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SWYDDFA ARCHWILIO CYMRU

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Author: Anthony Barrett

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Report in the Public Interest

Audits of Account 2001/2002,
2002/2003, 2003/2004, 2004/2005 and
2005/2006

Buan Community Council

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Status of this public interest report

This public interest report has been prepared for Buan Community Council in accordance with, in relation to audit and reports in the public interest, section 22 of the Public Audit Wales Act 2004.

No responsibility is accepted in relation to any officer, member, or other person in their individual capacity, or any third party.

Purpose of this document

1. This report is issued in the public interest under section 22 of the Public Audit (Wales) Act 2004. I have issued this report to draw the public's attention to a failure in governance arrangements and inadequacies in internal control at Buan Community Council (the Council). These matters have been the subject of some limited press coverage to date and I believe it is important that the public have a full and proper awareness of recent events concerning the Council. I have also issued this report to give the Council the opportunity to demonstrate the important steps taken to improve arrangements and to ensure that the risk of such governance failures recurring is reduced to a minimum. There are lessons to be learnt not just by Buan Community Council but by all community councils in Wales.

Buan Community Council

2. The community of Buan is located to the north of the seaside town of Pwllheli on the Lleyn Peninsula. The Council has 11 elected members and serves a small population of only a few hundred people. The Council spends around £5,000 annually on local services which is funded by means of a precept of some £4,000 from Gwynedd Council. The Council derives its funding from the public purse and its members are elected by local residents. The Council is, therefore, accountable to the local electorate of Buan.
3. Community councils such as Buan, by their very small local nature, normally rely on one key officer, the Clerk, to manage their administrative affairs. More often than not, the Clerk is also appointed in the capacity of Responsible Financial Officer and is responsible for administering the financial affairs of the Council, in particular, maintaining the accounting records and preparing the annual statement of accounts. However, by law (Accounts and Audit (Wales) Regulations), the responsibility for the stewardship of Council funds, including ensuring that it has effective and efficient financial management, rests with the Council (that is the members). This includes such things as establishing an appropriate system of internal control, including internal audit, and approving the annual accounts prior to submission to the external auditor for examination.
4. Following the resignation of the former Clerk in 1998, Mrs Sian Francis was appointed as Clerk to the Council. At the time, Mrs Francis also worked as the Dwyfor Area Registrar of Births, Marriages and Deaths. In due course Mrs Francis was also appointed as the Clerk for Llannor, Criccieth and Llanbedrog Community Councils.

The internal audit of the Council's accounts

5. It is a legal requirement as set out in the Accounts and Audit Regulations, for community councils to have 'an adequate and effective system of internal audit of their accounting records and control systems'. The internal auditor is required to produce an annual report which is incorporated into the annual returns submitted to the external auditor. The internal auditor has a professional duty to draw any matters of concern to the attention of the Council.
6. Mr John Roberts was appointed as the Council's internal auditor for the financial year 2001/2002. He was also the internal auditor for Criccieth, Llannor and Llanbedrog Community Councils as well as many others in North Wales. Mr Roberts was the Treasurer of the former Arfon Borough Council until his retirement at local government reorganisation and is a member of the Chartered Institute of Public Finance and Accountancy. He was also a Town Clerk for a year after his retirement. Since that time, and until his appointment as internal auditor, Mr Roberts had been engaged in the external audits of community councils in North Wales. He therefore had the relevant and appropriate experience to undertake the role of internal auditor to the Council.
7. During the course of the internal audit of the 2001/2002 accounts for Buan and adjacent Council, Llannor, Mr Roberts identified a number of matters in respect of the accounts which gave him cause for concern. He extended his review to examine accounting entries into the first half of 2002/2003 to identify if the matters of concern continued into 2002/2003. Mr Roberts raised his concerns with Mrs Francis but was unconvinced that sufficient remedial action would be forthcoming.
8. Mr Roberts arranged a meeting with the Chairs and Vice Chairs of Llannor and Buan Community Councils. Mr Roberts had become aware that Mrs Francis had also been appointed as the Clerk to Criccieth Town Council with effect from 1 April 2002. Mr Roberts also invited the Chair and Vice Chair of Criccieth Town Council to the meeting for completeness and consistency.
9. The meeting took place on 6 June 2003. Representing Buan Community Council were its Chair and Vice Chair. Mr Roberts produced a note of that meeting together with a report for the attention of members of Buan Community Council which he posted to the Chair. The Council have explained to me that they never received any letter or report from Mr Roberts following the June 2003 meeting. I have examined that note and the report. Mr Roberts drew a number of concerns to the attention of the members:
 - the payment of the Clerk's salary in advance;
 - the need for proper approval for all payments made;
 - the need for proper arrangements in respect of administering the Clerk's income tax and national insurance; and
 - the increasing cost of administration including photocopying and postage and the need for such payments to be supported by original receipts.

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10. The note reflects that members had been made aware of Mr Roberts' concerns by the Clerk and that they had undertaken their own internal review. Based on this review, they were satisfied that their arrangements were proper in terms of the matters raised by Mr Roberts.
 11. Subsequently, and from what I understand to be a source of frustration experienced by Mr Roberts insofar as his perception of complacency on behalf of the Community Councils, Mr Roberts reported his concerns to the Council's external auditor, UHY Hacker Young. I have also been advised by Mr Roberts that his appointment as internal auditor for Buan was not renewed for 2002/2003.
 12. The internal audit for Buan, Llannor and Criccieth Community Councils for the year 2002/2003 was subsequently undertaken by a firm of chartered accountants based in Caernarfon. I am aware that a change in internal audit appointment was made because of oral representations made by Mrs Francis to the Community Councils about her inability to work with Mr Roberts and the manner in which he conducted himself. Members have told me that they were made aware of a 'clash of personalities' between Mr Roberts and Mrs Francis and this meant it was necessary to make alternative arrangements for the internal audit of the Council. The new auditors had identified some payments within the accounts which they wished to review in further detail but it was agreed these would be addressed as part of my external audit.

My appointment as external auditor

13. As noted above, Mr Roberts had reported various matters of concern to the Council's external auditor UHY Hacker Young following his meeting with members of the Council in June 2003. Mr Nick Jenkins of UHY formally requested that the joint appointment of a District Auditor be enacted so that the matters raised by internal audit could be reviewed by a Welsh speaking audit team. In June 2004 I was jointly appointed as the external auditor for Buan Community Council in accordance with the Council's notice of audit appointment, issued under the Audit Commission Act 1998.

My findings in respect of the Clerk

14. I undertook a review of the accounts for Buan Community Council for the period following the appointment of the new Clerk. My review highlighted a number of irregularities which I have summarised below. These, together with similar irregularities I had identified in the accounts of Llannor, Criccieth and Llanbedrog Community Councils, were referred to the North Wales Police for further investigation.

Payment to a landscape contractor

15. In March 2001 a groundwork contractor submitted an invoice for £881.25 to the Council for work he had undertaken on land owned by the Council. The Council approved this invoice for payment on 4 November 2002. A cheque was prepared and signed by two councillors. The paid cheque I have seen did not make it payable to the contractor but rather to cash. However, all the records provided to me in support of the payment reflected it as due to the contractor. The minutes of the meeting of the Council held on 2 June 2003 produced for audit reflect an amendment drawn to the Council's attention by the Clerk, insofar as the payment of £881.25 was not due to the contractor as originally approved, but was paid to the Clerk in respect of her income tax for 2004/2005.
16. Nearly a year later the contractor wrote to the Council complaining that he had still not been paid for the work he had undertaken. Because of the delay he re-submitted his invoice adding a ten per cent surcharge of £88.22 in respect of the late payment. A further cheque was prepared on 4 September 2003 and signed by the same two councillors. This cheque was made out to the contractor and his account was subsequently settled in full and inclusive of the surcharge. This was consistent with the minute of the Council meeting on 4 September 2003.
17. Further enquiries by the police confirmed my doubts about the validity of the first cheque cashed by the Clerk. There was no entitlement to a reimbursement of income tax, no remittance was made to Her Majesty's Revenue and Customs and the minutes produced for audit were fabricated and did not reflect the resolutions made by the Council.

Payment to a stationery supplier

18. I was aware of the internal auditor's concerns about the increasing costs of administration within the Council, in particular the expenditure on stationery, postage and photocopying. The internal auditor had expressed concern in particular about the lack of receipts to support the reimbursements of costs claimed by the Clerk. During my investigation the Clerk advised my officers that she had now located many of the receipts requested by the internal auditor.
19. I examined the records relating to the reimbursement of costs for stationery, postage and photocopying and was sceptical about the authenticity of the documents. One item was chosen as a representative specimen for the purposes of further investigations by the police. It was later established by the police that the invoices produced by the Clerk purporting to be from a stationery supplier were not documents the supplier would have provided. The police also identified that other receipts produced by the Clerk in respect of the reimbursement of costs from another community council were also not the type that would have been in use by the shop at the time.

Tractors Tragwyddol

20. On 3 May 2002 the Council resolved to make a donation of £200 to 'Tractors Tragwyddol'. All the records presented for audit reflected the payee as Tractors Tragwyddol. I examined the paid cheque I obtained from the bank and noted that the cheque had in fact been made out to Mrs Francis. The cheque had been signed by two councillors.
21. I now understand that Tractors Tragwyddol was a local fundraising group created by Mr Francis and associates to raise funds in respect of Alaw Ward at Ysbyty Gwynedd and Hospice at Home. Funds were raised in many ways including coffee mornings and a tour of Lleyn in vintage tractors, hence the term 'Tractors Tragwyddol'. However, I had not identified within the Council's minutes any declaration of a personal interest by Mrs Francis into this donation. I was also aware from my investigations that a donation of £200 had also been made by Llannor Community Council to Tractors Tragwyddol.
22. The transactions noted above, along with many others from Llannor, Criccieth and Llanbedrog, were chosen for referral to the police on the basis they were representative of the irregularities I had identified and were supported by the appropriate amount of evidence, such that the police could recommend to the Crown Prosecution Service that charges be brought. I referred these matters to the police in December 2004.
23. Mrs Francis was arrested in June 2005 and suspended from office, without prejudice by the Council, shortly afterwards. The subsequent joint audit and police investigation revealed the scale of the deception and false accounting perpetrated by the Clerk in respect of all four Community Councils. She was able to deceive Council members by making false statements, persuading members to sign false or amended documents at times when they were least able to exercise an effective level of scrutiny and also create a plethora of fictitious documents including payment records, letters and minutes. Mrs Francis also withheld key documents from the Council, the contents of which may have exposed her deception.
24. Mrs Francis was also subsequently discovered to have been maintaining two different sets of Council minutes, one for distribution to members and one for submission to my officers as part of the audit of the accounts. The minutes presented for audit differed insofar as they purported that the payments made through 'the hand of the Clerk' were normal practice and approved by the Council. No such disclosures were made in the minutes presented to members.
25. In October 2006 Mrs Francis was charged with 31 offences. In March 2007, Mrs Francis was sentenced in Chester Crown Court to 15 months imprisonment in respect of 18 charges of false accounting totalling £64,735 relating to her employment as Clerk to Criccieth Town Council, Buan, Llanbedrog and Llannor Community Councils.

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- 26.** In overall terms Buan Community Council has, as a consequence of its Clerk's actions, incurred the smallest financial loss over the longest period of time. Members may consider themselves to be fortunate in this regard. However, I am of the view that the smaller magnitude of the irregularities identified in Buan reflected the small size of the Council in terms of its financial resources and consequent opportunities to defraud the Council as opposed to any differences in governance or culture. The weaknesses in financial management at Buan were similar to those I have identified in the other Community Councils where Mrs Francis was employed as the Clerk.
- 27.** I am of the opinion that the losses noted above in respect of Buan Community Council are directly attributable to the deliberate and criminal actions of the Council's Clerk, Mrs Francis. The Clerk created a false trail of accounting records with the deliberate aim of deceiving both members of the Council and the internal and external auditor. These matters only came to light following the vigilance and thoroughness of the internal auditor. I am also satisfied that, with the exception of recovering the losses to the public purse, the courts have now dealt with the actions of the Clerk to Buan Council.

My findings in respect of members of the Council

- 28.** I am also of the view that the losses were attributable in part to significant weaknesses in the governance arrangements operated by the Council itself, and the failings in the conduct of members of the Council. I stated earlier in paragraph 3 that the responsibility for the stewardship of Council funds, including ensuring that it has effective and efficient financial management, rests with the Council (that is the members).
- 29.** In the following paragraphs I have set out my views on these failings and how they contributed to the losses incurred by the Council. This had a significant negative impact on the Council's stewardship of public funds. I have identified four key failings in the governance arrangements established by the Council.

(a) Reliance on trust and lack of adequate supervision

- 30.** The reliance members placed on their trust in the Clerk permeates all other failings I have identified. It is clear from the outset that members of the Council were impressed by the personality, expertise and experience of local government administration exhibited by Mrs Sian Francis. Members placed an over-reliance on this and failed to adequately supervise or challenge the activities of the Clerk.
- 31.** Associated with this trust was a fear of Mrs Francis' strong personality. Consequently, Mrs Francis was subjected to very little challenge or scrutiny by members of the Council. She was responsible for the administration of the Council's affairs with minimal supervision following her appointment after the retirement of the former Clerk. It is remarkable that an employer would allow an employee such freedom of activity given the nature of the tasks that were required by the roles of Clerk and Responsible Financial Officer.

(b) Inadequate scrutiny of payments prior to approval

- 32.** Mrs Francis was able to present Council cheques into her own bank accounts because members of the Council nominated as cheque signatories were prepared to sign blank cheques. There was no such accepted practice of payments being made 'through the hand of the Clerk'. All cheque signatories have stated that they signed blank cheques from time to time but only if they had been shown the relevant invoice or documentation supporting the payment. It is a matter of serious concern that members of the Council signed blank cheques.
- 33.** Mrs Francis entered her own name on the cheques afterwards and fabricated Council records such as minutes and payment vouchers to create an impression that the payments via 'her own hand' were sanctioned by the Council. The same councillors were also prepared to sign documents presented to them by the Clerk without sufficient question or review.

(c) Accounting for income tax and national insurance

- 34.** The responsibility for complying with laws and regulations rests with the Council. The Council is responsible, as an employer, to ensure all amounts due in respect of income tax and national insurance for its paid employees are properly accounted for and remitted to Her Majesty's Revenue and Customs (HMRC). From the evidence I have seen, it is apparent that the Council allowed the Clerk to assume full responsibility for the administration of any tax and national insurance liabilities. In my view, the Clerk failed to make effective arrangements in this regard and the amounts due to HMRC were not remitted in full. The amounts of tax and national insurance arising from the proper employment of the Clerk, which were not remitted to HMRC, must now be reviewed and properly accounted for by the Council. Any losses including penalties identified by HMRC may also fall to the Council to make good.

(d) Abiding by appropriate standards of ethical conduct

- 35.** Individuals elected to serve as members of a Welsh local government body, including community councils, are required to abide by a Code of Conduct. The general principles of the Code are prescribed in statute but individual councils can produce their own locally tailored Codes provided the key principles are included. All local authorities in Wales, including community councils, were required to formally adopt a Code of Conduct by no later than the end of June 2002. All elected members were required to give a written undertaking to abide by the Code within two months of the Code being adopted or within two months of being elected to the Council. I understand that the Council formally adopted its Code of Conduct for members in a meeting held on 22 February 2002.

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36. Allegations that members have failed to comply with the requirements of the Code of Conduct are investigated by the Public Services Ombudsman for Wales. Once his investigation is complete, he may decide that there is no evidence that the Code has been broken, or that no further action needs to be taken. However, if he concludes that there is evidence that warrants doing so, he will send a formal report either to the relevant local Standards Committee or the Adjudication Panel for Wales. It will be a matter for them to decide if the Code of Conduct has been broken and if so, what penalty to impose on the member concerned.
37. I have given very careful consideration to the matter of member conduct in the context of the events happening within the Council in the period covered by this document. It is clear that the Clerk was very persuasive and creative in terms of the deception carried out. The Clerk was also precise in terms of timing her actions to ensure members of the Council were least able to scrutinise her actions, for example, by turning up at members' homes at dinner time looking for cheques to be signed so as not to delay important payments. The full extent of the falsification of documents and possibly signatures of members may never be revealed.
38. I have met with members of the Council to share my preliminary findings and to listen very carefully to their explanations and recollections. Members have conveyed to me the extent of trust they placed in the Clerk and their sense of betrayal that such a well regarded professional person who was a pillar in the local community would undertake such deliberate acts of deception.
39. Members have explained that they are unqualified lay persons who devote many hours of personal time, without any payment, to represent and work on behalf of the local community. Many are unelected (due to a lack of interest by others in serving on the Council) and co-opted onto the Council and have served in public office for many years. They are particularly fearful about the impact recent events will have on retaining members on the Council and encouraging others in the community to stand at election time. In this context it is vital that councillors and indeed prospective councillors understand the legal responsibilities placed upon them when they become councillors. Local councillors are accountable to the local electorate and must be held accountable when things go wrong irrespective of whether or not they are paid.
40. Another issue which members have raised is the lack of training provided to them and to Clerks. I understand that attempts have been made to secure training from a range of organisations but none is readily available at the moment, particularly in the medium of the Welsh language which is essential to councils such as Buan.

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41. Members have also expressed to me their frustration that they were not made more fully aware of the concerns and reservations held by the internal auditor, Mr Roberts. In particular, members have stated that Mr Roberts should have written to all members setting out his concerns as opposed to arranging an 'unofficial' meeting with Chairs and Vice Chairs of relevant councils. I can appreciate the source of frustration in this regard and the internal auditor could perhaps have done more in escalating his concerns with members before approaching the external auditor. However, the evidence before me is that the internal auditor did meet with appropriate representatives of the Council and these individuals, in my view, placed too much weight on the views of the Clerk, Mrs Francis.
42. I have no doubt that lessons have been learned by all concerned and I will come on to reflect the important steps taken by the Council to strengthen its governance arrangements in the next section of this document. Many of the issues raised by members as set out above are valid and relevant. Nevertheless, I am of the view that all members of the Council have failed to properly discharge their responsibilities in respect of the stewardship of public funds; others have conducted themselves in a manner such that their actions contributed to the losses arising from the criminal acts of the Clerk. I cite in particular those members who were prepared to sign 'blank cheques' and other documents without proper scrutiny or review, particularly in the light of the explicit concerns raised by the internal auditor.
43. I am concerned that two key principles of the Code of Conduct for members have been breached:
- **Duty to uphold the law:** members must not in their official capacity or otherwise behave in a manner which could be reasonably regarded as bringing the office of member or the authority into disrepute.
 - **Selflessness and stewardship:** members must, when using or authorising the use by another member of the resources of the authority, do so prudently and in accordance with the law and the authority's requirements.

Action already taken by the Council

44. It is important that the Council learns the lessons from recent events. I understand that the Council has already taken certain actions including:
- the dismissal of Mrs Francis from office immediately following the conclusion of court proceedings;
 - a review of all payments made in the last two years to identify any further irregularities;
 - the signing of all cheques during Council meetings and only when sufficient documentation is made available to support the payment;
 - the creation of a cash book with bank reconciliations completed every three months;
 - the opening of a new high interest bank account; and
 - the presentation of the annual accounts to the full Council as soon as possible after the year-end.

Recommendations

45. My recommendations to the Council are:

R1	Blank cheques must never be signed.
R2	Members must satisfy themselves that they understand the Code of Conduct and their obligations under legislation (eg Local Government Act 1972, Accounts and Audit (Wales) Regulations 2005).
R3	Members must ensure that the important changes noted above are fully implemented and sustained.
R4	The Council should ensure that any liabilities in respect of outstanding tax and national insurance are discussed with HMRC and action is taken to regularise the position to the satisfaction of HMRC.
R5	The Council should draw up a set of Financial Regulations to ensure that both members and employees (namely the Clerk/Responsible Financial Officer) are clear what actions are necessary to safeguard the public funds entrusted to the Council on behalf of the local community.

Learning the lessons

46. Given that the events at Buan Community Council also occurred at three other Community Councils in Gwynedd, it is clear there is a need for a better understanding by elected members of community councils in terms of their duties and responsibilities for the safeguarding of public funds. To that end I will be assisting the Auditor General for Wales to produce a 'learning the lessons' paper which will be issued to all relevant parties, including the representative body for Welsh community councils – One Voice Wales.

Next steps

47. The Council is now required by section 25 of the Public Audit (Wales) Act 2004 to consider this report at a full meeting of the Council within one month of the date of this report. At the meeting the Council must decide:

- whether the report requires it to take any action;
- whether the recommendations within the report are to be accepted; and
- what action (if any) to take in response to the report and recommendations.

Acknowledgements

48. Finally, I wish to set on record my gratitude to Mr Nick Jenkins of UHY Hacker Young and the North Wales Police for the considerable assistance they have given me and my officers in respect of my audit of the Council's accounts.



Anthony Barrett
Appointed Auditor

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Wales Audit Office
24 Cathedral Road
Cardiff CF11 9LJ
Tel: 029 2032 0500
Fax: 029 2032 0600
Textphone: 029 2032 0660
E-mail: info@wao.gov.uk
Website: www.wao.gov.uk