

Report in the Public Interest: Failures in financial management and governance and losses incurred – Harlech Community Council

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Acting under delegated arrangements and on behalf of the Auditor General for Wales, I have issued this immediate report under section 22 of the Public Audit (Wales) Act 2004, to draw the public's attention to significant deficiencies in financial management and governance that directly led to a loss to the Council of £9,000 and to raise awareness of fraud risk at local councils.

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Summary report

Introduction

- 1 Acting for and on behalf of the Auditor General for Wales, under section 22 of the Public Audit (Wales) Act 2004 (the 2004) Act, I must consider whether in the public interest I should make a report on any matter which comes to my notice in the course of my audit, in order for it to be considered by Harlech Community Council or brought to the attention of the public.
- 2 My audit identified that serious failures in governance and financial management by the Council directly led to the loss to the Council of £9,000 and that this loss was avoidable. I consider it is important that the public has a full and proper awareness of the events concerning the Council and, therefore, I have decided to issue this report in the public interest to both explain these failures and to raise awareness of fraud risk. I have issued an immediate report as I consider that delay would undermine these aims.
- 3 This report sets out the circumstances surrounding the fraud and my recommendations to the Council for improvements to its internal controls.
- 4 Furthermore, while my audit findings are specific to this Council, there are important lessons to be learnt not just by the Council, but by all community councils in Wales.

Harlech Community Council

- 5 The Council serves the town and community of Harlech in Gwynedd. The Council is made up of twelve councillors who have collective responsibility for the management of the monies raised by the Council.
- 6 The Council spends around £100,000 annually to provide local services. The Council funds these services and facilities primarily by means of a precept of £70,000 issued to Gwynedd County Council. This precept is funded from increased council tax charges to the Council's residents. In addition to the precept, the Council receives fees for burial services, contributions from car park fees charged by Gwynedd County Council, VAT reclaimed on purchases made and occasional grant funds.
- 7 The Council's members are elected by local residents, and the Council is, therefore, accountable to the local electorate.
- 8 Community councils such as Harlech, by their very small local nature, normally rely on one key officer, the Clerk, to manage their administrative affairs. As is often the case, the Clerk to Harlech Community Council (Mrs Annwen Hughes) is also appointed in the capacity of Responsible Financial Officer (RFO). The RFO is responsible for administering the financial affairs of the Council on a day-to-day basis. In particular, the clerk/RFO role includes preparing and maintaining the Council's records, eg minutes of meetings and its website, making payments to

suppliers, maintaining the accounting records and preparing the annual accounting statements.

- 9 Notwithstanding the role of the Clerk/RFO, as set out in the Accounts and Audit (Wales) Regulations 2014 (the 2014 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 over arrangements for making payments to suppliers and ensuring compliance with those internal controls.

My audit work

- 10 My audit work on town and community councils focusses on an annual return completed by the councils and submitted to auditors working on my behalf. The annual return contains the annual accounting statements that the council is required by law to prepare and an annual governance statement which sets out how the council has managed its financial affairs.
- 11 In July 2023, my attention was drawn to a report that the Council had been the victim of a fraud that resulted in the loss of £9,000. I therefore extended the scope of my audit to examine the circumstances that led to this loss.

Key findings

- 12 In December 2022, the Clerk made two payments of £4,500 (totalling £9,000) to a third party without proper authorisation by the Council. The payments were made following an email exchange between the Clerk and a third-party purporting to be the Council's vice-chair.
- 13 The email exchanges demonstrate that the Clerk failed to properly question the instructions to make the two payments. In my opinion, the failure to exercise proper diligence when making these payments indicates that the Council did not have effective internal controls in place. The ease with which the fraud was perpetrated suggests that the practice of making payments without proper scrutiny may not be an isolated occurrence.
- 14 Whilst the loss was subsequently reported to the Council, in my opinion, the circumstances of the fraud have not been properly recorded in the Council's minutes.
- 15 The failure to properly report the fraud is compounded by the Council's failure to properly maintain its website in a clear and coherent manner.
- 16 I note that the Council has already taken some action to address the deficiencies in its arrangements.
- 17 It will discuss its Standing Orders and Financial Regulations at its October 2023 meeting, including separation of duties in the process of approving, processing and authorising online payments. In particular, the Council should ensure that two

individuals are involved in processing the payment: one individual would process the payment, and the other individual would approve the payment.

Recommendations and next steps

I am making five recommendations to assist the Council to improve its financial management and governance arrangements.

Recommendations	
R1	The Council should review its arrangements for making payments to ensure that all payments are subject to an appropriate authorisation process
R2	The Council should review larger payments made over the last 12 months to establish if this incident was an isolated incident or was a regular occurrence
R3	The Council must ensure that its minutes are properly scrutinised before approval to ensure they are accurate and consistent with the matters reported and discussed at the meeting
R4	The Council should ensure that its website is updated on a regular basis and contains all information the Council is required to publish electronically
R5	The Council should ensure that its website is clearly structured and is not obscured by information related to another council

Action taken by the Council

- 18 In its written response to a summary of my provisional findings, the Council informed me of the following actions it has already taken in response to the loss it incurred:
- the Council states that it has reviewed all payments made during the year to identify whether or not any other large value payments were made without authorisation and concluded that no other such payments were made. It has reviewed its standing orders and financial regulations and its arrangements for making payments to ensure that there is a two-stage authorisation process for all electronic payments.

- the minutes of meetings are subject to scrutiny at the following meeting and the Council now includes a standing agenda item, 'Matters arising from the minutes', for discussion at each meeting.
 - the Council established a 'Way forward' committee in September 2023 to discuss the needs of the Council. This committee has identified the need for a new website to be created and for members to use Council email addresses rather than personal email addresses. The Council has sought advice on these and wider cyber security matters from a local IT company.
- 19 I have not undertaken any additional audit work to verify the steps taken by the Council. I will however follow up progress on these matters in future audits.

Next steps

- 20 The Council must now take the following steps in accordance with the requirements of the Public Audit (Wales) Act 2004. These steps cannot be delegated to a committee of the Council.
- 21 The Council must, under section 27 of the Act, immediately publish a notice in one or more newspapers circulating within the area and supply a copy of the report to each member of the Council. The notice must:
- identify the subject matter of the report; and
 - state that any member of the public may inspect and make a copy of the report between such times and at such places as are specified in the notice.
- 22 Under sections 24 and 25 of the Act, the Council must then consider the report at a full Council meeting within one month of the date of the report. Should the Council require more time to comply with its duties in relation to the report and recommendations, it should contact me as soon as possible.
- 23 At least seven days before the meeting, the Council must publish a notice in a newspaper circulating in the community stating:
- the time and place of the meeting;
 - that the meeting is being held to consider a report in the public interest; and
 - a description of the subject matter of the report.
- 24 The Council may combine the two notices required under sections 25 and 27 of the Act.
- 25 At the meeting, the Council will need to decide:
- whether the report requires it to take any action;
 - whether the recommendations in the report are to be accepted; and
 - what action (if any) to take in response to the report and recommendations.
- 26 As soon as practicable after the meeting the Council must notify me of the decisions made at the meeting. The Council will then need to prepare a written

summary of those decisions and obtain my approval of that summary before publishing a notice containing it in a newspaper circulating in the community.

Ann-Marie Harkin

Executive Director – Audit Services

For and on behalf of the Auditor General for Wales

Detailed report

A failure to follow proper process and to properly challenge a request for payment resulted in a loss to the Council of £9,000

On 12 December 2022, the Clerk reported to the Vice Chair, a receipt of £4,800 from the Harlech Ardudwy cycle club (Clwb Beico)

- 27 The minutes for the May 2022 Council meeting record that Cllr Braithwaite had been informed by the Harlech Ardudwy cycle club (Clwb Beico) that Clwb Beico had been awarded £4,609 and needed to spend the grant or it would need to be returned. The cycle group offered to give the money to the Council provided that the Council take responsibility for sourcing and installing cycle related equipment at an agreed upon venue. The Council agreed to this proposal.
- 28 The Council received £4,800 from Clwb Beico on 12 December 2022. The Clerk then emailed the Vice-Chair to inform him that the monies had been received. This email was addressed to the Vice-Chair's personal email account at Christopher.braithwaite@hotmail.co.uk.

On 13 December 2022, the Clerk made two payments of £4,500 following email correspondence with an individual who purported to be the Vice Chair

- 29 At 10:39 on 13 December, the Clerk received an email purporting to be from the Vice-Chair. This email was sent from Christopher.braithwait@hotmail.com (note the variation in spelling).
- 30 This email requested 'please I have an invoice for the payment of £4,500. Can you process the payment today? (same day payment). The payment is for a Strategic consultancy service but I asked for an invoice for easy processing of transfer. Let me know if you can process the payment as urgent priority today so I can forward you the invoice for payment. The company needs to start work on Thursday.'
- 31 The Clerk made the requested payment and sent an email confirmation of this at 12:17. At 13:43, the Clerk received a further email stating 'I think I made a mistake, the invoice is 2 not 1, kindly pay this second one too asap, for record purpose, record it as Strategic Company (by Chris).'
- 32 At 16:05, the Clerk sent an email stating 'I shall pay it now.' At 16:08 the Clerk received another email stating 'Has it been paid please? I just got a call from them again.'
- 33 At 17:28, the Clerk confirmed by email that the second payment of £4,500 had been made.

- 34 Upon request, the Clerk provided a copy of the email trail between the Clerk and the individual purporting to be the Vice-Chair.
- 35 The Council has been unable to provide my auditors with a full copy of the email trail and instead provided only scanned copies of printed emails. In some cases, the scanned copies are of printed pages that have been folded or had blank sheets placed over part of the full text, thereby obscuring part of the page. In other cases, the format of the emails presented at audit suggest that the document printed has been edited before printing.
- 36 The emails themselves do not contain a full email chain. It has not, therefore, been possible to determine with absolute certainty when the Clerk received some information.

In making these payments, the Clerk both failed to adhere to the Council's proper internal control processes and to apply an appropriate degree of challenge and scrutiny to the request for payment

- 37 It is, however, clear from the email correspondence I examined, that the Clerk was unaware of any consultancy services being provided to the Council. In such circumstances, I would expect the Clerk to exercise a reasonable degree of scrutiny and challenge to such a request for payment to ensure that the request is legitimate and approved by the Council.
- 38 In my opinion, the Clerk failed in the following key areas.

The Clerk accepted an instruction to pay for services that had apparently been commissioned by an individual member and that she knew had not been approved by the Council

- 39 Individual council members do not have any legal authority to make decisions on behalf of the Council. All decisions are to be made by the Council unless the Council has delegated authority to a committee or to an officer of the Council. Decision-making cannot be delegated to individual members.
- 40 It is apparent that, so far as the Clerk was aware at the time, the Council had not approved expenditure for consultancy services, and she was herself unaware of any services that had been commissioned. This is evidenced by the following matters:
- following the initial payment of £4,500, the Clerk sent an email asking: 'For the records in the minutes what work is this company going to be carrying out?'
 - in her email sent at 16:05, she asked: 'What work is exactly going to be carried out as £9k is rather a large sum to pay out without authorisation of the Community Council?'

The Clerk would also have been aware that these ‘consultancy services’ had not been procured in accordance with the Council’s Standing Orders and Financial Regulations

41 The Council has established standing orders and financial regulations that set out how it should manage its finances and procure goods and services.

42 The Standing Orders state:

- *Expenditure: Payment orders must be authorised by a Council resolution and signed by two Councillors and the Clerk, but in cases of actual emergency the Clerk may in consultation with the Chair and/or Vice Chair come to a decision on them*

43 The Council’s Financial Regulations state:

- *Budget management: There may be no expenditure of any money which shall exceed the amount contained in the revenue budget for that class of expenditure.*
- *Paying accounts: All paid invoices will be audited, checked and confirmed by the Clerk. The Clerk shall satisfy himself that the work, goods or services to which the invoice refers were received, delivered, inspected and confirmed.*
- *Contracts: The procedures for contracts are: All contracts shall comply with these Financial Rules, and no exceptions shall be made except in an emergency provided these rules do not apply to contracts relating to items below:*
 - for specialist services of the type provided by solicitors, accountants, surveyors and planning consultants;
 - for work done or materials supplied which include repairs to or parts for machinery or equipment;
 - for works carried out or materials supplied constituting an extension of a contract already made by the Council;
 - for goods or materials intended to be purchased that are proprietary goods and/or are sold at an instalment price only.

When a contract in excess of £5000 is intended to be made for the supply of goods or materials or for the performance of specialist work or services the Clerk shall invite tenders from at least three Contractors.

44 Services described as ‘Strategic consultancy’ do not meet the exemption allowed for in the Financial Regulations. Therefore, the Clerk should have ensured that the Council’s proper procurement and authorisation processes were followed.

The Clerk did not effectively scrutinise the unusual and unexpected request for payment

45 Given the matters referred to above, there are steps the Clerk could and should have taken to ensure that the payment request was legitimate.

- 46 For example, she did not notice the fact that the emails she received relating to this request for payment, were not from the Vice Chair's email account. Although the differences are subtle, with due care and attention, they are fairly readily identifiable.
- 47 The emails from Christopher.braithwait@hotmail.com (incorrectly spelled surname) included instructions to make payments to an individual named Oluwafemi Oudnuga. The emails included copies of invoices to support the payments. However, the invoices are made out to Chris Braithwaite and not the Council.
- 48 Furthermore, the emails are poorly written with grammatical and typographical errors. These errors indicate that the emails were not from the Vice-Chair. The poor use of language should have raised concerns regarding the instructions given to the Clerk.
- 49 There are discrepancies in the timeline in the email chain itself. At 13:43 on 13 December, the Clerk received an email from Christopher.braithwait@hotmail.com that included an email from oluwafemi.odunuga@consultant.com to Christopher.braithwait@hotmail.com that was timed at 14:40 on 13 December. This indicates that the emails from oluwafemi.odunuga@consultant.com originated in a different time zone to the UK.
- 50 The invoices themselves are poor quality. I attach copies of the invoices in **Appendix 1**. The invoices do not provide sufficient detail. The address listed on the invoice belongs to a different company.
- 51 Although the Clerk's suspicions were not raised regarding the email account and the quality of the emails and invoices, the unexpected and urgent nature of the request and the failure to provide proper information should have been a cause for concern. These facts alone should have prompted her to speak to the Vice-Chair in person to confirm the nature of the consultancy services. Had she done so, the fraud would have been identified before payment was made.

The ease with which Oluwafemi Oudnuga was able to persuade the Clerk to make two payments demonstrates that, in practice, the Council does not operate proper internal controls over expenditure

- 52 In addition to the Standing Orders and Financial Regulations, the Council has provided for audit a document that sets out how it manages and controls its system for making payments. This document states that payments are approved at a Council meeting before cheques are issued.
- 53 It is clear, however, that payments are not made solely by cheque but also by bank transfer. The minutes of the Council's meetings record invoices received since the previous meeting. However, there is no indication of whether or not these payments have been made by bank transfer prior to the meeting.

- 54 The Council did not follow its current rules for making payments and it is therefore essential that the Council satisfies itself that its rules are followed for all payments. In this case, payment was made despite the existence of a number of warning signs. This suggests that other payments may have been made without Council scrutiny. It is therefore important that the Council now reviews all payments made to ensure that its procedures were followed.

The Council's minutes present an inaccurate picture of events surrounding the loss of £9,000

Accurate minutes are essential as they represent the historical record of all business transacted at Council meetings

- 55 The Local Government Act 1972 requires the Council to keep minutes of its meetings including those of any committees. The minutes are the formal record of official acts and decisions. They should therefore be clear and accurate.
- 56 Following each meeting, the Clerk prepares the minutes. These are then circulated to members along with the agenda for the next meeting. The Council then reviews the minutes and approves them as an accurate record at the next meeting.

The minutes of the Council's meetings held on 5 December 2022 and 5 January 2023, present an inaccurate picture of the events surrounding the payments and appear to have been prepared to suggest that the Council approved the £9,000 payment on 5 December 2022

- 57 The minutes of the 5 December 2022 meeting record the following:
'Invoices needing payment since last meeting...
Oluwafeni Odunuga £9,000.00 – Strategic consultancy service'¹
- 58 These minutes were approved as an accurate record at the Council's meeting on 9 January 2023. The original minutes are signed by the Council chair.
- 59 However, the 5 December 2022 minutes cannot be an accurate record of the business transacted. The invoices were not received until 13 December 2022. Therefore, they cannot have been reported to or discussed at the Council meeting held on 5 December as having been received before that meeting.

¹ [Harlech Community Council \(cyngorharlech.co.uk\)](http://cyngorharlech.co.uk)

60 Subsequently, the minutes of the 9 January 2023 meeting record that:

‘The Treasurer reported that unfortunately the Council had been scammed out of £9,000 by a person called Oluwafeni Odunuga stating that he was going to carry out consultative work for the Council and an advance payment would be required. The Treasurer stated further that she had telephoned the bank's fraud department and the matter is currently being dealt with by them. The Treasurer reported further that she had received a letter from HSBC bank stating that it looks like the Council has been a victim of an ‘authorised push payment’ scam and they were now looking into this and contacting the fraudster's bank. HSBC bank will contact the Treasurer within the next 15 working days to provide an update on this matter.’²

61 The 9 January minutes do not set out the circumstances that led to the loss being incurred.

The Council's website is not properly maintained and obscures relevant information

The Council is required to publish certain information electronically

62 The Local Government (Democracy) (Wales) Act 2013 (the 2013 Act) requires every local council to make available their contact and membership details, and records of their proceedings via the internet. The 2013 Act also requires every council to publish their register of members' interests, public notices and audited accounts electronically.

Although the Council has a website, it is not maintained on a timely basis

63 During the course of the audit it became clear that the Council's website is not maintained on a regular basis.

64 Minutes and agendas are posted out of sequence and are subject to a significant degree of duplication. For example, the minutes for 2022-23 are published in the following order from the top of the webpage:

- Minutes 06 March 2023 (English)
- Minutes 06 March 2023 (Welsh)
- Minutes 05 December 2022 (English)
- Minutes 06 March 2023 (English)
- Minutes 06 March 2023 (Welsh)
- Minutes 05 December 2022 (English)

² [Harlech Community Council \(cyngorharlech.co.uk\)](https://cyngorharlech.co.uk)

- Minutes 06 March 2023 (English)
- Minutes 06 March 2023 (English)
- Minutes 09 January 2023 (English)
- Minutes 06 March 2023 (Welsh)
- Minutes 06 February 2023 (Welsh)
- Minutes 07 November 2022 (English)
- Minutes 09 January 2023 (Welsh)
- Minutes 05 December 2022 (Welsh)
- Minutes 07 November 2022 (Welsh)
- Minutes 03 October 2022 (Welsh)
- Minutes 05 September 2022 (Welsh)
- Minutes 06 June 2022 (Welsh)
- Minutes 04 July 2022 (English)

65 The agendas for all meetings held in 2022-23 are inserted between the minutes for the 05 December 2022 and 06 March 2023.

The website is poorly structured and individual documents are difficult to locate

66 In addition to the irregular posting of minutes and agendas as noted above, the Council has not published all the information it is required to publish electronically. For example, the Council is required to publish the following items but does not do so:

- Annual accounts and audit opinions and reports
- Register of members' interests
- Public notices eg completion of audit

67 Furthermore, the Council's website hosts documents related to Llanfair Community Council. The minutes and agendas for Llanfair Community Council are interspersed with those of Harlech Community Council. The irregular posting of minutes etc and the use of Harlech's website to host Llanfair's agendas and minutes tends to obscure information related to Harlech.

Appendix 1

Fraudulent invoices

 Oluwafemi Odunuga EST. ⚡ 2012 <i>Strategic Consultancy Service</i>
Unit 25 Shortwood Court, Dearne Valley Parkway, Barnsley, S Yorkshire, S74 9LH TEL: 01579 386180

INVOICE				
INVOICE TO: Christopher Braithwaite		Invoice Number	0019104	
		Invoice Date	12/13/2022	
		Contact Person	Christopher Braithwaite	
		Payment Remarks	3 days	
Description		Quantity	Price per Unit	Amount GBP
1.	Strategic consultancy Service	1	£ 4500	£ 4500
	Bank Transfer-			
	Beneficiary: Oluwafemi Odunuga			
	Sc: 04-00-85			
	Ac: 02322676			
			SUBTOTAL	£ 4,500.00
			Sales Vat	---
			TOTAL DUE	£ 4,500.00

Oluwafemi Odunuga EST.  2012 Strategic Consultancy Service Unit 25 Shortwood Court, Dearne Valley Parkway, Barnsley, S Yorkshire, S74 9LH TEL: 01579 386180

INVOICE				
INVOICE TO: Christopher Braithwaite		Invoice Number	0019105	
		Invoice Date	12/13/2022	
		Contact Person	Christopher Braithwaite	
		Payment Remarks	3 days	
Description		Quantity	Price per Unit	Amount GBP
1.	Strategic consultancy Service	1	£ 4500	£ 4500
	Bank Transfer-			
	Beneficiary: Oluwafemi Odunuga			
	Sc: 04-00-85			
	Ac: 02322676			
			SUBTOTAL	£ 4,500.00
			Sales Vat	---
			TOTAL DUE	£ 4,500.00



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