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SWYDDFA ARCHWILIO CYMRU

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Report in the Public Interest

Audits of Account 2003/2004 and
2004/2005

Llanbedrog Community Council

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Status of this public interest report

This public interest report has been prepared for Llanbedrog 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 Llanbedrog 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 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 important lessons to be learnt not just by Llanbedrog Community Council but by all community councils in Wales.

Llanbedrog Community Council

2. The community of Llanbedrog is located to the west of the town of Pwllheli in the Llyn Peninsula. The Community Council has 11 elected members and serves a population of approximately 800 people which increases significantly in the summer months. The Council spends around £14,000 annually on local services which is funded by means of a precept of some £10,000 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 Llanbedrog.
3. Community councils such as Llanbedrog, by their very small local nature, normally rely on one key part-time 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 (the 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. In February 2004, following the retirement of the Council's long-serving Clerk, the Council appointed a new Clerk, Mrs Sian Francis. Mrs Francis was known to the Council, being the Clerk to three other Community Councils in the locality; Criccieth Town Council, Llannor Community Council and Buan Community Council. At the time, Mrs Francis also worked as the Dwyfor Area Registrar of Births, Marriages and Deaths.

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. It is incumbent upon the internal auditor to draw any matters of concern to the attention of the Council.
6. Mr John Roberts was appointed as the Council's internal auditor commencing with the financial year 2001/2002. He was also the internal auditor for Criccieth Town Council, Llannor and Buan Community Councils. 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. In June 2003, nearly a year before Mrs Francis was appointed as Clerk to Llanbedrog, Mr Roberts had met with the representatives from the other three Councils to discuss concerns he had in respect of the accounts and financial transactions of those three Councils. However, Mr Roberts was not persuaded that the Councils would take sufficient action in respect of his concerns and as a consequence reported his concerns to the external auditor, UHY Hacker Young.

My appointment as external auditor

8. As noted above, Mr John Roberts had reported various matters of concern to UHY Hacker Young following his meeting with members of the three other Councils 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.
9. When UHY Hacker Young became aware that Mrs Francis had also been appointed as Clerk to Llanbedrog Community Council, Mr Jenkins requested that the joint appointment be extended to cover Llanbedrog as well. In August 2004 I was jointly appointed as the external auditor for Llanbedrog in accordance with the Council's notice of audit appointment, issued under the Audit Commission Act 1998.

My findings in respect of the Clerk

10. I undertook a review of the accounts for Llanbedrog Community Council for the period following the appointment of the new Clerk. My review highlighted a number of irregularities which I have summarised below.

Contract of employment

11. I was particularly concerned about the contract of employment entered into by the Council and its Clerk. The Clerk had agreed to an annual salary of £4,090 with the Council. However, under the terms of the contract presented for audit by the Clerk, she had been appointed until June 2010 and was to be paid in advance until that time, a total of £26,244 by means of three payments in the period April to June 2004. This arrangement was highly irregular and potentially unlawful.
12. The payment records confirmed that three cheques totalling £26,244 had been paid to the Clerk in accordance with the contract of employment I had seen. These cheques, in accordance with the Council's established arrangements, had all been signed by the Council's Chair and Vice Chair. Similarly, other records presented by the Clerk supporting these payments, including the contract and payment vouchers, had been signed by the Chair and Vice Chair. The minutes of the meeting where the Council had approved these payments had also been signed by the Chair of the Council.
13. In reviewing the funding of the salary payments, I discovered that the £26,244 had been financed by transfers from a high interest deposit account maintained by the Council. I subsequently became aware that this account contained funds deposited as a bequest from the estate of a Mrs Hilary Harris on 1 July 2002. Mrs Harris, who had lived in Llanbedrog, had bequeathed the sum for the sole purpose of the upkeep of Llanbedrog cemetery where she was buried.

Dwr Cymru

14. I was also concerned about other payments made by the Council. The Council had received in February 2004 an invoice for £77.80 from Dwr Cymru in respect of its provision of water supply at the cemetery. All documentation submitted for audit showed that the cheque payment was to be made to Dwr Cymru, including payment vouchers, receipts and payments book and Council minutes. The Council minutes reflected the payment being approved on 30 March 2004. The paid cheque I obtained from the bank had been made payable to Mrs Francis. This cheque had been signed by two councillors. I am now aware that the account was settled by a cheque drawn on the account of Mrs Francis on 14 June 2004.

Zurich Municipal

15. Similar to the invoice noted above, at about the same time the Council also received an invoice for £839.40 from Zurich Municipal for its insurance cover for the year commencing 1 April 2004. This cover also included a fidelity guarantee in the event that the Council was defrauded by its Clerk. The Council approved the invoice for payment on 27 April 2004.

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16. All documentation submitted for audit showed that the cheque payment was to be made to Zurich Municipal, including payment vouchers, receipts and payments book and Council minutes. The paid cheque I obtained from the bank had been made payable to Mrs Francis. This cheque was dated 29 March 2004 and had also been signed by two councillors. I am now aware that the account was settled by a cheque drawn on the account of Mrs Francis on 19 May 2004.
 17. Following the discovery of these irregularities, I made enquiries with the Chairman of the Council. I was advised that the Council had not approved or intended that payments should be made to the Clerk for subsequent payment to suppliers. Furthermore, the Chairman stated that the Council had not entered into an agreement with the Clerk such that she would be paid in advance until June 2010. The Chairman provided me with a contract of employment which was almost identical to the one provided by the Clerk at audit. However, the one held by the Chairman did not include any of the details concerning the appointment being until June 2010 and that salary would be paid in advance to the value of £26,244.
 18. In December 2004 I brought my concerns to the attention of North Wales Police who undertook an investigation. Mrs Francis was arrested in June 2005 and suspended from office, without prejudice by the Council, shortly afterwards.
 19. Further payments were subsequently drawn to my attention by the police which I also examined in the context of my audit of the Council's accounts. I reported my findings back to the police for further action. I provide a synopsis of these payments below.

Llyn Fencing

20. The proprietor of Llyn Fencing has stated that in early October 2004 he was asked by Mrs Francis to provide a quotation for fencing work at the local playing fields. He provided an estimate to Mrs Francis dated 13 October 2004. Shortly after the fencing materials had been delivered he was contacted by the Clerk to suspend work because of fencing work done by the previous owners of the field without the Council's knowledge.
21. The proprietor has stated that he submitted an invoice to the Council dated 27 November 2004 for the cost of the materials he had ordered on behalf of the Council. By February 2005, after reminding the Clerk, the contractor had still not received payment and contacted the Clerk again. The Clerk stated that the account would be settled imminently but the contractor stated he would be meeting with the Chairman later that day and would mention it to him. The contractor received a cheque within two days drawn on Mrs Francis' personal account which he banked on 18 February 2005.
22. I am aware from my review of the Council's records that on 30 November 2004 the Council resolved to pay Llyn Fencing the sum of £1,454.65 for work undertaken at the playing fields in Llanbedrog. However, the paid cheque dated 30 October 2004 was made out to Mrs Francis and had been signed by two councillors.

The Secretary to the cemetery

- 23.** In the same November meeting, the Council resolved to pay the Secretary to the Llanbedrog cemetery the sum of £800 for work he had undertaken to the end of March 2005. The paid cheque, signed by two councillors was, however, made out to Mrs Francis.
- 24.** The Secretary's recollections of the matter are as follows. His normal arrangement with the Council was to have his salary paid three months in arrears. However, in the beginning of June 2005 he became aware that he had not received payment for the period June 2004 to end of May 2005. He contacted Mrs Francis to enquire about being paid. Mrs Francis subsequently sent the Secretary receipts to complete in respect of his salary. No cheques were enclosed. The Clerk advised him by telephone that he would get the cheques once he had signed and sent her the receipts. Although the Secretary signed the receipts he did not post them to Mrs Francis since he was informed in the meantime by the Chairman that Mrs Francis had been suspended from her post.

Bus Shelters Limited

- 25.** On 10 May 2005 the Council resolved to pay Bus Shelters Limited a sum of £2,978.52 for the erection of a new bus shelter in Llanbedrog. The paid cheque was made out to Mrs Francis and was signed by two councillors. I understand that contrary to the understanding of members no formal agreement was reached with Bus Shelters Limited to erect a bus shelter and that this sum has not been repaid to the Council by the Clerk.
- 26.** To sum up, in the short period between the appointment of the Clerk in February 2004 and her arrest in June 2005 my audit identified payments of £32,394.37 which had been made to the Clerk to which she did not have entitlement, except for an element of her annual salary which I understand was to be £4,090. Of the total irregular payments, £2,371 has now been paid to the appropriate persons. A balance of £30,023 is yet to be recovered.

Criminal proceedings

- 27.** The subsequent joint audit and police investigation revealed the scale of the deception and false accounting perpetrated by the Clerk, Mrs Francis. She was able to deceive members of the Council 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.

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28. 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, Llannor, Llanbedrog and Buan Community Councils. Llanbedrog Community Council has incurred the greatest financial loss over the shortest period of time.
29. I am of the opinion that the losses noted above in respect of Llanbedrog 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 auditors. These matters only came to light following the vigilance and thoroughness of an internal auditor appointed by other councils where Mrs Francis was also the Clerk. 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 Llanbedrog Community Council.

My findings in respect of members of the Council

30. I am also of the view that the losses were also 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).
31. 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 five key failings in the governance arrangements established by the Council.

(a) Reliance on trust and lack of adequate supervision

32. 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 Mrs Francis' experience of local government administration. Members placed an over-reliance on this and failed to adequately supervise or challenge the activities of the Clerk.
33. 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. Mrs Francis had misappropriated public funds totalling over £9,000 within a matter of a few days of being appointed by the Council. It is remarkable that an employer would allow a new 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

- 34.** 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. All cheque signatories have stated that they signed blank cheques from time to time but they would do so only if they had been shown the relevant invoice or documentation supporting the payment. They would subsequently confirm the payments by reviewing the minutes of the meeting which were distributed for approval at the next meeting of the Council.
- 35.** 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 were approved by the Council. The same councillors were also prepared to sign documents presented to them by the Clerk without sufficient question or review. I am also aware that this practice continued despite members becoming aware that an audit of the Council's accounts, and in particular the Clerk's activities, was underway.
- 36.** It is a matter of serious concern that members of the Council signed blank cheques. The proper signing of cheques by duly authorised persons is a fundamental internal control and the breach of this control is a serious weakness in the Council's governance arrangements.
- 37.** It is also clear from the payments I examined at audit that the Council would retrospectively approve payments that had already been made, ie the decisions of the Council to approve payments as recorded in the minutes post-dated the dates shown on the signed cheques. Such a practice presents a significant control weakness and payments made without proper authority, for example prior to approval by Council, are unlawful.

(c) Insufficient control over bank transfers

- 38.** I have concluded that there was insufficient control over transfers between the Council's various bank accounts. Indeed members, when interviewed by the police, showed little knowledge of where Mrs Harris' bequest of £65,000 had been deposited and what arrangements had been established with the bank concerning the approval of transfers between the Council's various accounts. This control weakness allowed the Clerk to misappropriate funds from Mrs Harris' bequest without the knowledge of anyone else. I understand that the Council is now pursuing this matter with its bankers to ensure that any transfers made by the bank had the proper authorisation from the Council.

(d) Accounting for income tax and national insurance

- 39.** 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.

(e) Abiding by appropriate standards of ethical conduct

- 40.** 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 26 February 2002.
- 41.** 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.
- 42.** 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 report. 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.

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43. 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.
44. 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.
45. 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 Llanbedrog.
46. Members have also expressed to me their frustration that they were not made more fully aware of the concerns and reservations held by their internal auditor, Mr John Roberts, who had identified irregularities in the accounts maintained by Mrs Francis for three other Community Councils sometime before they had appointed Mrs Francis to the position of Clerk to Llanbedrog. I can appreciate the source of frustration in this regard. However, an internal auditor's responsibilities in terms of reporting relate to each individual Community Council. In reporting matters of concern from one Council to another without the consent of the other Council, Mr Roberts would have exposed himself to a risk of litigation and a breach of the Code of Conduct of his professional accountancy body. Mr Roberts had reported his concerns to UHY Hacker Young and was aware that they were being investigated and that, in due course, this investigation would include Llanbedrog Community Council.
47. 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. 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.

48. I am concerned that two key principles of the Code of Conduct for members may 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

49. 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;
 - changing the account number for the Council's general bank account;
 - the freezing of the Council's cemetery and special reserve account;
 - cheques being signed only at Council meetings;
 - a monthly review by the Chair of the general bank account and bank reconciliation;
 - the production of the annual accounts before the end of May; and
 - the presentation of the receipts and payments book for the inspection of members after the annual general meeting.

Recommendations

50. 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

51. Given that the events at Llanbedrog Community Council also occurred at three other Community Councils in Gwynedd, it is clear that there is a need for a better understanding by elected members of community councils in terms of their duties and responsibilities for safeguarding public funds. 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

52. 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:
- (a) whether the report requires it to take any action;
 - (b) whether the recommendations within the report are to be accepted; and
 - (c) what action (if any) to take in response to the report and recommendations.

Acknowledgements

53. 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

11 June 2008



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