



WALES **AUDIT** OFFICE  

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SWYDDFA **ARCHWILIO** CYMRU

# Report in the Public Interest – Audits of Accounts 2004-05 to 2009-10

## **Clydach Community Council**

**Issued:** December 2011

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# Status of report

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## **Status of this public interest report**

This report in the public interest has been prepared in accordance with Section 22 of the Public Audit (Wales) Act 2004.

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

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## Introduction

1. This report is issued in the public interest under Section 22 of the Public Audit (Wales) Act 2004 (the Act). I have issued this report to draw the public's attention to failures in governance arrangements and inadequacies in financial management and internal control at Clydach Community Council (the Council). These matters have been subject to local press coverage and local comment. I believe it is important that the public has a full and proper awareness of the events concerning the Council. I also consider it appropriate to give the Council an opportunity to demonstrate the important steps already 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 the Council, but by all community councils in Wales.
2. The community of Clydach is located in the Swansea valley. The Council has 16 elected members and serves a population of approximately 7,000 people. The Council spends around £50,000 annually on local services. It funds this by means of a precept of some £44,000 from the City and County of Swansea Council supplemented by income received from letting the community hall. 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 Clydach.
3. Community councils such as Clydach, 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 (RFO). The RFO is responsible for administering the financial affairs of the Council on a day-to-day basis. In particular, this involves receiving and recording income, preparing cheque payments for signing by members, maintaining the accounting records and preparing the annual accounting statements. However, by law (the Accounts and Audit (Wales) Regulations 2005 (the 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 accounting statements prior to submission to the external auditor for examination.
4. Mr Robert King was appointed as Clerk and RFO to the Council in August 1999. In his submission made in response to a consultation document I issued in October 2011, Mr King states that he 'was not paid as the Council's RFO only as the Clerk.' Mr King also states that he was expected to, and did, sign his name as the Council's RFO.
5. Following the Information Commissioner's decision that the Council failed to comply with the Freedom of Information Act in response to a request from a local resident, Mr King resigned in June 2010. Although the Council accepted his resignation, Mr King remained in post until April 2011 pending the appointment of a replacement Clerk.

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6. The Act requires the Auditor General to appoint an external auditor to the Council.
  7. Following the retirement of the former appointed auditor in March 2010, I was appointed in accordance with the Council's notice of audit appointment issued under the Act. This appointment is a joint appointment with Mazars LLP for the period 2006-07 to 2009-10. The statutory audit for 2004-05 commenced in late 2005 and has taken an unusual length of time to complete. In part, this is due to the failure of the former Clerk to respond to requests for information from the former appointed auditor. I have commented further on this in paragraphs 44 to 47. However, it is also clear to me that the Wales Audit Office could have done more to bring the audit to completion at an earlier stage, thereby reducing the impact on the Council of the issues reported below. In June 2009 the Wales Audit Office revised its protocol for dealing with unresponsive community councils. This protocol was again reviewed and updated in October 2011.

## **The former Clerk failed to discharge his responsibilities in relation to the financial management of the Council**

### **The former Clerk failed to discharge his statutory responsibilities to properly maintain the accounting records**

8. Under the Regulations, the RFO must determine, on behalf of the Council, after consideration of proper practices, its:
  - accounting records, including the form of accounts and supporting accounting records; and
  - accounting control systems.
9. The accounting records must be sufficient to show the Council's transactions and must, among other things:
  - be sufficient to ensure that any accounting statements comply with the Regulations;
  - contain entries from day-to-day of all sums of money received and expended by the Council; and
  - record the assets and liabilities of the Council.
10. The accounting control systems must, among other things, include:
  - measures to ensure that the Council's financial transactions are recorded as soon as reasonably practicable and as accurately as reasonably possible;
  - measures to enable the prevention and detection of inaccuracies and fraud; and
  - the ability to reconstitute any lost records.

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11. The RFO must also ensure that the accounting control systems are observed and that the accounting records are kept up-to-date and maintained in accordance with proper practices.
  12. The most important accounting record for the Council is the cashbook (receipts and payments book). However, the cashbook kept by the former Clerk was substantially incomplete. The cashbook does not contain details of:
    - income received;
    - wages and salaries payments; and
    - bank charges.
  13. The bank reconciliation is a key tool for councils. It identifies available funds at a given moment in time. It also demonstrates the completeness and accuracy of the Council's records. The former Clerk did not, however, prepare a bank reconciliation during any of the years covered by this audit.
  14. During the audit, I noted that the cheque payments recorded in the cashbook were recorded out of sequence. In order to properly manage the Council's finances, it is essential that the writing of cheques and all other transactions are recorded in the cashbook at the time they occur.
  15. The dating of cheques was haphazard. In normal circumstances, the cheque sequence would be in strict date order. However, the former Clerk frequently recorded cheques out of sequence and date order. This is demonstrated in [Table 1](#) below.

**Table 1: Cheque sequences**

The Council's cheques are dated out of order.

Cheque number	Date per cheque stub	Date recorded in cashbook
101481	17 September 2008	September 2008
101482	17 September 2008	September 2008
101483	22 September 2008	September 2008
101484	6 January 2009	January 2009
101485	28 October 2008	October 2008
101486	25 October 2008	October 2008
101487	25 October 2008	October 2008
101488	25 October 2008	October 2008
101489	Cancelled	N/A
101490	Cancelled	N/A

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Cheque number	Date per cheque stub	Date recorded in cashbook
101491	28 October 2008	October 2008
101492	17 October 2008	October 2008
101493	28 October 2008	October 2008
101494	17 October 2008	October 2008

*Source: Cheque books and cashbook*

16. This haphazard use of cheques is part of a wider pattern of poor record keeping and failure to apply internal controls, as set out in the rest of this report.

### **The former Clerk is unable to demonstrate that all income due to the Council has been collected and banked**

17. The Council's income comes from three principal sources:
- The annual precept on the City and County of Swansea. This is effectively borne by the Council taxpayers of Clydach in the form of higher council tax.
  - Interest on bank deposits and investments.
  - Charges made for the use of the community hall.
18. Ostensibly, the Council's procedures for recording and banking money for the use of the hall are as follows. Bookings for the hall are recorded in annual diaries kept by the Clerk. The Clerk also keeps a carbon copy receipts book to provide evidence that fees due to the Council have been paid. When hall money is banked, the Clerk records details of the payee on the bank deposit slips.
19. Mr King has stated that payments for the use of the hall were only made by cheque and that details for individual payments were always recorded in the bank paying in book. However, my review of the diaries, receipts books and bank deposit slips for 2004-05 and 2005-06 established that these do not present a reliable record of income due to and received by the Council:
- The receipts books contain receipts marked as cancelled but without any further explanation. In one case, hall money was banked even though the receipt was marked as cancelled.
  - Some of the Council's copies of receipts have been amended after they were issued so as to record a lower amount of money as being received.
  - It is difficult to tie up the receipts and bankings due to the inconsistency with which transaction details are shown on the receipt and on the bank deposit slip.

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- There is no regular pattern of deposits, with some money apparently not being banked for between five and six weeks.
  - In some cases, money was banked even though there were no supporting receipts.
20. The lettings diary for 2009 and 2010 indicate that the hall was used by a number of groups and individuals on a weekly basis throughout this period. However, the receipts book for 2009-10 only includes seven receipts. These receipts cover the period 14 April to 19 April 2009. No receipts are recorded for the remainder of the year. The bank deposit books record no deposits between 23 April 2009 and 18 August 2009.
21. Although specifically requested to, the former Clerk did not provide the auditors with lettings diaries for 2007 and 2008. The receipts book for 2008-09 records only 27 receipts for the whole year. The bank deposit book for 2008-09 indicates that the Council received at least 32 payments.
22. These issues demonstrate that the Council's hall lettings records are inadequate and it is therefore impossible to determine whether all income due to the Council has been received and banked. The Council should have a system that makes it straightforward to agree funds banked to the lettings diary via the receipts book and vice versa.

### **The former Clerk's administration of payments was inconsistent and exposed the Council to the risk of incurring penalties and additional charges**

23. Each month, the former Clerk reported to the Council a schedule of 'accounts for payment'. These are recorded in the Council's minutes. Other than in exceptional circumstances, the Council's normal procedure is to approve payments before cheques are made out and signed. For the reasons set out below, it would be good practice for cheques to be issued as soon as possible after the meeting at which the payments are approved.
24. I noted during the audit that payments were regularly made late. Payments were made up to two months after the Council had actually approved the payment. As a result of these practices, the Council regularly received reminder notices and on several occasions received final notices and threats of court action. Late payment of telephone bills resulted in disconnection of the service to the community hall and a wholly avoidable subsequent charge for reconnection.
25. In addition to these late payments, I noted that in some cases items were presented to the Council and payment was approved but there was no record of the payment subsequently being made. This lack of control over payments exposes the Council to the risk of loss due to duplicate payments being made.

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26. For example, the pattern of payments of non-domestic rates payable on the community hall is erratic. These payments were either:
- reported to the Council, approved and paid;
  - reported to the Council, approved but not paid; or
  - not reported to the Council for approval but paid.

**Poor administration of the Council's payroll arrangements by the former Clerk has resulted in overpayments and other errors and exposes the Council to the risk of financial penalties**

27. The Council employs two members of staff, the Clerk and the hall caretaker. The Clerk is paid on a monthly basis and the caretaker on a weekly basis. However, the audit identified that the Council pays its wages and salaries at irregular intervals.
28. During the period 2004-05 to 2009-10, the former Clerk was entitled to 72 monthly payments of salary. During the audit, I noted that the former Clerk actually drew 73 salary payments. In 2005-06, the former Clerk drew 13 months' salary resulting in an overpayment of net salary of £453.
29. Of the 72 salary payments due to the former Clerk, the former Clerk drew his monthly salary before it was due to be paid on 69 occasions. On 32 occasions, the former Clerk drew his salary more than one month before it was due to be paid. In the worst case, salary was drawn almost four months before it was due to be paid. Some consecutive salary payments were drawn only a few days apart.
30. As an employer, the Council must deduct Income Tax and employees' National Insurance Contributions (NICs) from employees' pay and send the amounts deducted to HM Revenue and Customs each month or quarter along with employers' NICs. This system is called Pay As You Earn (PAYE). PAYE deductions must be paid to HM Revenue and Customs by the nineteenth day of the following month.
31. However, although the former Clerk paid his own salary early, he did not always pay the required PAYE deductions within a reasonable time. For example:
- PAYE deductions for September, October and November 2008 were not paid until January 2009;
  - PAYE deductions for May 2009 were not paid until July 2009; and
  - PAYE deductions for August, September, October and November 2009 were not paid until January 2010.
32. This practice exposes the Council to risk of penalties and interest charges.

33. As part of the audit, I reviewed, for reasonableness, the accuracy of tax and NIC calculations for the years 2004-05 to 2009-10. My review identified a potential total under-calculation of tax and NIC (employee and employer) for these six years of £292.

**Table 2**

	£	Comment
Clerk	239.21	Excess deduction of tax and employee NIC
Caretaker	(307.38)	Under-calculation of tax and employee NIC
Employers' NIC	(224.05)	Under-calculation of employers' NIC
<b>Total</b>	<b>(292.22)</b>	<b>Net under-calculation of tax and NIC</b>

34. The Council's own deductions sheets indicate the Council should have calculated a total of £29,045 for tax and NIC. My calculations indicate the total should have been £29,337.
35. It has not been possible to match the payroll tax calculations to the actual payments made to HM Revenue and Customs. The actual payments made to HM Revenue and Customs were £28,646. This represents an underpayment of between £399 and £691 based on the calculations above.
36. Information provided by the Council in respect of the former Clerk's salary for 2010-11 demonstrates that the former Clerk continued to draw salary in advance of entitlement. Furthermore, in the period from 1 September 2010 to January 2011, the former Clerk has drawn £5,184.42 salary without deducting tax or NIC. This represents an overpayment to the former Clerk. I estimate that the amount of tax and employees' NIC that the Council should have deducted at source to be £1,607. I estimate that employers' NIC of £663 should also have been calculated.
37. The Council should now review in detail the tax and NIC calculations made by the former Clerk and agree any underpayment with HM Revenue and Customs.
38. Payroll costs are not presented to the Council for approval. Had the Council seen the payments being made, it would have been possible to identify the irregularity of the payments noted above.

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## **The former Clerk's failure to maintain proper VAT records has resulted in the Council over-claiming up to £1,465 of VAT**

39. As a body covered by Section 33 of the Value Added Tax Act 1994, the Council is able to reclaim VAT incurred on purchases. In order to do so, the Council should obtain proper VAT receipts and invoices setting out the relevant details of VAT paid and the supplier's VAT registration number.
40. The former Clerk has stated that, on two occasions, HM Revenue and Customs has inspected the Council's VAT returns and records and not identified any errors. Notwithstanding this, my audit identified a number of different errors in relation to VAT.
41. In many cases, VAT has been claimed on purchases that are not supported by appropriate VAT receipts or invoices. On one occasion, VAT was also reclaimed based on an invoice that states 'no VAT charged'.
42. When recording VAT on these purchases, the former Clerk has systematically calculated the VAT element incorrectly. In some cases, VAT has been calculated on purchases that are not actually subject to VAT. In other cases, where the supplies are subject to VAT, the VAT calculated exceeds the VAT that would have been charged.
43. The records kept by the former Clerk are so poor that I am unable to conclusively determine the level of the over-claimed VAT. However, my analysis indicates that as a result of these errors, the Council has over-claimed between £198 and £1,465 of VAT between 2004-05 and 2009-10. The Council should now review in detail the VAT claims made for the period and agree the amount of any over-claimed VAT with HM Revenue and Customs.

## **The former Clerk failed to comply with the requirements of the Public Audit (Wales) Act 2004 to prepare annual accounting statements and co-operate with the external auditor**

44. The Act requires the Council to compile its accounts each year to 31 March and ensure that its accounts are audited by an auditor appointed by the Auditor General. The Council's accounting statements are prepared in the form of an annual return provided by the Auditor General. The accounting statements in the annual return are a simple and straightforward record of receipts and payments. The entries for the accounting statements should be easy to extract from a well-maintained cashbook.
45. One of the key responsibilities of the Clerk of the Council is to prepare the annual accounting statements on behalf of the Council.
46. The former Clerk failed to prepare any accounting statements for the period 2004-05 to 2009-10. The poor nature of the records kept by the former Clerk, as outlined above, means that it is not possible to prepare the annual accounting statements from the cashbook. In July 2010, the Council engaged an accountant to prepare the accounts from source documents.

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47. From September 2005 until May 2010, the former Clerk regularly failed to respond to requests for the accounting statements and requests for information made by the audit team.

## **The Council failed to discharge its responsibilities to establish appropriate governance and supervisory arrangements to prevent inappropriate or wasteful use of public money**

### **Reliance on trust and lack of supervision by members contributed to failings in financial management**

48. The Regulations clearly specify that the Council is responsible for putting in place and ensuring that there is a sound system of internal control which includes adequate and effective financial management (Regulation 4). This system of internal control includes adequate and effective internal audit (Regulation 6).
49. The issues identified above demonstrate that financial management exercised by the Council has been weak throughout the period under review. Specific areas of concern include:
- lack of regular financial reports to the Council;
  - members signing blank cheques ie, cheques that have not been completed with details of payee and amount etc; and
  - failure to ensure that the annual accounting statements were submitted for audit on time.

### **Financial reports**

50. The Council's minutes record that the only substantive financial information reported to the Council consists of a budget received when the annual precept is determined and a schedule of payments requiring approval that is presented to each Council meeting. However, as noted above, these schedules are incomplete.
51. Good practice, adopted by many other community councils of a similar size to Clydach, is for the Council to receive regular ie, monthly or quarterly, reports of income and expenditure compared with the annual budget. Had the Council required these reports from the former Clerk during the period under audit, the inadequacies found in the Council's financial records might well have been identified earlier.

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### **Pre-signed cheques**

52. During the audit, the audit team identified that members had pre-signed a total of six cheques from two cheque books. These are cheques that have been signed but do not contain any details of payee, etc. The former Clerk has confirmed to my audit team that members have previously adopted the practice of signing cheques without the details being completed or being shown supporting documentation for the payment. Instead, and most inappropriately, those signing the cheques have simply relied on the Clerk to act properly.
53. This practice exposes the Council to risk of loss through fraud. Furthermore, if supporting documents had been reviewed before payments were made, the Council may have identified for itself that late payment charges were being incurred. It will also have identified the overpayment of the former Clerk's salary and the frequent early payment of the former Clerk's salary.

### **Annual return and accounting statements**

54. The Council's minutes do not record any discussion whatsoever of the annual accounts. Through this lack of focus on its statutory responsibilities, the Council allowed the former Clerk to avoid preparing the annual returns for the period 2004-05 to 2009-10.

### **The Council has failed in its statutory duty to maintain an adequate and effective internal audit**

55. Regulation 6 requires the Council to maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control. The purpose of internal audit is to examine and provide assurance on the day-to-day activities of the Council.
56. For much of the period subject to audit, the Council did not have any internal audit arrangements in place. The Council did engage an internal auditor at one point but it appears that no substantive work was undertaken.
57. An adequate and effective internal audit would almost certainly have identified the issues reported here at an early stage.

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## **The Council has failed in its statutory duty to maintain proper records of its proceedings and decisions**

58. The Local Government Act 1972 requires the Council to keep minutes of its proceedings. These minutes must be entered in a book kept for the purpose. The minutes must be signed by the person presiding at the meeting during which the minutes are approved.
59. The Council maintains its minutes in a loose-leaf minute book. During the course of the audit, I noted that the loose-leaf minutes are not consecutively numbered, initialled or signed. Loose-leaf minute books are lawful provided that the pages are consecutively numbered and initialled by the person signing the minutes at the time of signature. However, minutes which are not drawn up or signed in accordance with the law are not, for example, receivable as evidence in court.

## **Poor governance and administration within the Council has resulted in the Council incurring unnecessary and avoidable expenditure totalling £14,676**

60. During the audit, I identified that the Council has incurred significant sums of expenditure that was wholly unnecessary and avoidable. This expenditure arose from bank charges and interest, late payment charges from suppliers, excess payments of salary and additional bookkeeping charges.
61. Throughout most of the period from 1 April 2004 to 31 March 2010, the Council has maintained a savings deposit account and/or a savings bond with a balance in excess of £10,000.
62. In spite of this, the Council's current account has periodically become overdrawn. As a result, the Council incurred bank charges in excess of £1,100. These charges could have been avoided by transferring funds from the savings account. These additional charges are noted in [Table 3](#) below.
63. The Council has frequently failed to pay its bills on time. In some instances, bills were only paid when the former Clerk received notification that further delays would lead to court action. Utility bills were frequently paid late and consequently suppliers applied late payment charges and in one case an additional reconnection charge totalling more than £100. These additional charges are noted in [Table 3](#) below.
64. In order to prepare the accounting statements for audit, the Council had to employ an external accountant at a total cost of £6,000 plus VAT. The accountant prepared records and bank reconciliations in order to prepare the annual accounting statements. This expenditure could have been avoided if the cashbook had been properly maintained and kept up-to-date.

65. Failure to adequately supervise and approve payroll resulted in an overpayment of the former Clerk's salary in 2005-06 of £453.

**Table 3: Avoidable costs incurred by the Council**

Financial year	Bank charges £	Utilities late payment fees £	Accounting fees £	Salary overpayment £
2004-05	2		1,000	
2005-06	207		1,000	453
2006-07	178	35	1,000	
2007-08	244	60	1,000	
2008-09	243	10	1,000	
2009-10	244		1,000	
<b>Total</b>	<b>1,118</b>	<b>105</b>	<b>6,000*</b>	<b>453</b>

\* Paid in 2010-11

Source: Bank statements and utility statements

66. The fees charged for the statutory external audit are based on a fee scale published by the Auditor General. These fees are based upon the income and expenditure of the Council. The fee scale assumes that the Council presents its annual return on time and in accordance with the auditor's requirements.
67. Had the Council complied with the external audit requirements, its audit fees for the period 2004-05 to 2009-10 would have totalled £2,370.
68. However, where an external auditor is required to undertake additional work in order to discharge their statutory responsibilities, the auditor is required to charge additional fees as appropriate.
69. The issues identified above have required a significant amount of additional audit work. I estimate that the additional audit fees for this work, including consideration of reporting in the public interest, amount to £7,000. This will be updated when the audit is complete.
70. The combined value of avoidable expenditure is £14,676.

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## Action already taken by the Council

71. It is important that the Council learns from these events. I understand that the Council has already taken certain actions, including:
- a review of the former Clerk's salary payments made in 2010-11 to identify any further irregularities;
  - steps to recover funds overpaid to Mr King;
  - councillors only signing cheques during Council meetings and only when sufficient documentation is made available to support the payment;
  - the creation of a cashbook, with bank reconciliations completed and documented every month;
  - the introduction of a new system to record hall lettings and for managing receipts and bankings; and
  - the presentation of the annual accounts to the full Council as soon as possible after the year-end.

## Recommendations

72. My recommendations to the Council are:

R1	The Council should review the nature and quality of the accounting records and ensure that these are fit for purpose, and are kept up-to-date and complete.
R2	The Council should review its arrangements for hall lettings and ensure that all funds received are accurately recorded and banked.
R3	The Council should establish arrangements to ensure that all accounts due for payment are paid promptly after approval by the Council.
R4	The Council should confirm with HM Revenue and Customs that tax and NIC deductions have been correctly calculated and payments to HM Revenue and Customs are correct and up-to-date.
R5	The Council should ensure that all wages and salary payments are made on a regular basis and that no payments are made in advance of an employee's entitlement.
R6	The Council should review its VAT repayment claims and agree with HM Revenue and Customs the amount of any over claim.

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R7	The Council should establish arrangements to ensure that the annual accounting statements are prepared and submitted to the Council in accordance with the Regulations.
R8	The Council should establish arrangements to receive reports of detailed financial information setting out the Council's financial position on a regular basis.
R9	Members must ensure that they do not sign cheques that are not fully completed and supported by appropriate receipts or invoices.
R10	The Council must establish arrangements for internal audit in order to comply with the Regulations.
R11	The Council must ensure it complies with the legal requirements to maintain proper minutes of its proceedings.

## Next steps

73. The Council is now required by Section 25 of the Act 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 in the report are to be accepted; and
  - what action (if any) to take in response to the report and recommendations.

## Acknowledgments

74. I wish to set on record my gratitude to Councillor Gillian Wakeman for the assistance she has given me and my team in respect of my audit of the Council's accounts.



Anthony Barrett  
Appointed Auditor

8 December 2011





WALES **AUDIT** OFFICE  

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