

# Report on an Investigation into Failures In Financial Management and Governance at Harlech Town Council

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## **Introduction**

On the 13<sup>th</sup> December 2022 Harlech Community Council paid two invoices by bank transfer purportedly for consultancy services. Unfortunately, these invoices were fake and, as a result, the Council lost £9,000, which represents almost 10% of its annual income and 13% of its Annual Precept.

During the second half of 2023, the matter was investigated by the Wales Audit Office, which reported its findings in November 2023.<sup>1</sup> Following the publication of the Audit Wales Report, the Community Council accepted that it had *'failed to investigate and consider the circumstances of the fraud itself and its aftermath'*<sup>2</sup> and resolved to appoint an independent investigator to undertake its own investigation into the events leading to the scam. To assist the Council find a suitably qualified person to undertake the investigation, One Voice Wales was contacted.

Following a meeting between Harlech Community Council and One Voice Wales's North Wales Development Officer, the following remit was agreed for the investigation:

1. To examine the accounts, minutes, and other records of Harlech Community Council for 2022-23 and interview key personnel.
2. To scrutinise the above and report on any failure of governance, accounting or record keeping.
3. To look at the reasons and any failure in governance that led to the loss of £9k from the Council's accounts.
4. To advise the Council on what actions it should take following the fraud and to improve its governance and financial management for the future.

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<sup>1</sup> Audit Wales, Report in the Public Interest: Failures in Financial Management and Governance and Losses Incurred – Harlech Community Council (Nov 2023).

<sup>2</sup> One Voice Wales Remit – email dated

Following the completion of due diligence and procurement protocols the City Director of Bangor City Council was appointed to look into this matter on behalf of the Community Council. Dr. Martin Hanks is a CiLCA (Certificate in Local Council Administration) qualified town clerk with years of experience, he is a Principal Member of the SLCC (Society of Local Council Clerks) and sits on the National Executive of the ALCC (Assn of Local Council Clerks).

## **Background**

In early December 2022, Harlech Community Council received £4,609 from a local cycle club, Clwb Beico. These funds were related to an agreement that the Community Council aid the Harlech Ardudwy Cycle Club or Clwb Beicio to source and install cycle-related equipment in the locality. Clwb Beicio had successfully obtained these funds via a grant and needed to comply with the time constraints attached to it. Hence the involvement of the Community Council.

The day after these funds were received by the Council, the Town Clerk received an email believed to be from the Vice Chair, Cllr C. Braithwaite. This email requested that an invoice of £4,500 be paid that same day for Strategic Consultancy. A second email was received at 13.43 pm from the same source stating that there were two invoices, and not one, for £4,500 each.

Just after 4 pm the Town Clerk confirmed that the invoice had been paid and at around 5.30 p.m. confirmed by email that the second email had been paid.

Except for Cllr Braithwaite the matter was not reported to Council until the January 9<sup>th</sup> meeting and the Wales Audit Office was not formally notified. The WAO was made aware of the matter following the submission of the Annual Statement.

The minutes of the December Council meeting, that were presented for approval at the January meeting, contained reference to the two payments of £4,500 each. The minutes were approved at that meeting as an accurate record of the December meeting. However, the December Council meeting was held on the 5<sup>th</sup> of December, a week before the emails and invoices were received.

## **Methodology**

Initially, to complete the remit presented by One Voice Wales, a review of Council documents was undertaken.

The minutes of Council meetings were reviewed, both from around the time of the incident and throughout the period since. The Council's Standing orders and Financial Regulations were reviewed. The versions of these documents active at the time of the incident were considered in detail and the updated versions, which are currently in effect, were compared.

Reports relating to the incident and to Council finances were also assessed, including the Wales Audit Report in the Public Interest, the Minutes of Pubic Meeting held on 8<sup>th</sup> January 2024, the Audit Reports for 2023 and 2024. Copies of the original email chain between the Town Clerk and the (then) Vice-Chair Cllr C. Braithwaite were requested but were, unfortunately, unavailable. Printed photocopies have been supplied for evaluation but because these are not the original emails any conclusions drawn from them must be considered unreliable.

A Community Council meeting was attended in July at which members of the public were invited to make representations. In the weeks following attendance at the meeting, interviews were held with the Town Clerk, the (then) Vice-Chair Cllr C. Braithwaite (now Chair Braithwaite), and other Members of the Council, who wished to speak on the situation. Some residents of the Harlech community made contact and wished to discuss matters pertinent to the remit, as listed above. Some residents were met face to face, while others were content with email communication.

## **Findings**

When incidents like this occur they usually happen due to one or more of the following:

- a) Procedural inadequacies,
- b) Lack of training,
- c) Failure to follow procedures,

In this case, the findings clearly demonstrate that elements of all three were present.

#### a) Procedural inadequacies

Both Standing Orders and Financial Regulations had not been updated to keep abreast of new legislation, and there is no evidence that they had been reviewed regularly. The Council does not undertake a regular review of its Financial Risk Assessment.

The Town Clerk, despite being in the post for over 30 years, has never undertaken any recognised formal training (e.g. ILCA or CiLCA) and does not undergo any formal continuous professional development or annual job review procedure. As such, there has been no vehicle by which the Council could monitor the Clerk's performance nor that the Clerk could keep up to date with changes to legislation and policies.

There appears to be no formal system of reviewing documents, policies and procedures to ensure that they are still fit for purpose and up to date.

#### b) Lack of Training

The publication of documents is haphazard and not easy to discern. Not all documents that are legislative requirements are being published. Those that are published do not conform to any usable form of referencing and take a long time before such documents and reports are published. For example, it has now been three months since the Annual Meeting, held in May, and at the time of writing in August, the website does not reflect that a new Mayor is in post nor contain his details. Similarly, the minutes of the meeting of the 1<sup>st</sup> July appear in one section and not in another. If the Council is to regain the trust of the local electorate, it will need to improve its communications.

Minutes are generally published but the WG requirement to publish decisions within 7 days is still not being fulfilled, with some minutes over the last year reportedly taking up to five months before being published on the website.

Council paperwork, including agenda and minutes, would benefit from the author receiving up-to-date training. There are a host of minor issues which are not in keeping with a well-run Council.

The scam was not reported promptly to the Council. Nor were other official agencies informed or advice obtained, such as the Wales Audit Office or One Voice Wales. Furthermore, this matter was not picked up, outside of the Council, until the submission of the Annual Audit

over the Summer of 2023. This suggests that the Clerk and senior Members of the Council either did not understand the seriousness of the incident or wished to keep the matter out of the public domain. This has resulted in elements of the local population feeling that the Council is still hiding something, although no evidence of that was found.

#### c) Failure to Follow Procedures

On the day in question, the Clerk paid two invoices based on the (believed) authority of a single Councillor. Despite the outdatedness of the Council procedures, such actions were not in keeping with the Financial Regulations in place at the time.

Somewhat worryingly, despite the adoption of the new model Financial Regulations and the recommendations of the Wales Audit Office Report, it is apparent that two-person authentication of payments is still not being operated.

There is evidence that the Clerk is on occasion, making decisions to commit to expenditure without the Council's approval. This was witnessed recently by the appointment of a simultaneous translator, which will increase the Council's annual expenditure by some £2,000. While the objective of allowing any Councillor or Officer to speak in their language of choice is admirable and in keeping with national guidelines and Welsh Language policies, this does not excuse following the correct procedures and laid down in Financial Regulations to achieve it..

The Council has been operating in isolation for many years. This has led to a failure to keep up with changes in legislation. For example, it was admitted that, at the time of the Wales Audit Office investigation in mid-2023, the Council was unaware of the publication of a new Model Financial Regulations in 2019.

#### **Additionally Findings**

Despite being raised by the WAO Report and some improvements being made, the Council's website is still not up to the standard expected of a community council. The organisation of minutes and reports is poor and confusing, not all documents are published bilingually, some are in English only and others solely in Welsh.

There is something of a siege mentality developed with the hierarchy of the Council, which has led to some unusual decisions. The adoption of systems which, by admission, interfere with the public's ability to follow what is being said in meetings, is not in keeping with the Welsh Government's drive for transparency and is disappointing.

Even more disappointing, and in the opinion of the author, more serious than the original scam, is the inaccurate presentation of the December minutes to the January meeting. This can only be construed as an attempt by the Proper Officer to falsify Council minutes to make it look as if the (scam) payments had been authorised by the Council.

While the Council must take some responsibility for not noticing the additional payments added to the December minutes, this should not detract from what is an intent to deceive the Council and the public. This action cannot be attributed to an error or lack of knowledge as it clearly demonstrates Mens Rea, i.e. an 'intent' to deceive. Town Clerks are the official recorders of Council business, hence the name. As such it is essential that clerks are not merely efficient but also trustworthy. This action amounts to a serious betrayal of that trust.

### **Recommendations**

Confidence in the Community Council still appears low within elements of the community. Transparency is the only way that this matter can be 'put to bed'. Therefore, it is recommended that the Community Council organises another public meeting. In this meeting, a full and open report should be presented to the community about the incident and the remedial actions taken thereafter. The Wales Audit Office and this Report should also be available at the meeting and be published in prominent positions on the website.

Local residents and interested parties should be allowed an opportunity to express their concerns and question the Council about the scam and about the way it operates. The Council should then take steps to demonstrate that it is taking those concerns seriously and aspires to mitigate them.

### **Recommendation 1 – Organise another Public Meeting.**

The current website is still not up to an acceptable standard, despite having had an upgrade. It is recommended that a new website company is appointed, to build and maintain a new



website. This company should preferably be one with experience of working with a Community Council and familiar with publishing its documents.

**Recommendation 2 – Have a new website built.**

While it is acknowledged that Financial Regulations and Standing Orders have been reviewed and updated since the Wales Audit Office Report. There are still some doubts as to whether these revised regulations are always being complied with, see for example comments regarding two-person authorisation of payments. The Council must adhere rigidly to its own Regulations and Orders, or if these documents or part of them, are set aside, as is allowed in certain circumstances. The reasons for setting them aside must be documented in the Council minutes.

**Recommendation 3 – keep rigidly to set Orders and Procedures**

As identified by the Wales Audit Office Report, Members and the Clerk frequently use personal email addresses for Council business.<sup>3</sup> While this is not illegal, as such, it should be strongly discouraged. Council email addresses, monitored by a professional IT company are substantially more secure than private email addresses. There is a strong argument that had professionally monitored Council email addresses been in use at the time, then this scam may never have happened.

Personal emails addresses are still being used despite the WAO recommendation that highlighted the potential problems with this.

**Recommendation 4 – Use Council email addresses for Council business**

As witnessed at the July meeting and corroborated by reports from the public, many of the formalities of Council meetings are not being adhered to. Items are passed without formal voting. Frequently, there is no opportunity to vote against an item. Therefore, it is

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<sup>3</sup> Audit Wales, Report in the Public Interest p.7 pt 18

recommended that the Chair of the Council attend a One Voice Wales course on Chair skills as soon as practicable. If the public witnesses well-structured meetings, that are being chaired professionally, residents' confidence in the Council will begin to return.

It is also recommended that the Council arrange an in-house training course for all Councillors. This could be achieved in one or two sessions of two or three hours each, during which the basics of the Code of Conduct, the council, the councillor and Local Government Finance could be covered. While this would not disseminate all the elements of these modules, it would give Councillors a foundation on their roles and responsibilities as well as that of the Council as a whole and increase understanding of procedures.

Items that are currently not fully understood include:

- a) Representations can only be made in formal meetings. Proposals, suggestions and comments made by email (or other correspondence) in advance of, or after a meeting cannot/should not be taken into account and cannot be included in the minutes.
- b) Any argument made verbally outside of formal meetings cannot/should not be taken into account and excluded from any minutes.
- c) The Council, as a corporate body, makes policy and strategic decisions via a voting system of councillors present at the relevant meeting. Decisions made by the correct democratic process, even poor ones, become the official position of the Council and every Member should then adopt that 'corporate' policy, whether they voted for it or not.

**Recommendation 5 – Training for Chair and Councillors should be organised as soon as possible.**

As with many Town Clerks, the Harlech Clerk has been working largely in isolation. She has been in post for over 30 years, during which time the requirements of the role have changed beyond recognition. The role continues to change as the Welsh Government disseminates its objectives and ambitions for a better future for Wales.

The Council's Clerk, to her credit, has fulfilled the role for all these years without any formal training. However, it is the findings of this investigation that the Clerk's professional

knowledge has stagnated and fallen behind the current legislative and best practice requirements of the role. Below are a few examples of how best practices are not being complied with:

- The titles of agenda items are vague and do not inform Councillors and residents of what will be discussed;
- Items are discussed and approved at meetings that are not on the agenda;
- Reports discussed at meetings are not always pre-circulated to allow for proper scrutinization;
- Payments are still made by the Town Clerk. There is no two-party authorization;
- Meetings are not hybrid as they are now required to be by legislation;
- Publication of Council decisions do not appear on the website within 7 days of the meeting;

It is, in the view of the author, essential that the Harlech's Town Clerk/Proper Officer undertake professional training. The recommended qualification is the SLCC Certificate in Local Government Administration, which will take up to twelve months. Completing this training course and implementing the lessons that it will disseminate will benefit both the Clerk and the Council.

#### **Recommendation 6 – Formal Training for Clerk as soon as possible.**

As highlighted in a recent issue of the *Clerk Magazine* 'by prioritising CPD (Continuous Professional Development) ... you can significantly enhance your professional standing, improve your performance and ensure that your contributions are recognised by the council.'<sup>4</sup>

As indicated above the role of the Clerk is continuously changing. New technologies are emerging monthly, and the amount of relevant legislation is ever-increasing, as is the growing list of things that councils are required to publish. The Welsh Government continues its drive for transparency at all levels of government and the commonality of social media means the spotlight on councils and Town Clerks has never been so great.

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<sup>4</sup> 'Professional Development Update', *The Clerk*, SLCC (Sept 2024) pp 46-7.

To keep up to date with the ever-changing needs of the role, a programme of Continuous Professional Development should be implemented as soon as practicable. This should include a formal Annual Review process by the Chair and other Council representatives, or Members of an HR Committee and ongoing attendance at other training or information disseminating meetings, e.g. One Voice Wales or SLCC webinars, One Voice Wales or SLCC conferences, regional meetings of One Voice Wales or SLCC. This should be supplementary to the formal training recommendation made in Recommendation 6 above.

It is also recommended that regular visits to the websites of One Voice Wales, the Society of Local Council Clerks, and the National Association of Local Councils should become a routine part of a clerk's duties to keep up to date with changes.

### **Recommendation 7 – Implement a Continuous Professional Development Policy for Clerk**

The central involvement of the Town Clerk in this incident has been well documented in the Wales Audit Report and in this document. That the Clerk breached Financial Regulations and then compounded the breach by falsifying Council minutes is not disputed.

It is recommended that the Council establish a sub-committee to evaluate whether disciplinary action should be instigated against the Town Clerk. If such a committee decides in the affirmative, then the Council's Disciplinary Procedure should be instigated. In this eventuality, the outcome should remain confidential beyond a report confirming that the matter has been dealt with via this procedure. If the committee decides that no further action should be taken, the reason for that decision should be reported in the minutes and, as such, publicised in the public domain

### **Recommendation 8 – Consider Disciplinary Action for Clerk**

## **Conclusion**

It is apparent from the findings of this investigation that feelings are still strong surrounding the events that led to the incident in December 2022. It is also apparent that this incident and

its aftermath have highlighted several examples of non-compliance with the Council's regulations and complacencies with its operations.

Over the last twelve months or so the Council and the Town Clerk have worked hard to correct many of these issues and there is no doubt that progress has been made. However, to regain the confidence of the community, and improve the cohesion of the Council, there are measures that could be implemented.

The recommendations highlighted in this document would, if implemented, improve the skills of the Chair, improve the knowledge of Councillors, and progress the expertise of the Town Clerk. These actions, in turn, would lead to greater transparency and a more professional Council. Knowledgeable Councillors, served by a qualified Clerk operating to up-to-date procedures and regulations would likely go a long way to regaining the trust of the local electorate.

Dr. Martin Hanks