsible for the healthy living centres from April 2019 onwards, the Economy and Community Department would be reimbursed for the income loss;
- Agree with the members' observations, the overspend position in terms of transport in the Education Department was unacceptable. A meeting took place with the relevant officers together with the Chief Executive to discuss this issue and it also received attention at the Cabinet meeting on 16 October 2018. The overspend in the departments linked to the services that are associated with the most vulnerable people and in this case the overspend was for transporting children to Ysgol Hafod Lon. The department was asked to consider alternative ways of transporting pupils by perhaps paying parents rather than using a taxi with a requirement for an escort to be present;
- That the Cabinet consider the overspend in terms of transport in the Education Department and challenge the Cabinet Member for Education and the officers. It was necessary to change the system and it would be very difficult to solve the overspend by supporting the existing system;
- Encourage members to attend one of the four workshops at the start of December regarding savings and the financial position;
- It was estimated that there would be £2.9 million income in terms of the Council Tax Premium Scheme at the end of the financial year, £200,000 had been committed in the budget to enforce the system. With a percentage of the remaining money committed to improve the situation in terms of housing for young people. The number of applications from house owners to register their houses as a business continued to increase. The Valuation Office did not have sufficient resources to challenge the applications appropriately. Welsh Government will continue to be lobbied to change the system and encourage other councils to lobby on the matter, Pembrokeshire County Council were lobbying, and the Isle of Anglesey Council had written to Mark Drakeford AM, Cabinet Secretary for Finance, requesting that he discusses the matter with HM Revenue and Customs;

- That the Council lobbies the Welsh Government in the context of the need to change the system by presenting a requirement to receive permission via the planning system to change a house into a business, but the Government did not support this;
- Assure members that the Cabinet places the people of Gwynedd at the heart of all they do and that changes will be made to the ways services are provided in light of the financial challenge and by trying to ensure that no one suffers. Pressure would be brought to bear on Cardiff in terms of funding councils and the Leaders of North Wales Councils had recently met with Mark Drakeford AM to discuss the matter;
- In terms of a member's concern that there was a reduction in the number of domiciliary care packages in the Adults, Health and Well-being Department, each case was considered individually and the way in which services are provided would be looked at;
- That the Council provides internal domiciliary care and residential packages at a higher percentage than other councils in north Wales. Internal provision was essential in rural areas where private provision was not available. As part of the savings, consideration had been given to externalise the provision but when comparing costs it was found that there would be no difference regarding costs;
- In the context of the reduction in the number of applications as part of the Council's Tax Reduction scheme, there was no robust explanation but there was a tendency to suggest that the economy was improving and seasonal jobs may mean that persons were above the threshold to receive benefits;
- That the Council sends an information pack regarding the Council Tax Reduction scheme to individuals and this was funded by Welsh Government.

**RESOLVED:**

- to note the situation and the relevant risks in the context of the Council's budgets and its departments;**
- to request that the Education and Economy Scrutiny Committee consider scrutinising the overspend of the Education Department on pupil transport.**

**5. CAPITAL BUDGET 2018/19 - END OF AUGUST REVIEW**

Submitted - the report of the Head of Finance Department noting, in accordance with the requirements of the Local Government (Wales) Measure 2011, that the Audit and Governance Committee was expected to scrutinise some financial matters including budget monitoring reports, where appropriate.

The Senior Finance Manager set out the context and elaborated on the contents of the report submitted to Cabinet on 16 October 2018. She noted that there was an increase of £25.227 million in the budget for the three-year capital programme since the opening budget position. It was explained that firm plans were in place to invest approximately £28.6m in 2018/19, with £6.9m (24%) of it funded by attracting specific grants. Attention was drawn to the Cabinet's decision.

**RESOLVED to note the situation and the relevant risks in the context of the Council's capital programme.**

**6. SAVINGS OVERVIEW: PROGRESS REPORT ON REALISING SAVINGS SCHEMES**

The report of the Head of Finance Department was submitted which reported on the latest situation on realising the saving schemes.

The Senior Finance Manager set the context and elaborated on the contents of the report submitted to Cabinet on 16 October 2018. She noted that it was heartening to report that £23m of the total of over £24m of savings plans for the period 2015/16 - 2017/18, namely 95%, had been achieved with only a little slippage with the rest.

She drew attention that 11 of the 26 savings schemes had been realised in full or in part, and it was encouraging that only two schemes were anticipated to slip. It was confirmed that in financial terms, the forecasts indicated that over 80% of the savings had been realised.

In response to a question from a member regarding deferring the transfer of the leisure facilities provision to Byw'n Iach Cyf, the Senior Revenue and Risk Manager stated that the original timetable for transfer was too ambitious, considering the required detailed legal preparatory work. The intention to transfer the provision to Byw'n Iach Cyf on 1 April 2019 in accordance with the timetable was confirmed.

**RESOLVED to note the situation and the relevant risks in the context of the savings overview.**

## **7. TREASURY MANAGEMENT 2018/19 – MID YEAR REVIEW**

The Head of Finance Department set out the background and context of the report on treasury management activity for the current year. He confirmed that during the six months between 1 April and 30 September 2018, the Council's borrowing activity had remained within the restrictions originally set and there were no banks where the Council had deposited money that failed to repay.

He drew attention to the comparatively high interest loans taken in the 1980s that were coming to an end. It was noted that the Council for some time "self-borrowed", rather than borrowed from others, and it was necessary to look at what loans to take in the mid or longer term, however, it was intended to have loans for short terms until the start of April 2019.

It was noted that a training session for Committee members would take place on 16 January 2019, where guidance would be given by Arlingclose Company, the Council's Treasury Management Consultants. It was noted that this would be a golden opportunity to discuss and explain the Council's Treasury Management Strategy for 2019/20, before the Committee recommend the Full Council to approve the strategy.

A member noted that Manchester Council invested in the community, rather than outside the area. The member added that with three main rivers in Gwynedd there was an opportunity to invest in electricity generating schemes, therefore why did the Council not invest in such schemes. In response, the Head of Finance Department explained that Manchester Council's Pension Fund had invested in the housing market, whilst it was the treasury management that was in question here, and the Council's situation was more limited. He elaborated that the regulations in England had more freedom, and recently similar Welsh Government regulations had been relaxed. He added that investment in infrastructure was more suitable for the Pension Fund. It was noted that safe opportunities to invest in Gwynedd were more limited.

In response to a member's observation regarding the table 'Principal Sums Invested for Periods Longer than 364 days' on page 57 on the agenda, the Investment Manager explained that the table indicated the maximum sums that can be invested. She elaborated that the maximum sums in terms of investment for a period of two or three years was less, compared to investments for a period of a year.

**RESOLVED to accept the report for information.**

## **8. INTERNAL AUDIT OUTPUT 17/9/18 - 16/11/18**

Submitted - the report of the Audit Manager outlining the Internal Audit section's work for the period. It was noted that 8 reports on audits from the action plan had been completed. Attention was drawn in terms of follow-up audits, that acceptable action had been taken on 58.28% of the agreed steps, namely 95 out of 163.

Consideration was given to each individual report and during the discussion reference was made to the following main matters –

### **Council Tax Refunds**

In response to an enquiry by a member regarding the higher risk of fraud under the new arrangements to pay refunds via BACS, the Audit Manager noted that the audit had received a high level of assurance and officers were investigating producing purposeful reports to undertake checks, and that compensatory controls had been established.

### **Leisure Centres**

A member asked if Internal Audit would continue to undertake audits of leisure centres once the provision of leisure facilities had transferred to Byw'n lach Cyf. In response, the Senior Manager - Revenue and Risk noted that the transfer agreement, that had not yet been signed, noted that Internal Audit would provide the service to the company.

In response to a member's observation, the Audit Manager explained that an action plan with a timetable for the relevant service would be presented, with a follow-up being completed to consider progress. She elaborated that a clear improvement had been seen in leisure centre arrangements. Until recently, audit of leisure centres would receive opinion C (under the previous system) with many action points. It was noted that the action points were now 2 or 3 and Plas Silyn Leisure Centre had received opinion A in 2017.

In response to a question from a member if it was possible for the company to select who would undertake audits, the Senior Revenue and Risk Manager explained that there was a break clause if the company was of the opinion that the service provided by Internal Audit was not to the expected standard. It was noted that it would be the company's Board of Governors who would receive audit reports from Internal Audit from April 2019 onwards, as Byw'n lach Cyf was a company at an arm's length from the Council. The Council would continue to need assurance about the company's governance arrangements, but the Head of Economy and Community would be the main contact. He elaborated that Internal Audit was seeking to ensure that the company started on a firm foundation and it would be useful to complete the follow-up work on leisure centres before the end of March 2019.

A member noted that leisure centre audits highlighted the lack of commercial thinking, in order for the new company to be successful staff would have to be armed to enable them to operate commercially.

A member asked if it was possible for the audits to continue to be presented to the Committee following transfer to Byw'n lach Cyf. In response, a member noted that he was Chair of the Shadow Board and that a business plan was being prepared. He elaborated that there would be a requirement for the company to submit an annual report to the Council and that discussions were continuing in terms of possible scrutiny arrangements.

A member noted that as Council members were on the Board of Governors of Byw'n lach Cyf, what was the purpose of submitting the reports to the Committee. In response, the Head of Finance noted that more attention would be given to the leisure field than before with the company accountable to the Council. It was added that the accounts of Byw'n lach Cyf would be included as part of the group accounts submitted for the attention of the Committee.

### **Parc Glynllifon Income**

In response to a member's question about the checks on the number of visitors, the Audit Manager stated that the best solution for the Council regarding collecting entry fees to Parc Glynllifon was the arrangement with the tenant of the Shop near to the Park's entrance. She



highlighted that a reduction in staffing resources, and bearing in mind that £14,000 was the annual income, the costs of employing a person to undertake the work would be higher than the income.

**RESOLVED to accept the report on the work of the Internal Audit for the period 17 September 2018 to 16 November 2018 and to support the agreed actions that had already been submitted to the managers of the relevant services.**

**9. INTERNAL AUDIT PLAN 2018/19**

The report of the Audit Manager was submitted, providing an update on the current situation in terms of completing the 2018/19 internal audit plan.

It was reported that the Internal Audit Service up to 16 November 2018 had completed 37.29% of the plan, with 22 of the 59 audits in the 2018/19 plan released in a finalised version. Attention was drawn to the amendments to the Plan.

**RESOLVED to accept and note the contents of the report as an update of progress against the 2018/19 audit plan.**

**10. SELF-ASSESSMENT OF THE EFFECTIVENESS OF THE AUDIT AND GOVERNANCE COMMITTEE**

Submitted - the report of the Senior Manager - Revenue and Risk stating the results of the Self-assessment of Good Practice, using CIPFA assessment guidelines that took place in a workshop on 5 November 2018, together with the action plan to improve compliance with statutory and good practice requirements of professional bodies.

Members present at the workshop were asked to confirm that the report was a fair reflection of the discussion that took place.

In response to a comment by a member regarding the Committee submitting a formal annual report to the Full Council rather than an exceptions report only, the Head of Finance explained, that the conclusion in the workshop was that the work of the Committee would be included in the Annual Scrutiny Report and an exceptions report would be submitted by the Committee to the Full Council, if required.

A member referred to the Annual Governance Statement and noted that there should be a reference to the work of the Committee and its role in terms of governance. In response, the Senior Manager - Revenue and Risk noted that it was intended to strengthen the link with the Governance Arrangements Assessment Group and to submit more regular reports on the Group's work to the Committee.

**RESOLVED to accept the contents of the report as a basis for an action plan for the further development of the Committee and request an update in follow-up meetings on the progress against the actions.**

The meeting commenced at 10:00am and concluded at 12:45pm.

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**CHAIR**