

Follow-up on the Recommendations Issued in the Auditor General for Wales' Report in the Public Interest (Stage 1) – Pembrokeshire County Council

Audit year: 2022-23

Date issued: July 2023

Document reference: 3649A2023

This document has been prepared for the internal use of Pembrokeshire County Council as part of work performed/to be performed in accordance with Section 17 of the Public Audit (Wales) Act 2004, and Section 15 of the Well-being of Future Generations Act (Wales) 2015.

No responsibility is taken by the Auditor General or the staff of Audit Wales in relation to any member, director, officer or other employee in their individual capacity, or to any third party.

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 and Audit Wales are relevant third parties. Any enquiries regarding disclosure or re-use of this document should be sent to Audit Wales at info.officer@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.

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

Contents

The Council is making progress in addressing the recommendations in our Report in the Public Interest but needs to assure itself and demonstrate that the actions it is taking are sustainable and will achieve the intended impacts.

Summary report	4
Detailed report	6

Summary report

What we reviewed and why

- 1 The Auditor General for Wales issued Pembrokeshire County Council (the Council) with a Report in the Public Interest in January 2022¹. The report identified deficiencies in governance and decision making in relation to the way the Council dealt with a departure payment made to the former Chief Executive. In his report the Auditor General made eight recommendations to the Council covering:
 - roles and responsibilities;
 - Member/officer relationships;
 - decision making;
 - termination payments;
 - pay policy statement;
 - procurement and use of external advisors;
 - the Council's constitution; and
 - adherence to the Nolan Principles of Public Life.
- 2 The objective of this review was to assess the Council's progress in taking effective action to address the recommendations in the Auditor General's report.
- 3 In February 2022, the Council approved its Corporate Governance Improvement Plan 2022-24 (CGIP) which contains 74 actions to address recommendations arising from a number of reviews and reports it had received focussed on governance. Those reports included our Report in the Public Interest as well as reviews commissioned by the Council itself, which included the Bowles Review (an independent review of issues relating to the former Chief Executive's Settlement Agreement), and the Corporate Peer Review it had requested from the Local Government Association.
- 4 To clarify, the scope of this follow-up audit focussed on the Council's progress against the eight recommendations issued in our Report in the Public Interest in January 2022.
- 5 We understand that taking action on our recommendations is part of the Council's journey to make long-term and sustainable improvements to its governance arrangements. We are therefore following the Council's journey and undertaking our work in a phased way. For this first stage of our follow-up work, we are reporting an assurance review on the Council's progress up to May 2023. We will then continue to monitor the Council's progress during the remainder of the financial year 2023-24.
- 6 We undertook this first stage follow-up review through document reviews, interviews with key Members and officers and by observing relevant committee

¹ Audit Wales, [Deficiencies in Pembrokeshire County Council's Governance and Decision Making Relating to the Departure of its former Chief Executive with a Termination Payment](#), January 2022

meetings, and some meetings of the Council’s Constitutional Review Working Group. We undertook this first stage follow-up review during the period February 2023 to May 2023.

What we found

- 7 Our review sought to answer the question: Is the Council taking effective action to address the recommendations in the Auditor General for Wales’ Report in the Public Interest issued in January 2022?
- 8 A summary of our findings against each recommendation is included in **Exhibit 2**. Overall, we found that, the Council is making progress in addressing the recommendations in our Report in the Public Interest but needs to assure itself and demonstrate that the actions it is taking are sustainable and will achieve the intended impacts.

Recommendation

Exhibit 1: recommendation

In addition to the Council completing the recommendations contained in our Report in the Public Interest we have issued a further recommendation. The table below sets out the further recommendation that we have identified following this review.

Recommendation	
Demonstrating impact	
R1	The Council needs to assure itself and demonstrate that the actions it is taking to address the recommendations in our Report in the Public Interest are sustainable and will achieve the intended impacts.

Detailed report

The Council is making progress in addressing the recommendations in our Report in the Public Interest but needs to assure itself and demonstrate that the actions it is taking are sustainable and will achieve the intended impacts

- 9 Our Report in the Public Interest contained eight recommendations. Some of these recommendations related to process changes and some related to the need for sustainable cultural change in the Council. In undertaking this follow-up audit, we fully recognised that the recommendations that focus on cultural change will be ongoing in nature and will take a longer timeframe to embed within the Council. Because of this we were not expecting to find that all recommendations had been fully implemented at this stage 1 review. The Council recognises that it is on a journey of improvement in its governance arrangements. This follow-up report gives an overview of the progress that the Council has made to date on our recommendations.
- 10 The Council has approved a Corporate Governance Improvement Plan (CGIP). This plan includes actions to address both the recommendations in the Auditor General for Wales' Report in the Public Interest as well as other governance related reports that the Council commissioned from external advisors. The CGIP plan has 74 actions, some of which related to our recommendations, and others which are outside the scope of this review.
- 11 Overall responsibility for delivery of the Council's wider CGIP is held by the Chief Executive supported by officers from the Executive Leadership Team, who are leading on delivery of specific actions within the plan.
- 12 The Council is making progress on all the eight recommendations in our Report in the Public Interest. **Exhibit 2** provides a summary of our findings against each recommendation as at May 2023. We recognise that the Council is still in the process of taking action on the eight recommendations.
- 13 Some of the actions related to our eight recommendations have not been delivered within the timeframe the Council initially set. The timing of some of these actions are within the Council's control (eg the decision to move the deadline for completion of the revised Constitution from May 2023 to October 2023). Some of the delays are outside of the Council's direct control (such as the timeline for the national legislative changes in relation to contract procedure rules).
- 14 Updates on the actions on our eight recommendations are reported to the Council's Governance and Audit Committee and to full Council as part of the wider CGIP. The CGIP sets out the actions, timescales for delivery and the responsible officers, as well as the intended outcomes. The CGIP also provides a narrative summary of progress and red, amber, green (RAG) rating against each action. However, whilst the detail against each action is reported, there is no summary

evaluation that highlights any key risks and issues with delivery. There is no clear prioritisation of the actions within the CGIP or identification of which actions are considered more integral to improving governance within the Council. The RAG ratings do not always reflect the actual position on delivery eg there have been examples of actions showing as RAG rated green when the report's narrative noted that they have not yet been delivered or they are delayed.

- 15 In March 2023, officers identified their intention to revise the CGIP in readiness for the April 2023 Governance and Audit Committee, retaining the same structure but bringing together a number of actions under a single theme. However, this was not completed in time to bring an amended CGIP format to the Council's April 2023 Governance and Audit Committee nor to full Council in May 2023.
- 16 In the CGIP there are number of longer-term actions relating to our recommendations where the Council has defined its intended outcomes, but it is yet to determine how it will assure itself that those outcomes have been achieved. For example, in response to recommendation one in our report the Council has not set out how it will demonstrate that Members and officers have a clear understanding of roles and responsibilities, or how it will assess that the relationships between Members and officers are constructive and respectful. Through our fieldwork both the Members and officers that we spoke to all reported a positive change in the relationship/culture between Members and officers and a better understanding of roles, but this was a limited number of interviews. The Council needs to find ways to assure itself that the actions it is taking in response to our recommendations are effective, are having the intended outcomes, and that improvements are sustainable.

Next steps

- 17 The Council has demonstrated that it is making progress in addressing our recommendations, and it is yet to complete the work. We will continue to monitor the Council's progress during the financial year 2023-24 and will issue a further report in due course.

Exhibit 2: recommendations and findings

The table below sets out a summary of our findings against each recommendation issued in our 2022 report.

Recommendations and findings

Recommendation 1 – Roles and responsibilities

The Council should ensure that:

- the respective roles and responsibilities of Members and officers have been clearly defined;
 - Members and officers are able to demonstrate a clear understanding of their respective roles and responsibilities; and
 - relationships between Members and officers are constructive and respectful.
-

Finding – recommendation partially implemented

- The Council will be reviewing and defining the roles and responsibilities of Members and officers as part of its work on reviewing its Constitution.
- Following the May 2022 local elections, the Council provided training to Members and officers around roles and responsibilities.
- Those we interviewed felt that relationships between Members and officers had improved and was now more constructive and respectful.
- However, the Council has not yet set out how it will demonstrate that relationships between Members and officers are improving, and how it will satisfy itself that Members and officers have a clearer understanding of their respective roles and responsibilities.

Future action – We will continue to monitor the Council's progress in this area.

Recommendations and findings

Recommendation 2 – Member/officer relationships

The Council should review whether its current arrangements for dealing with Member/officer complaints and disputes are fit for purpose. This should include:

- ensuring that it has effective informal mechanisms in place to seek early resolution to disputes and avoid unnecessary escalation through formal processes; and
 - strengthening the section of the Council's constitution that covers Member/officer relationships to include a clear informal mechanism that officers can use to seek resolution of relationship difficulties with Members.
-

Finding – recommendation partially implemented

- Following a review by the Constitutional Review Working Group of the Council's current arrangements for dealing with Member/officer complaints and disputes, the Constitutional Review Committee (at its meeting on 28 April 2023) agreed to make a recommendation to Council to adopt a revised Member/officer protocol. Council (at its meeting on 11 May 2023) agreed to the revised Member/officer protocol. This is now in force and forms part of the Council's Constitution.
- Under this protocol, there is now a clearer process for both Members and officers to raise concerns. The protocol clearly sets out the expectations on both parties. It contains informal resolution processes available to both Members and officers aimed at resolving concerns on a consensual basis.

Future action – The Council now needs to raise awareness of the revised protocol with both Members and officers and decide how it will assure itself that the revised protocol and informal mechanisms are being effective in resolving disputes informally and, where appropriate, avoiding escalation to formal processes. We will continue to monitor the Council's progress in this area.

Recommendations and findings

Recommendation 3 – Decision-Making

The Council should:

- ensure that its decision-making procedures are clearly set out, understood and adhered to by Members and officers alike;
- ensure that when making decisions that relate to the use of significant amounts of public money (as defined by the Council), value-for-money considerations are properly considered and documented;
- ensure that its delegated decision-making arrangements are fit for purpose, and Members and officers adhere to their levels of delegated authority;
- remind Members and officers that significant and/or controversial decisions should not be taken by officers using delegated powers; and
- ensure clear accountability and consistency in securing the provision of governance advice.

Recommendations and findings

Finding – recommendation partially implemented

- The Council is currently reviewing and updating its Constitution. As part of this work, decision making procedures, including delegated decisions, will be reviewed.
- The Council has taken action to remind report authors of the need to ensure that reports to both Cabinet and Council clearly set out the background to the proposed decision and include the professional advice of statutory officers.
- The Council has revised its Financial Procedure Rules. These were approved by Governance and Audit Committee at its meeting on 18 April 2023, adopted by full Council at its meeting on 11 May 2023 and are now in force. The revised Financial Procedure Rules set out the Council's definition of value for money. The CGIP has an action to undertake training on the revised Financial Regulations, alongside training on the updated Contract Procedure Rules (CPRs). This training is planned for March 2024.
- The Council has provided training to Members and officers around decision making.
- Members and officers have received training reminding them that significant and/or controversial decisions should not be taken by officers under delegated powers.
- The Council has created a new post of Head of Law and Governance to provide a single point of contact for governance advice. The Head of Law and Governance has proactively engaged with both Members and officers around the importance of seeking governance advice when needed, and this has been reinforced by the Chief Executive through his leadership of the organisation. The law and governance team are reporting an increase in the number of enquiries for governance advice from Members and officers.

Future action – The Council intends to review its decision-making procedures as part of its review of its Constitution. The Council will then need to provide training for Members and officers on the new Constitution (the Council has included this as an action in its CGIP). We will continue to monitor the Council's progress in this area.

Recommendations and findings

Recommendation 4 – Termination Payments

The Council should ensure that all future termination payments made to Chief Officers are:

- supported by proper business cases;
 - determined in accordance with legislative, constitutional requirements and the Council's approved pay policy statement; and
 - reported in a transparent way.
-

Finding – recommendation partially implemented

- The Council is developing a new 'Chief Officer Exit Arrangements' guidance to clarify arrangements for future termination payments related to Chief Officers. The new guidance covers the issues in our recommendation (ie that they must be supported by a business case and determined in accordance with legislative requirements). The guidance also clarifies, 'that decisions about exit payments on chief officer termination of employment will, as a rule, be made by Full Council.'
- The new guidance is currently in draft form and will be issued for internal consultation prior to adoption. In the CGIP the intended timeline for adoption is by December 2023.
- Full Council approved an early retirement scheme application from a Chief Officer at its meeting on 2 March 2023. Audit of Accounts colleagues will consider that payment during the 2022-23 financial statements audit.

Future action – We will continue to monitor the Council's progress in this area.

Recommendations and Findings

Recommendation 5 – Pay Policy Statement

The Council should review and update its pay policy statement to ensure that it is comprehensive and provides sufficient flexibility in relation to exit payments on termination of Chief Officer employment.

Finding – recommendation fully implemented

- The Council has reviewed its Pay Policy Statement for both 2022-23 and 2023-24. These were approved by Council on 3 March 2022 and 2 March 2023 respectively.
- The policy is now more comprehensive and provides greater flexibility in relation to exit payments on termination of Chief Officer employment.

Future action – The Council’s Pay Policy includes reference to the Constitution. In reviewing the Constitution, the Council needs to ensure that there is correct alignment between the Pay Policy Statement and the revised Constitution.

Recommendations and Findings

Recommendation 6 – Procurement and use of external advisors

The Council should review and implement a programme of officer awareness and training to ensure robust procedures for procuring and using external advisors are properly embedded and cover:

- considerations being taken into account in deciding whether to appoint external advisors; and
 - provision of written instructions to external advisors.
-

Finding – recommendation partially implemented

- In March 2023, the Council provided a written instruction to staff around the procurement and use of external advisors. This procedure note does cover 'written instructions' in so far as it states that the contract manager 'must ensure that a clear specification or terms of reference are developed'. The procedure note does not make reference to the considerations being taken into account in deciding whether to appoint external advisors.

Future action – The Council needs a mechanism to assess whether there is a need to appoint external advisors, which takes into account relevant considerations. The Council also needs to ensure that training for relevant officers is provided on the new procedures for procuring and using external advisors. We will continue to monitor the Council's actions in this area.

Recommendations and Findings

Recommendation 7 – The Council Constitution

The Council should review and rewrite its Constitution to ensure that it reflects legislative requirements, its content is consistent throughout and consistent with any significant Council policies and procedures, is easy to navigate and it follows good practice.

Finding – recommendation not met

- The Council is reviewing its Constitution, using the national Model Constitution as the basis for this work.
- The work on reviewing the Constitution is being done through the Constitutional Review Committee, who have established a working group of the whole Committee to undertake the detailed review work.
- The review of the Constitution is taking longer than originally anticipated. The Constitutional Review Working Group is going through the Constitution line by line and this has slowed their progress. The Constitutional Review Working Group has not been able to meet the timescales for this work that was set out in its terms of reference. The original timeline was that the review would be completed and recommended to Council in May 2023. This deadline was not able to be met and a new deadline of October 2023 has been set for presenting the revised Constitution to Council for adoption. As part of our fieldwork, we discussed the potential risks of this delay with key officers and Members. Both officers and Members were of the view that they would rather take longer on the review and ensure that it was undertaken in a thorough and inclusive manner, rather than rush the process to meet the timescales that the Council had set for itself. The Council needs to ensure that it continues to evaluate the risks of operating with its current Constitution, which currently does not reflect the Model Constitution.
- The version of the Constitution that Members are reviewing at the Constitutional Working Group appears to be a hybrid of the Model Constitution which has been populated with some elements of the existing Pembrokeshire County Council Constitution. In presenting the revised Constitution to the Constitutional Review Committee and then to Council for adoption, officers will need to ensure that it is made clear to Members where there are suggested significant changes/departures to the Model Constitution (and any potential risks or issues this may cause).

Future action – The Council needs to complete the review of the Constitution and have it adopted by Council. We will continue to monitor the Council's progress in this area. Subsequently, the Council will need a comprehensive and tailored programme of work to ensure that the Constitution is thoroughly understood by Members and officers and embedded across the organisation.

Recommendations and Findings

Recommendation 8 – Adherence to the Nolan Principles of public life²

The Council should:

- ensure officers and Members understand their fundamental obligations as public servants to adhere to the Nolan principles of public life (selflessness, integrity, objectivity, accountability, openness, honesty, and leadership).
 - ensure staff are aware of how they can raise concerns when they encounter conduct contrary to the Nolan principles and in respect of the Member Code of Conduct.
-

Finding – recommendation partially implemented

- The Council has provided a number of training sessions to Members that have set out their fundamental obligation to adhere to the Nolan Principles of Public Life. Officers on the Extended Leadership Team, managers and those on the aspiring leaders programme have also received training in the Nolan Principles. This training is seen by the Council as part of an ongoing process to raise awareness of the principles with both Members and officers.
- The revised Member/official protocol, that the Council has adopted, also references the importance of adherence to the Nolan Principles.
- The Council has not as yet outlined how it will assure itself that all Members and officers understand and are adhering to the Nolan Principles.

Future action – The Council needs to define how it will assure itself that Members and officers understand and are adhering to the Nolan Principles. We will continue to monitor the Council’s progress in this area.

² In 2015, the Committee on Standards in Public Life set out seven Principles of Public Life (also known as the Nolan Principles) which apply to anyone who works as a public officeholder. This includes all those who are elected or appointed to public office.



Tel: 029 2032 0500

Fax: 029 2032 0600

Textphone: 029 2032 0660

E-mail: info@audit.wales

Website: www.audit.wales

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