



Cynulliad Cenedlaethol Cymru **The National Assembly for Wales**

Y Pwyllgor Cyfrifon Cyhoeddus **The Public Accounts Committee**

Dydd Mawrth, 5 Chwefror 2013
Tuesday, 5 February 2013

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

The proceedings are recorded in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

| | |
|--------------------|---|
| Mohammad Asghar | Ceidwadwyr Cymreig Welsh Conservatives |
| Andrew R.T. Davies | Ceidwadwyr Cymreig (yn dirprwyo ar ran Darren Millar) Welsh Conservatives (substitute for Darren Millar) |
| Jocelyn Davies | Plaid Cymru The Party of Wales |
| Mike Hedges | Llafur Labour |
| Julie Morgan | Llafur Labour |
| Gwyn R. Price | Llafur Labour |
| Jenny Rathbone | Llafur Labour |
| Aled Roberts | Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats |

Eraill yn bresennol
Others in attendance

| | |
|--------------------|--|
| Anthony Barrett | Assistant Auditor General for Wales, Wales Audit Office Archwilydd Cyffredinol Cynorthwyol Cymru, Swyddfa Archwilio Cymru |
| Emma Giles | Arbenigwr Perfformiad, Swyddfa Archwilio Cymru Performance Specialist, Wales Audit Office |
| Alan Morris | Cyfarwyddwr Grŵp—Archwilio Perfformiad, Swyddfa Archwilio Cymru Group Director—Performance Audit, Wales Audit Office |
| David Rees | Rheolwr Llywodraethu, Swyddfa Archwilio Cymru Governance Manager, Wales Audit Office |
| Huw Vaughan Thomas | Archwilydd Cyffredinol Cymru, Swyddfa Archwilio Cymru Auditor General for Wales, Wales Audit Office |

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

| | |
|-----------------|---|
| Dan Collier | Dirprwy Glerc Deputy Clerk |
| Linda Heard | Dirprwy Glerc Deputy Clerk |
| Joanest Jackson | Uwch Gynghorydd Cyfreithiol Senior Legal Adviser |
| Tom Jackson | Clerc Clerk |

Dechreuodd y cyfarfod am 9.00 a.m.

The meeting began at 9.00 a.m.

*Nid oes recordiad ar gael o ddechrau'r cyfarfod tan 9.02 a.m.
No recording is available from the beginning of the meeting until 9.02 a.m.*

*Penodwyd Andrew R.T. Davies yn Gadeirydd dros dro.
Andrew R.T. Davies was appointed temporary Chair.*

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

[1] **Andrew R.T. Davies:** We have received apologies from Darren Millar.

9.03 a.m.

Gwybodaeth am Adroddiad Swyddfa Archwilio Cymru ar Fwrdd Draenio Mewnol Cil-y-coed a Gwastadeddau Gwynllwg Briefing on the Wales Audit Office Report on Caldicot and Wentlooge Levels Internal Drainage Board

[2] **Andrew R.T. Davies:** I think that Members have received a copy of the report and have had a chance to see it. I will, very briefly, give you the background and I will then invite the guests at the table to make a few opening remarks. We will then go straight into questions.

[3] This report was written by the appointed auditor. The report found that the drainage board's governance arrangements were inadequate and ineffective, and that some members and officers acted in a way that is likely to undermine public confidence in the drainage board. The drainage board did not exercise good financial management and control at a corporate level, it failed to demonstrate that it had achieved value for money, and it acted unlawfully in some areas.

[4] I remind Members that, under Standing Order No. 17.28, with certain exceptions, Members need to make sure that the issues that they raise in questions do not become part of court proceedings that might flow from any further actions. So, I draw Members' attention to that Standing Order.

[5] I welcome to the table Anthony Barrett, assistant auditor general for Wales and the appointed auditor, and David Rees, governance manager of the Wales Audit Office. I invite you to make brief comments to the report before we invite Members to question you on the report.

[6] **Mr Barrett:** Thank you, Chair. As you said, as well as being the assistant auditor general, I am also the appointed auditor to a large number of local government bodies in Wales. This includes the Caldicot and Wentlooge Levels Internal Drainage Board. It is in this capacity that I issued a report in the public interest on the drainage board on 8 October last year. The new Public Audit (Wales) Bill abolishes the separate role of the appointed auditor; the Auditor General for Wales would take on those functions directly and personally.

[7] I note that the remit of the Public Accounts Committee does not extend to individual local government bodies. I am here today to enable the committee to consider the wider governance issues thrown up by this report. I am accompanied by David Rees, who undertook most of the audit work. At the time of this report, David was a manager with the Wales Audit Office. I should also note for the record that in January of this year, Dave began a secondment to the Welsh Government, working in the Sustainable Futures directorate.

[8] I published the report to draw the public's attention to a failure in the governance arrangements and inadequacies in management and internal control. I will outline the main findings and Dave will take you through a couple of the issues in a little more detail.

[9] In summary, we found that the governance arrangements were inadequate and ineffective, that the decision-making framework was not properly constituted and, as a result, the drainage board had been operating contrary to law. Record keeping was inadequate, there were conflicts of interest in relation to the setting of the salary of the clerk and chief engineer, there were conflicts of interest in relation to a court case, the outcome of which resulted in significant contingent liability resting on the drainage board. The budget-setting process was inadequate. The rating process was inadequate, and the drainage board could not demonstrate that this process was lawful. Inadequate procurement procedures were used. Public money was spent on supporting third-party organisations. Public money was spent on inspection visits to Italy, Ireland and the Netherlands, for large numbers of staff, board members and their families. Inadequate consideration was given to and arrangements made in respect of providing services to other drainage boards, and inadequate HR procedures were in place.

[10] I will just pass over to Dave, because he will take you through in a little more detail a couple of those issues that are quite pertinent to your considerations today.

[11] **Mr Rees:** Good morning. The most difficult task I face this morning is deciding which of the key issues that Anthony mentioned to take you through. There were so many different issues that arose in the course of this audit that I could keep you here all day. I want to try to highlight five specific issues and go through those in detail.

[12] The first of those relates to the financing of the drainage board. I draw your attention to page 38 of the report, and specifically paragraphs 168 to 178. What we found was that the drainage board itself was unable to demonstrate that it was acting lawfully in the way that it was raising its finances. Under statute, drainage boards raise their finance in a number of different ways. The main statutory ways in which they raise their finance are by setting a rate that is to be paid by agricultural landowners and by raising a levy on local authorities. The way in which they determine how much of their budget requirement should be gathered from the agricultural rate-payers, and how much from the levies on council tax payers, is subject to a statutory formula. Essentially, the legislation is designed to ensure that there is an equity of distribution of the financing burden. In other words, the ratio of the value of agricultural land, business land and residential land is used to determine how much should be collected from the councils, and how much should be collected from the agricultural rates. In order to do that, obviously you have to know what the value of each of the properties within the Gwent levels actually is. In fact, the drainage board, back in 1992, did undertake an exercise to determine what the value of the land actually was.

[13] I now turn to the reasons we believe the drainage board could not demonstrate that it was maintaining this equity in the distribution of the financing requirement. First, its record keeping was so poor that it was unable to provide us of details of the 1992 valuations to support the calculations that it was using. The records were exceedingly poor. That is No. 1. Secondly, the values were set in 1992 and clearly, between 1992 and 2013, there have been numerous changes to the usage of land on the Gwent levels. Some land has gone out of agricultural use and into industrial or residential use, and some land has come out of industrial use. In order to maintain the ratios for equity of distribution, it is important to reflect those changes. The drainage board did actually make some amendments to take into account the changes that had taken place, and it did that until 2002-03. However, the problem that existed with that was that it only ever took into account land that went out of agricultural use, and never took into account land that had gone out of industrial use. The net effect of that essentially means that the value of agricultural land that the board was using was probably

correct, but the value of industrial land was incorrect. Essentially, this meant that there was a subsidy being provided to the agricultural landowners. In other words, the rates were being set too low and the levies set too high. After 2003, the drainage board did not make any amendments whatsoever as a result of changes to land use. Essentially, we were in a position where the records that were being used were inadequate, and the drainage board was not able to demonstrate that it was either setting a lawful rate or levying a lawful levy against the local authorities. Potentially, what that could mean is that rate payers may have been significantly undercharged and local authorities significantly overcharged. That is the first issue that I would like to highlight.

[14] The second issue to which I would like to draw your attention is noted on pages 29 to 36 of the report and covers paragraphs 124 to 163. In April 2010, the former vice-chairman of the drainage board brought a High Court action. That action was brought in his personal capacity: not as vice-chairman of the drainage board, but as a private individual. The case was brought against the Environment Agency. The former vice-chairman of the board was seeking a declaration by the High Court that the Environment Agency was liable for the repair and maintenance of the sea wall that protects the Caldicot levels from sea flooding, and that the maintenance liability should extend to increasing the height of the sea wall. The former clerk and engineer of Caldicot and Wentlooge drainage board estimated that should that liability be found, it would result in public expenditure of somewhere in the region of £35 million to £40 million. That is a very large figure and particularly so in the context of the drainage board, as I have explained.

[15] That action was brought in April 2010. In July 2010, after the Environment Agency had indicated its potential defence, it was considered that the liability for maintaining the sea wall could sit not with the Environment Agency, but with Caldicot and Wentlooge internal drainage board. At that point, the former vice-chairman of the board added the Caldicot and Wentlooge drainage board to his claim. What that essentially meant was that he was taking legal action against his own board, which, if the courts upheld his claim, would result in a potential liability for his own board of between £35 million and £40 million. Over the next few months, the board met on a number of occasions to consider its response to this claim and what its defence should be. At those meetings, on a number of occasions, the former vice-chairman of the board participated in the decision-making process. Crucially, the former vice-chairman participated in a meeting in December 2010 where the board considered whether to accept liability for this claim. In addition, two other members of the board at the time—both now former members—helped to finance the claim of the former vice-chairman of the board and also participated in meetings of the board when the claim was being considered.

[16] While the claim was simply against the Environment Agency, the clerk and engineer of the board also sought to support the claim of the former vice-chairman. His support of the claim involved commenting on the Environment Agency's defence and providing research for the former vice-chairman. At no point did the former clerk and engineer declare his interest in that matter after the Caldicot and Wentlooge drainage board was added to the claim, and he also participated in meetings of the board.

9.15 a.m.

[17] In addition, the former clerk and engineer invited the former vice-chairman's solicitor, who was bringing the claim against the board, to attend a Caldicot and Wentlooge board meeting to talk about the claim and to suggest to the board what course of action it should be taking. That was the second issue. I should add that the High Court ultimately determined that the drainage board, while having responsibility for maintaining the sea wall, did not have a legal liability to increase the height of the sea wall, which was the major item of expenditure.

[18] The third issue that I want to deal with very quickly relates to—

[19] **Andrew R.T. Davies:** Mr Rees, I ask you to be quick, because time might beat us, and Members have questions that they may wish to put to you. Thank you.

[20] **Mr Rees:** I will make this very quick. Pages 22 to 29, paragraphs 90 to 123 of the report note that, between 2001 and 2007, the former clerk and engineer of the Caldicot and Wentlooge board participated in discussions and put in proposals to increase his own pay to the board and the board's committees. Those proposals led to the clerk and engineer of the board being paid significantly more than the published national scales to which he was subject. In fact, while the highest published point of the national scale was £63,660, he ended up being paid £83,122 a year. At no point did he make a declaration regarding his pay.

[21] The fourth issue, which I will deal with very quickly, was that the drainage board undertook visits to a number of sites, which included visits to the Netherlands, Northern Ireland and Italy. We found no business cases for those visits and they incurred public expenditure that we believe was not justified.

[22] The final point, which I will conclude on, is a general point. We found that a number of key documents, which we would have expected to find within any public body, that set out the governance framework for that body, were absent in the case of the drainage board. It did not have in place current standing orders, financial regulations, constitutions governing its affairs, codes of conduct, interest and hospitality policies and HR policies and procedures. As Anthony set out at the start, many issues were involved and identified in this audit, but at the heart of the matter is the fact that these were always likely to happen in view of the fact that there was an absence of effective governance mechanisms within the organisation.

[23] **Mr Barrett:** I will bring the committee up to date on what has happened since the report was published. I made four recommendations in the report. The first recommendation was that:

[24] 'The Board should satisfy itself that the improvement programme it has put in place is effectively addressing the matters of concern raised within this report.'

[25] The board was satisfied with the improvement programme it put in place and it is monitoring the effectiveness of that programme. The second recommendation was that:

[26] 'The Board should commission an independent review to commence in 12 months' time to assess the impact and effectiveness of its improvement programme.'

[27] Again, that was accepted by the board. In addition, we will, in due course, follow up the report and recommendations to evidence the improvements that have taken place within the board. Where appropriate, we will rely on any work that has been commissioned by the drainage board. The third recommendation was that:

[28] 'The Board should regularly review its progress against the improvement programme and ensure that all actions are completed.'

[29] There is a standing item included on the board's agenda every two months to review progress against the actions arising from the report. The final recommendation was that:

[30] 'The Board should consider whether to seek recovery of salary overpayments made to the former Clerk and Engineer.'

[31] The board considered the recovery of the salary overpayments and took legal advice

on the matter, including counsel's opinion. In the light of that advice, the board resolved to take no further action in the matter. In addition, as I think Dave has alluded to, I understand that the board's membership has changed since my report was published.

[32] The issues raised in the report have had repercussions beyond Wales. I attended a meeting two weeks ago at DEFRA in London to consider the implications of my report for drainage boards in England. The meeting was also attended by representatives of the Environment Agency, the Audit Commission, the Department for Communities and Local Government, and the Association of Drainage Authorities. On receipt of my report, the Association of Drainage Authorities e-mailed it to all its members and has begun a programme of assessing the level of compliance that exists against the issues identified in the report. My report has implications for other drainage boards. It is clear that many drainage boards have not submitted their standing orders for ministerial approval. The Association of Drainage Authorities and DEFRA are also, for example, working together to introduce codes of conduct for members and staff.

[33] The Welsh Government is in the process of considering options for the future of drainage boards in Wales. As I understand it, the current position is that no options have been ruled out. It is possible that drainage boards can be merged, as is happening in England. Drainage boards could be subsumed into natural resources Wales, or the status quo could be maintained.

[34] In conclusion, this report and, indeed, the next item on your agenda, raise issues that the committee may wish to pursue in more detail with the Welsh Government and/or natural resources Wales in due course.

[35] **Andrew R.T. Davies:** Thank you very much, gentlemen, for your detailed opening remarks. Members now have questions that they would like to put you. Before we start on those questions, I would draw Members' attention to the gallery, where we have a delegation from the Trinidad and Tobago legislature. I welcome you to our proceedings today and hope that you find them informative.

[36] Returning to the business in hand, in your report, you identify various governance documents that do not seem to have been kept by the drainage board, and you touched on this in your opening remarks. What sort of obligation is the board under to maintain these documents? Many of them seem very mundane documents that you would have thought would have been put together in the normal course of its duties.

[37] **Mr Barrett:** A lot of the documents that we were looking for would be considered good practice, and we would expect them to be there. Some, however, such as the standing orders, are required to lawfully do a number of things. For example, to appoint the chairman, to establish committees, to delegate decision making, introduce a quorum, et cetera, the board had to make certain rules under the Land Drainage Act 1991. The board did not actually do this until 2009 and, even then, it did not obtain ministerial approval for the standing orders, as required by the Act. As a result, most of the board's decision making was contrary to law. I would also say, as I said in my conclusion, that this is an issue that exists beyond Wales; it exists in England as well, in a number of drainage boards.

[38] **Andrew R.T. Davies:** I have two supplementary questions to this question. Aled is first, and then Jenny.

[39] **Aled Roberts:** Rwy'n derbyn bod problemau elfennol o ran y bwrdd hwn, ond rwy'n cael trafferth deall y pwynt am ddiffygion. Dywedodd Mr Rees fod problem
Aled Roberts: I accept that there were fundamental problems with this board, but the difficulty for me is in understanding this point about the shortcomings. Mr Rees said

ynglŷn â chadw cofnodion er 1992, ac nid oes newidiadau wedi cael eu gwneud o ran y tîrfeddiawyr o 2003 ymlaen. Roedd ymweliad â'r Iseldiroedd yn 2000, ac nid oedd cofnodion, gydag ymweliad â'r Eidal yn 2004 ac un â Gogledd Iwerddon yn 2008. Nid oedd rheolau sefydlog ar gael o gwbl i'r corff arbennig hwn. Yr hyn nad wyf yn ei ddeall yw bod paragraff 7 yr adroddiad yn nodi i'r cyfrifoldeb am benodi archwilydd syrthio ar swyddfa'r archwilydd cyffredinol er 1 Ebrill 2005. Ble yn union oedd yr holl archwiliadau blynyddol hyn o ran eich swyddfa chi, a ble yn union oedd y gweision sifil, gan nad oeddent wedi nodi nad oedd hyd yn oed y rheolau sefydlog ar waith yn y corff arbennig hwn, heb sôn am y methiannau? Mae methiannau mwy amlwg o ran y corff, neu'r cyrff, a oedd i edrych dros y sefyllfa hon.

that there had been problems with record keeping since 1992, and that no changes have been made with regard to landowners from 2003 onwards. There was a visit to the Netherlands in 2000, of which there were no records, with a visit to Italy in 2004 and another to Northern Ireland in 2008. There were no standing orders at all for this particular body. What I do not understand is that paragraph 7 of the report notes that responsibility for appointing the auditor fell to the office of the auditor general from 1 April 2005. Where exactly were all these annual audits with regard to your office, and where exactly were the civil servants, given that they did not pick up that not even the standing orders were in place in this particular body, setting aside its shortcomings? There are more obvious shortcomings on the part of the body, or bodies, that were supposed to be overseeing the situation.

[40] **Mr Barrett:** I will take that in two parts. First, in relation to the audit, the amount of work that we have done as part of this and the issues that we have looked at go far beyond what we would routinely do as part of our financial audit work. We would not normally expect to look at the standing orders and the way in which committees et cetera would be constituted as part of financial audit work. We would focus on the extent to which the accounts presented were a true view of the finances of the organisation. In doing this, we have gone way beyond what we would normally do as part of our audit process.

[41] Secondly, on the role of civil servants, in relation to this drainage board, you would need to ask the Welsh Government that question. From my meetings in London with DEFRA, it is clear to me that a lot of these issues have not been picked up by civil servants in terms of ministerial approval in relation to, for example, whether a board can even delegate actions to officers. It is not clear that that has been picked up appropriately by civil servants.

[42] **Andrew R.T. Davies:** I know that Jocelyn wants to pick up on this, and then Jenny wants to come in.

[43] **Jocelyn Davies:** I have a question on this, but I do not know whether Aled wants to finish his point first.

[44] **Aled Roberts:** Rwy'n derbyn bod yr archwiliad wedi bod yn fanylach ar gyfer yr adroddiad hwn, ond rwy'n methu â chredu na fyddai archwiliad blynyddol yn nodi bod prif weithredwr yn cael ei dalu £20,000 mwy nag y dylai yn ôl telerau swydd Lincoln ac na fyddai'n gofyn cwestiynau ynglŷn â pham roedd 40 o bobl yn mynd ar ymweliadau tramor o gorff mor fach.

Aled Roberts: I accept that the audit undertaken for this report was more detailed, but I cannot believe that an annual audit would not note that there was a chief executive who was paid £20,000 more than he should be according to the Lincolnshire terms and that would not ask questions as to why 40 people were going on foreign visits from such a small body.

[45] **Mr Barrett:** As part of our normal audits, we would not have looked to see how many people were going on a visit. We would have looked to see how much income or how

much money was being spent on those visits and what the net effect was. You will see from the report that those people who were accompanying officers and members paid their way, so the net amount was relatively small. In terms of the clerk and chief engineer's salary, again, we would have looked at records to ensure that the amount that was being disclosed in the accounts was entirely consistent with what he was being paid. We did not look back to see whether that was the right level of payment or not.

[46] **Jocelyn Davies:** On that point, it appears that the accounts passed muster with the Wales Audit Office and that is the stamp that people would look for to be able to say, 'Everything seems to be okay there'. However, you are telling me that the annual audit that you did was superficial, in a way, because you have told us this morning that the record keeping was extremely poor. With extremely poor record keeping, it was still able to supply you every year, because you came in in 2005, I think, and some of these problems obviously existed before that point, but you were not able to spot that during your annual audit. If an organisation informed me that its accounts passed muster with the Wales Audit Office, I would take that as a stamp of authority that everything there was okay, not just that the books balanced. How could it pass muster with extremely poor record keeping? Those were your words: 'extremely poor.'

[47] **Mr Barrett:** The work that we would normally do is not superficial, but it is limited to what we are required to do to give an opinion on the accounts. If we were regularly doing more work than we needed to do to give an opinion on the accounts or more work than we had the legal authority to do, we would be challenged on why we were doing more and why we were charging more than we needed to. So, we are very conscious of making sure that what we do is linked to the powers and authorities that we have and that we do not charge any more for that work. Having said that, you will be aware from reading our draft strategy, which has been out for consultation, that we are looking at focusing more on the governance arrangements of organisations and giving ourselves a way in to look at those. There is, and there has always been, as long as I have been an auditor, an expectation gap between what auditors do, as legally required, and what the public thinks we do. You are quite right, the public will say, 'The auditors have signed the accounts, so everything must be okay.' In signing the accounts, we are giving an opinion on the accounts; we are not necessarily giving an opinion on everything else that that organisation does. That is an area on which we would like to engage more with organisations, so that we can take a view on what they are doing.

[48] **Jocelyn Davies:** However, extremely poor record keeping could not be spotted during the annual audit that you undertook, or unlawful income, unlawful decisions, unlawful spend and poor governance—these things could not, from the work that you would routinely do with any organisation or public body on an annual basis, be spotted.

9.30 a.m.

[49] **Mr Barrett:** In the past, we identified issues with record keeping et cetera that we reported to the drainage board, but it did not take the actions that we expected, which has culminated in this particular piece of work.

[50] **Andrew R.T. Davies:** We have had the answer. It is a moot point, but if people see your badge on something, in fairness, that is an assurance badge. What you have shown us here today might call into question some of the previous inspections, I would suggest.

[51] **Jocelyn Davies:** My point really, Chair, [*Inaudible.*] for the Wales Audit Office, if something like this is not covered by that annual inspection, which most people would assume is covered.

[52] **Mr Barrett:** If I could respond briefly to that point, if you look at how these issues in

their current form first came to us, they did come to us by officers and members coming to us, and I would emphasise the importance of whistleblowers, for want of another word. We cannot be present at every meeting of an authority or an organisation. We cannot look at every transaction et cetera. That just would not be proportionate. We are reliant, in cases like this, on people coming forward and being assured that, when they come forward, we will look at the issues and go through them, and we will not in any sense brush things under the carpet because people might think we have missed things in the past. No; when people come to us with issues, we will look at them in detail and, if there is something to report, we will report it.

[53] **Jenny Rathbone:** I want to focus on the role of the three local authorities in all this. You have mentioned that there were no standing orders, no strategic plan or workforce plan, and, unfortunately, we do not have a list of who was on the board to know who should have been raising issues on these matters, particularly from the local authorities, who, for goodness' sake, ought to be able to understand what standing orders are all about. What was their role? Why were they not saying, 'These procedures are not being adhered to'?

[54] **Mr Barrett:** Dave will add something in a minute. In terms of the role of local authorities, is that it is their role to nominate or appoint individuals to sit on the drainage board, and those can be either members or officers with relevant experience. I would also note—

[55] **Jenny Rathbone:** So who were they? May we find out? It is inexplicable as to why all this went on when they were partners in this operation.

[56] **Mr Barrett:** I would say that one of the local authorities—Newport—at the time this was going on, had not appointed members to the board.

[57] **Jenny Rathbone:** What about Cardiff and Monmouthshire?

[58] **Mr Rees:** In recent times, after the audit started, and after the last elections, Newport temporarily withdrew its members from the board. Historically, there were members from Newport, Cardiff and Monmouthshire on the board of the drainage board. In answer to your question, there are a number of different issues involved. The first thing I probably need to say is that many of the local authority members simply did not attend meetings of the board. Clearly, there is an issue there, and it is an issue for the local authorities to address. The second issue is that much of the core business of the board was actually done through the board's committees, and those committees generally had low representation of local authority members on them. With some of the key issues that were going on, the local authority members were actually, in a sense, excluded from them. The third point, which I think is quite relevant, is that the board itself, wrongly, acted in a very operational manner. The issues covered by the agenda were not strategic, did not cover governance matters, and were more about the day-to-day operations of Caldicot and Wentlooge drainage board, which meant that local authority members did not involve themselves in the issues that perhaps they should have been dealing with.

[59] **Andrew R.T. Davies:** We should be able to get a list of the people. Julie, did you want to come in on this point?

[60] **Julie Morgan:** It is very concerning that the local authority members did not attend the committee as a whole. Was any effort made to contact the local authorities? Was any effort made to make them aware that they were not fulfilling their responsibilities?

[61] **Mr Rees:** Honestly, I do not know. I do not know the answer to that question. A list of the members of the drainage board is on the website of Caldicot and Wentlooge IDB.

[62] **Jenny Rathbone:** The current membership. What about past members?

[63] **Mr Rees:** The past ones will not be on there, but I have that information.

[64] **Jenny Rathbone:** Can you provide us with that?

[65] **Mr Rees:** Yes, that is fine.

[66] **Andrew R.T. Davies:** The way to take that forward is for the clerking team to work with the audit office, and also to look at the attendance. That is an important thing, because many of the outside organisations that I speak to point to attendance at other groups as well, and there might be a wider piece of work to be done, especially when we are talking about governance and financial matters, to see whether there is a bigger issue in all this.

[67] **Gwyn R. Price:** Your report notes that, in 2008, the drainage board had outdated standing orders, despite DEFRA having issued model standing orders in 2005. Did your investigation establish why the drainage board did not seek to update its standing orders until 2009?

[68] **Mr Rees:** I think that the answer to that question is that the drainage board finally took action because it was prompted to do so by audit reports. We were pointing out that it had not done this, and it was on the back of those audit recommendations that it ultimately adopted new standing orders.

[69] **Mohammad Asghar:** Your very eye-opening statement at the beginning made it look as though they were all sitting on lottery loot. [*Laughter.*] There was something very strange going on, and I equally blame the audit office for this, because you have to do the audit every year and give a true and fair view of that public body to the public, because of the public funding involved. So, you are equally responsible for the misuse of those funds that you just mentioned in a long list, including the finance of this, that and the other. It is not right—whether somebody is misusing money, wages, and all the nonsense; that is definitely not the right way of doing an audit and running a public body.

[70] My question is this: why did the local authorities not pick that up earlier? They were involved, and their members did not attend board meetings or its committees. So, responsible people were not attending the meetings, and, as you said earlier, minutes were not maintained. I cannot envisage such an audit, and you are going back so many years. The legal system goes back only six years, but if you are talking about 2003, that is 10 years. Of this public money, how much has been wasted? Why did the local authorities funding the drainage board not identify the concerns about the governance at an early stage? That is my first question.

[71] My second question is this: is it the only example in Wales, or are there similar examples elsewhere?

[72] **Mr Rees:** In answer to the first question, there is a very general issue about local authority representation on external bodies. I suspect that the issue is not unique to representation on the drainage board. I think that there is a question about the accountability of local authority members sitting on all external bodies and how they report back to their local authorities. In the case of the drainage board specifically, I think that we go back to the questions of attendance and what they were dealing with there.

[73] I have to say that there were some local authority representatives on the drainage board who, ultimately, brought matters to our attention. I would not want to suggest that all local authority members of the drainage board were not taking matters seriously; some of

them clearly took matters very seriously.

[74] I apologise; I have forgotten what the second half of the question was.

[75] **Andrew R.T. Davies:** It was on examples elsewhere.

[76] **Mr Rees:** I would probably need to start by saying that we only audit one drainage board. There is only one all-Wales drainage board. The ones that are cross-border are audited by the Audit Commission, rather than by us. It would therefore probably not be right for me to say that these issues are replicated in those boards. Having said that, I would refer you back to Anthony's earlier comments about what the Association of Drainage Authorities is finding now that it is contacting, on the back of the report, other drainage boards, and it does appear that the issues are not confined to one drainage board.

[77] Perhaps the other matter of concern is that Caldicot and Wentlooge drainage board was responsible for the administration of other drainage boards, which probably means that there is a need to confirm that issues have not been replicated in those drainage boards.

[78] **Mike Hedges:** I want to move on to the records of the board's establishment committee. The notes of the meetings, while recording resolutions of the committee, do not provide any record of the considerations of the committee or of the rationale for decisions reached. I am familiar with local authority committee minutes, and what they show exactly is the resolutions. We also see the resolutions here at the Assembly. However, there are also background papers behind the resolutions, which provide the prior advice. Do such background papers exist for the establishment committee?

[79] **Mr Rees:** There is reference, on occasion, to certain papers, and when we looked at the file records, we found that these were not on file. The drainage board was unable to locate certain reports and presentations. Generally speaking, however, I have to say that the records of committee meetings were exceptionally poor and were, on some occasions, simply a paragraph.

[80] **Mike Hedges:** What would you expect to see recorded at a meeting at which an issue was being discussed?

[81] **Mr Rees:** I would expect there to be a record of the discussion that took place at that committee—not a verbatim record, but the key considerations that were taken into account, the advice that had been received and the committee's determination of that issue, or its recommendation.

[82] **Julie Morgan:** What about declarations of interest by members? I understand that not all members made declarations of interest and that this situation was not followed up by the officers. Is that right? Did the officers follow up the fact that there were no declarations of interest by some members?

[83] **Mr Rees:** No. The answer is that this was not followed up. A requirement was introduced—and a form provided—for members to declare their standing interests. Some members completed that form; other members did not. Some members refreshed the form on an annual basis; others did not. However, the problem was a wider issue for the drainage board, in that there was a tendency to introduce requirements but never to introduce a system or mechanism to deal with those requirements. So, in this case, there was no system to monitor and follow up on declarations. I do not think that the board really had an idea as to who had made declarations and who had not, but that was not isolated to the question of interests. It applied to lots of things that were introduced. There simply were not the systems or mechanisms to follow them through.

[84] **Julie Morgan:** So, there was nobody delegated to be responsible for following any of this up.

[85] **Mr Rees:** The best thing to say is that there was an officer who kept the file.

[86] **Julie Morgan:** But he did not open it. *[Laughter.]*

[87] **Mr Rees:** There is no evidence that there was ever any formal system to follow these cases up. As to whether the file was opened or not, I could not comment.

[88] **Aled Roberts:** Trof yn awr at gynigion y clerc a'r peiriannydd i ailstrwythuro'r bwrdd ym mis Mai 2011. Mae eich adroddiad yn nodi bod pwyllgor sefydlu'r bwrdd draenio wedi argymhell bod y bwrdd llawn yn derbyn yr argymhellion. A ydych chi'n ymwybodol o ofyniad ar y bwrdd draenio i gael caniatâd awdurdodau lleol i weithredu unrhyw gamau ailstrwythuro, o gofio bod yr awdurdodau hyn yn rhannol gyfrifol am gyllido'r bwrdd?

Aled Roberts: I now turn to the proposals by the clerk and the engineer to restructure the board in May 2011. Your report notes that the drainage board establishment committee had recommended that the full board accepted the recommendations. Are you aware of whether there was a requirement on the drainage board to obtain the consent of local authorities to implement any restructuring steps, given that these authorities are partly responsible for funding the board?

[89] **Mr Rees:** The drainage board is an autonomous body. The Land Drainage Act 1991 sets out the membership of the board to include local authority members, but it does not specifically set out requirements for those members. Nor does the local authority have any authority for decision-making, other than its representation on the board itself.

9.45 a.m.

[90] **Aled Roberts:** Os nad oedd yn rhaid i'r awdurdod lleol ganiatáu'r broses, a oedd gofyn i'r bwrdd draenio ei wneud yn ymwybodol bod ailstrwythuro'n digwydd?

Aled Roberts: If the local authority did not have to endorse the process, was there a requirement on the board to make it aware that a restructuring was taking place?

[91] **Mr Rees:** There was no formal requirement. Again, because of their representation on the board, it would be expected that the local authorities would be informed by their members who sat on the board.

[92] **Aled Roberts:** Yn yr un flwyddyn ariannol, sef 2011-12, mae eich adroddiad yn nodi nad oedd system rheoli cyllideb ffurfiol mewn bodolaeth. A oes gennych unrhyw dystiolaeth bod yr awdurdodau lleol perthnasol yn ymwybodol o'r diffyg system rheoli cyllideb?

Aled Roberts: In the same financial year, 2011-12, your report notes that there was no formal financial management system in place. Do you have any evidence that the relevant local authorities were aware of this lack of financial management system?

[93] **Mr Rees:** We are not aware that the local authorities were informed. I would have expected them to be informed by their representatives who sat on the Caldicot and Wentlooge drainage board. Whether that occurred, I could not say.

[94] **Aled Roberts:** Rwy'n derbyn bod cyfrifoldeb ar yr aelodau, ond dywedodd Mr Barrett yn gynharach ei bod yn agored i'r

Aled Roberts: I accept that there was a responsibility on the members, but Mr Barrett said earlier that it was open to local

awdurdodau lleol benodi naill ai swyddogion neu aelodau'r cyngor i'r seddi ar y bwrdd. Faint o'r cynghorau oedd â swyddogion wedi'u henwebu ar y bwrdd? authorities to appoint council officers or members to seats on the board. How many of the councils had officers nominated on the board?

[95] **Mr Barrett:** Dave might know the exact numbers. Each authority could nominate a number of members—I use that word in the broader sense. For at least one local authority, one of those appointees was its chief engineer.

[96] **Aled Roberts:** A oedd y person hwnnw'n bresennol yn rheolaidd? **Aled Roberts:** Was that person present regularly?

[97] **Mr Barrett:** I do not believe so. In one case, when we sent out a document to clear up the facts with people who were involved, one person—Dave might correct me if I am wrong—who, I believe, was an engineer in an authority said that he had not been sent a copy, although he was a member of the board. We checked with the board, but he was not a member, because his authority had not yet appointed him.

[98] **Aled Roberts:** Os oedd swyddogion unigol yn methu â bod yn bresennol mewn cyfarfodydd, a oedd cyfundrefn mewn lle i enwebu rhywun i fod yn bresennol yn eu lle? **Aled Roberts:** If individual officers were unable to attend meetings, was there a system in place for them to nominate others to attend in their place?

[99] **Mr Barrett:** I do not know the answer to that question, but I would expect not. I would expect that they would be appointed in a semi-personal capacity without the ability to nominate a deputy, but I can check that for you.

[100] **Andrew R.T. Davies:** I do not want to curtail you too much, but the clock is running against us, and I have two more questions that I would like to take, if possible.

[101] **Aled Roberts:** I just wanted to ask whether that particular arrangement—a nomination of an officer from a local authority in a personal capacity—is standard procedure.

[102] **Mr Barrett:** I would not say that it was standard procedure, but there is flexibility around whether an authority nominates a councillor or an officer, and there are varying practices across different authorities and drainage boards.

[103] **Jocelyn Davies:** On this point, I think that you have mentioned local authority 'representatives' three or four times now, but if you are appointed to a board, you are not representing a local authority; you are a member of that board. When you attend that board, your job is in relation to the interests of the board. You are not representing anybody else. You are nominated by the local authority, but you are not representing it. At local authority annual general meetings, there is a long list of outside organisations that people are nominated to. Are you suggesting that they all report back on a regular basis as to what is going on in those organisations, because I find it hard to believe that that is the case?

[104] **Mr Rees:** The reason that there is local authority representation on the board comes back to the question of the financing of the board. The membership and the financing are interconnected within the legislation. I accept the point that they are there on the board to work for and represent that board. However, because they are drawn from organisations that are providing the finance, they also, I think, have a responsibility to the organisations that they come from to ensure that the funds of that organisation are not being misused. So, I would expect them, if they had concerns, to go back to the local authorities. I mentioned a couple of members earlier, and I am aware that they raised their concerns with the monitoring officers of those local authorities.

[105] **Andrew R.T. Davies:** The clock has nearly beaten us. I will take two more points on this, from Mike and then Jenny.

[106] **Mike Hedges:** On the same point as Jocelyn Davies has just raised, is not the only duty of a representative of a local authority on a board to do the best for that board? No consideration of the effect that it has on that local authority may be taken into account.

[107] **Mr Rees:** Their responsibility is, first and foremost, to the board. However, I think that there is a wider responsibility, if they are also a member of a local authority, that they ensure that the money that is being put in by the local taxpayer in their authority is being used wisely.

[108] **Mike Hedges:** That is the duty of a board member, in the same way that our duty as Assembly Members is to ensure that the money given to the Assembly is used wisely.

[109] **Andrew R.T. Davies:** The point has been made.

[110] **Jenny Rathbone:** There does not appear to have been anybody on this board who understood what a conflict of interest was. Not only did they do nothing when the former clerk and engineer was repeatedly submitting proposals relating to his own remuneration, none of the people on the board seemed to understand that it was not okay to have a lobby group—I cannot remember what it was called—meeting in the offices of the drainage board and having the services of the former clerk and engineer to advise it. The whole thing seems to have been set up as a lobby group for the interests of local landowners. Nobody in the local authority seems to have put a stop to it and ensured that the greater interests of the various stakeholders were observed. Was there a single individual who understood what they were supposed to be doing?

[111] **Mr Rees:** In general terms, I agree with your point completely. I am reluctant to say that there was nobody because, as I mentioned before, a couple of individuals did ultimately raise concerns, and those concerns were reflected in the report. However, by and large, I think the point is correct.

[112] **Andrew R.T. Davies:** Are Members content to conclude there? I see that you are. Thank you for your evidence this morning, gentlemen. The transcript will be sent to you to look at. If you believe that there are factual inaccuracies, please confer with the clerking team, which will make the necessary amendments. I am sure that there will be some questions that flow from this scrutiny session, which Members will discuss later in this meeting. Those questions will be put to you to be answered in the next couple of weeks, I am sure. Thank you very much, gentlemen.

9.53 a.m.

**Gwybodaeth gan Archwilydd Cyffredinol Cymru am Adroddiad Swyddfa
Archwilio Cymru ‘Adroddiad Dilynol ar Weithrediadau Comisiwn
Coedwigaeth Cymru’
Briefing from the Auditor General for Wales on the Wales Audit Office
Report ‘Operations of the Forestry Commission Wales Follow-up Report’**

[113] **Andrew R.T. Davies:** I welcome Huw Vaughan Thomas, Auditor General for Wales, along with Emma Giles and Alan Morris. I think that Members are conversant with the report, but I invite the auditor general and his colleagues to make some opening remarks on it. I ask that those remarks be kept brief, on the basis that Members have the report and papers on it

have been sent to them. The questions are the main purpose of today's session. Over to you, auditor general.

[114] **Mr Thomas:** Thank you, Chair. As you said, Members have had the papers. Indeed, the Public Accounts Committee collectively, certainly in the last Assembly, has had previous reports on this subject. This is the third report that the Wales Audit Office has produced on Forestry Commission Wales.

[115] In November 2010, the National Assembly's Public Accounts Committee considered the award by Forestry Commission Wales of a grant to an organisation known as Calon yn Tyfu to purchase the Ffynone and Cilgwyn woodlands in Carmarthenshire. This followed the earlier publication of a report by the WAO. The committee had previously, in November 2008, considered a broader range of Forestry Commission Wales activities, again following an earlier report by the Wales Audit Office. So, there is a long history of looking at issues relating to Forestry Commission Wales. In the 2011 report on the purchase of the Ffynone and Cilgwyn woodlands, the Public Accounts Committee recommended that the WAO test the implementation of previous audit recommendations. So, this report, in a sense, continues the dialogue that the PAC has had on Forestry Commission Wales and brings you up to date. It examines whether Forestry Commission Wales, with the Welsh Government, where appropriate, has effectively implemented previous audit recommendations, and, indeed, recommendations from the Public Accounts Committee to optimise the long-term benefits of forestry. Our overall conclusion is that some progress has been made in taking forward audit recommendations, but some of the original challenges remain and impede delivery still. For the report, our work drew heavily on internal forestry commission documents, supplemented, where appropriate, by interviews with forestry commission and Welsh Government officials and representatives of Forestry Commission Wales's commercial timber customers.

[116] In April 2013, in a few months' time, the functions of Forestry Commission Wales, the Countryside Council for Wales and the Environment Agency Wales transfer to a new body, natural resources Wales. In his press statement welcoming the publication of this report, the current Forestry Commission Wales director stated that Forestry Commission Wales aimed to put in place a number of improvements needed before its duties are transferred to natural resources Wales. Indeed, it is fair to say that we have already seen evidence of action to do just that. Forestry Commission Wales has provided us with an action plan setting out how it intends to take forward our recommendations. The chief executive of natural resources Wales, as the organisation that will inherit this, has committed to ensuring that natural resources Wales builds on Forestry Commission Wales's good work and realises further business improvements. This committee, in taking this forward, may well want to explore with Forestry Commission Wales's director the progress that has been made and it may also possibly want to discuss with the chief executive of natural resources Wales how he intends to build on the strengths that we have found and also address the weaknesses that we have found.

[117] It is important that you note that it is my intention, towards the end of 2013-14, having given natural resources Wales a year to settle down, to carry out a piece of value-for-money work, looking at the operations of natural resources Wales in its first year. So, that is to put this particular report in its context. I am aware of your comments about being brief. I will get Emma, very quickly, to run over some of the headlines—sorry, my briefing says that Alan will be doing that, but Emma has the details if you then would wish to ask questions.

[118] **Mr Morris:** As Huw points out, it is important to recognise that both we and the previous Public Accounts Committees have, in the past, found significant challenges in a broad range of Forestry Commission Wales's processes and functions. That provides the backdrop to this follow-up report. It was Members' significant concern about FCW's management of the grant award scheme to purchase the Ffynone and Cilgwyn woodlands that

led the committee to recommend that, in due course, we should follow up the implementation of recommendations made by the committee and in our reports. There are a large number of recommendations across those four reports. Our approach has been to merge those into themes. Rather than looking at each individually as to whether it has followed a specific action, we have looked at themes such as procurement systems and so on, to give a more rounded picture of progress. In the context of the transfer of Forestry Commission Wales into the new body, I think that it is a more valuable approach in order to look at what the big picture is here in terms of progress.

[119] I will give you a brief overview of some of the key improvements we found and then move on to identify some of the areas where more progress is required. In terms of key improvements, Forestry Commission Wales has successfully aligned its corporate priorities to the Welsh Government's 'Woodlands for Wales' strategy, issued in 2009, and has developed a number of high-level action plans to support the delivery of those corporate priorities. That was a significant gap identified in our earlier reports. It has established performance indicators to assess progress, both in meeting corporate priorities and in contributing to the objectives of the 'Woodlands for Wales' strategy.

10.00 a.m.

[120] Forestry Commission Wales has made particularly good progress in uniting its staff around a clearly understood corporate direction and ensuring that its staff understand their roles in delivering its objectives. While it has made a lot of progress there, we have to recognise that a transition to natural resources Wales will be a period of significant change for staff, which risks undermining the considerable progress that Forestry Commission Wales has made. The committee might therefore wish to explore with the chief executive of natural resources Wales how he will seek to ensure that the new body is as successful as we have found that Forestry Commission Wales has been in developing a clearly understood corporate direction around which its staff are united.

[121] Forestry Commission Wales has developed a good basis for making informed decisions about the future direction of the publicly-owned woodland estate in Wales. A number of significant developments include the extent to which individual blocks of woodland can contribute to the objectives and the establishment of a £0.8 million fund to support future land acquisitions by Forestry Commission Wales. Outside the forest estate, Forestry Commission Wales has also well-evidenced plans for all of its non-estate assets—its other property, vehicles, buildings and so on.

[122] Forestry Commission Wales has made progress in the key aspects of risk management, identified as a significant weakness in our earlier reports. It has ensured that all staff receive appropriate risk management training, and has developed operational risk registers for key elements of its business. It reviews those registers with appropriate frequency.

[123] In 2011, Forestry Commission Wales concluded that the actions that it had taken since our 2008 report had not improved procurement processes sufficiently. So, in April 2012, it took a further step in establishing a single procurement service. All procurement activity over £20,000 is now undertaken by staff with procurement expertise led by a qualified head of procurement. These new arrangements, if implemented effectively, should deliver the required improvements that we have recommended. We would expect natural resources Wales to capitalise on the potential offered by those new arrangements across the wider new body. The committee may want to explore with the chief executive of natural resources Wales how those procurement arrangements of the legacy organisations can be operated effectively and learn lessons from what Forestry Commission Wales has undertaken.

[124] In line with our recommendations, Forestry Commission Wales has issued revised guidance setting out the procedures that staff need to apply to authorise timber extractions over contract levels and beyond contract end dates. Contract management has been a weakness in the past. Representatives of commercial timber customers have told us that, in their view, Forestry Commission Wales is performing well in meeting its annual timber production targets. Forestry Commission Wales has also issued new guidance to help ensure that local communities are better engaged in approving its grants. It sought to improve long-term public access to and public engagement in decision making around the future of Ffynone and Cilgwyn woodlands in Carmarthenshire.

[125] So, we have seen a number of positive aspects of progress. However, as we have noted, there are some areas of concern, where we believe that further improvement is necessary. I will highlight some of those. Spatial planning is a process by which Forestry Commission Wales identifies where in Wales it should carry out particular activities. It had intended to produce a formal strategic spatial plan by April 2013. However, the decision to establish natural resources Wales led it to adopt a different approach. Instead of producing a single strategic plan, which it has parked pending the creation of the new body, it has taken the approach of producing case-by-case spatial plans and of looking at what particular spatial planning activity is needed to inform particular decisions. Without knowing exactly what activities it intends to carry out where in Wales, which is what that strategic spatial plan would provide, Forestry Commission Wales will struggle to identify the costs and staffing required to deliver its corporate priorities. The committee may wish to explore with future witnesses the timescale for costing these actions and looking at the development of robust workforce planning to support the action to deliver a strategic spatial plan across Wales.

[126] Although Forestry Commission Wales has a sound basis for making decisions about future development of the forest estate, decisions about acquiring and disposing of land have yet to be made. Again, Forestry Commission Wales decided that any decisions on land disposals and acquisitions should be taken by natural resources Wales. So, a conscious decision has been taken to put that activity on hold pending the establishment of the new body. Forestry Commission Wales might well need to revisit its plans for managing non-estate assets, as decisions about the future composition of the forest estate might well impact on these plans. So, there is a possible need to review plans in the future and a need to develop new performance measures to assess its success in delivering its plans for managing its non-estate assets.

[127] Our analysis of risk management arrangements did not produce any evidence that Forestry Commission Wales had considered opportunities to improve the way that it delivers as part of its risk-management process. This is required with regard to its process, but we saw no evidence that that was actively done. Good risk management looks at both risks and opportunities. The focus tended to be more on risks and less on opportunities. With that, I draw my remarks to a conclusion.

[128] **Andrew R.T. Davies:** Good job, Mr Morris. The idea of the session is for us to question you and I welcome the opportunity for Members to do that, but I am grateful for the evidence that you have given us in your opening remarks. Carry on until you want to finish.

[129] **Mr Morris:** There are a couple more points and then I will finish. As we have noted, if implemented, the single procurement service will deliver the requirements, but there are other business areas where new guides to procedures have been introduced, but, as yet, they are untested. We would expect to see more work to see whether those procedures work, particularly with the transition to a new body.

[130] Our study found weak compliance with the revised guidance for extending timber contracts beyond the original end dates, allowing contractors to extract more timber than

agreed. This comes at a time when Forestry Commission Wales is more reliant than ever on its timber income and income from other sources has declined significantly, so that is quite a significant issue in terms of how the commission manages its money.

[131] Finally, on grant management, and from a public interest point of view, our main finding in this area was that, despite Forestry Commission Wales's efforts, the outcomes sought by the previous recommendations have not been achieved. Long-term access to Ffynone and Cilgwyn woodlands has yet to be secured. In addition, the organisation that owns these woodlands is unwilling to accept non-executive directors on its boards. Consequently, some stakeholders continue to feel that the local community is excluded from decision making about the future of the woodlands. Forestry Commission Wales has taken the action open to it under the constraints of its contract with Calon and it has issued guidance to staff to ensure that any future grant awards would overcome this. Nevertheless, the situation under the constraints of the contract with Calon has limited the ability to get the level of public engagement that the previous report's recommendations aspired to. Once again, the committee might wish to explore this with future witnesses.

[132] **Andrew R.T. Davies:** Thank you all for your opening remarks. I will get the ball rolling. Both of you talked at length about the merger that will take place in April with the creation of the natural resources body. In any organisation, when a merger is being talked about, there are challenges regarding planning and shaping that business. You touched on this in your opening remarks, using that wonderful phrase 'spatial planning', which was used extensively in the third Assembly by my namesake, who was the Minister for spatial planning. Do you think that, even with the merger on the horizon, the Forestry Commission could have done more to get the balance right over staffing, resources and general corporate thinking?

[133] **Mr Thomas:** It is inevitable that, when there is a merger, there is a hiatus in decision making on the part of the bodies being merged. Are they taking decisions that can be carried on by the new organisation? Undoubtedly, looking back, we would say, 'Yes, it could have done a bit more.' It did progress and carried on; it is not that there was a stop. However, perhaps some more could have been done to prepare the way, particularly in the area of spatial planning.

[134] **Mr Morris:** If we look at the individual aspects of where it has parked decisions, we would say that they were reasonable decisions. These were major strategic decisions that, for example, concerned woodland and land use. Three organisations are being brought together, all of which have different aspects of landholding. Being able to look at those in the round would enable a better strategic direction in the future, rather than the Forestry Commission going too far by taking decisions at that point in isolation. Having said that, pre-merger co-ordination could have enabled a bit more of that activity to have taken place, despite those reasons for delay.

[135] **Andrew R.T. Davies:** May I probe you on your point that reasonable decisions were taken? There has not been any sort of comfort blanket of thinking, 'We've got the merger, so we won't do any more until the merger takes effect'. You would say that, with the merger on the horizon, it has acted reasonably in the decisions that it has taken, so there has been no negligence.

[136] **Mr Morris:** That is our view. It is also important to recognise that the whole merger process has placed significant demands on the staff of all three bodies, and the capacity of the Forestry Commission has been affected by the need for a number of its staff to be seconded into roles that have been all about setting up, planning and preparing for the new body. That has limited its core capacity to do some of the strategic planning and management, and that was a factor that made us think that that was reasonable. It only has the capacity to do so

much. It is doing a reasonable amount in the circumstances, but it seemed right that some of these decisions were parked, for both strategic and operational reasons.

[137] **Mohammad Asghar:** My question is on strategic priorities. Your report details that Forestry Commission Wales lacks certain information and data to establish baseline measures, measure trends and set targets. Could you advise us whether it is simply a case of waiting until the national forest inventory becomes available, or whether there are more specific barriers to gathering data or information?

[138] **Ms Giles:** When we talked to the Forestry Commission about this, and why it had not set targets for a number of its indicators—and there were six indicators that we found it had not set targets for out of 31 in total—it gave us three reasons. The main reason was that it was waiting for information from the national forest inventory, which it expected to be in place by 2014. There were two other reasons. One was that it had initially intended to use gross value added from small businesses as one of its indicators, but it found it difficult to collect information from small businesses that would allow it to make that judgment about the GVA of those businesses. The other response was that it has an indicator area outside of the publicly owned estate managed by continuous cover forestry, or under transformation to continuous cover forestry, and the intention had been to use information from its Better Woodlands for Wales scheme to establish a baseline position, measure trends, and then set targets. However, the decision was taken to close Better Woodlands for Wales, and at that point, the Forestry Commission took the decision not to set a target, because it did not have the information that it had expected to have. So, it gave us three reasons, but the main one was that it was waiting for information from the national forestry inventory, which, as I said, should be available to it next year.

[139] **Mike Hedges:** You said that only 35% of those attending the most recent all-staff meeting completed the evaluation forms. Do you know why only that number completed them? Secondly, how does that compare with other organisations?

[140] **Ms Giles:** We do not have any comparative information that we can give you on that, I am afraid. The Forestry Commission did not give any information about why the response rate was low, either. However, it did come back to say that, although it had a low response rate, it had used that information to improve its future staff meetings.

[141] **Mike Hedges:** You said that it was ‘low’ here, and you say ‘low’ in the report, but when I ask how it compares to other organisations, you cannot tell me. Surely, 35% might be good, if the average is 20%, or it might be very poor, if the average is 70%. Unless you know how many responses other organisations are getting, how can you come to a conclusion about whether this is low or high?

[142] **Ms Giles:** There are two points there. I agree that a judgment as to whether it is good can be a comparative judgment, but I also think that, when you look at a staff in the region of 300 people, if you are only getting 35% to give you information on their experiences of that all-Wales staff meeting, it seems to me that you are not picking up on the views of the majority of your staff.

[143] **Gwyn R. Price:** Your report states that it is not clear whether Forestry Commission Wales has identified opportunities to improve the way that it runs its business and delivers its responsibilities. What are the barriers to Forestry Commission Wales identifying such opportunities?

[144] **Mr Morris:** I think this point is specifically about its risk-management processes. We are not saying that it does not identify opportunities at all, but as part of its routine risk management processes, our view is that you should look at the risks and, alongside them, at

the opportunities to achieve improvement. There was no clear mechanism by which we recognised that it used its risk-management process for that purpose. We believe that good practice in terms of risk management would achieve that balance. As I said, that is not to say that, through its other business processes, it is not identifying and using any opportunities, but it is part of risk management, and it is something that it writes into its guidance on risk management.

10.15 a.m.

[145] However, we found little evidence that opportunities were readily identified through that process. That is, that the side of the process whereby it said, 'Here is a risk; how do we mitigate it?' worked well. However, in terms of its saying, 'There is a risk here, but it might create an opportunity to do something different or new,' we could not see direct evidence that the process was being used for that purpose.

[146] **Gwyn R. Price:** Do you think that this has been taken on board, and that the barriers will be taken down?

[147] **Mr Morris:** We have had a dialogue with it about the risk-management process, as it was quite an important part of the report recommendations. It certainly recognises the importance of identifying opportunities for improvement, and it is looking at how it might further develop its risk-management processes. One recommendation in our follow-up report is that it continues to do that. With regard to risk management, as it is now being moved into a wider body, there is an opportunity to look at the good practice that exists across the three bodies and how to ensure that what works very well at Forestry Commission Wales is taken on board alongside what works better in another of the legacy bodies that will be moving into the new body. That opportunity will help these bodies to build on the good aspects of the different parts of the new body.

[148] **Jocelyn Davies:** I wish to follow up on the issue of risk management. You said earlier that the risk register was reviewed with adequate frequency. So, I suppose that that means 'often enough'. However, your report says that Forestry Commission Wales did not recognise the benefits of aligning the risk register with its corporate priorities. What is the rationale behind your saying that, and is it the norm in public bodies to align the risk register with corporate priorities?

[149] **Mr Thomas:** In a general sense, I would expect to see corporate policies and risk registers weighed together, if you like. If you are going to head off in a particular direction where you wish to drive an organisation, you need to be following that through and seeing what the risks are in getting there. So, I would expect to see an alignment.

[150] **Mr Morris:** In the debate that we had with Forestry Commission Wales on this particular point, it said that it felt that a number of its risks related to more than one corporate priority. Therefore, it wondered whether it was a bit of an artificial process to tick a box to say that a particular risk aligned to a particular corporate priority. That was the debate that we had with it. We feel that it is important that the link is there, but it needs to be more than a mechanistic thing, whereby you can attach a risk to a corporate priority. It needs to be more meaningful than that. So, we feel that it should look more closely at how its priorities are reflected in its risk register, rather than looking at the risk register and going back to the priorities and saying, 'Well, we have one that ticks that box.' We felt that it was important to make this part of the routine process. We had a long debate with Forestry Commission Wales about this issue. It felt that it does this, though it perhaps did not demonstrate that very well through its current risk-management process.

[151] **Jocelyn Davies:** As you said, we want to obtain best practice from the three

organisations that will be part of natural resources Wales; do you think that the issue of aligning the risk register with corporate priorities will be embedded in the new organisation?

[152] **Mr Morris:** I think that it is particularly important that it is embedded. You are bringing together different bodies with their own, slightly different priorities. Bringing those together is inevitably going to create risks in terms of possible tensions between them. Therefore, it is particularly important that the risk register of the new body is aligned with a consistent set of priorities. That is a particularly important thing for the new body to take forward.

[153] **Jenny Rathbone:** I want to focus on managing fluctuations in the timber market. Given the commission's vulnerability to falling timber prices, I find it difficult to understand why it has not undertaken very clear risk management in this area. There is mention of renewable energy generation as a potentially very interesting way of generating extra income. However, this does not seem to be well developed at all, which makes it hugely vulnerable to changes in timber prices. Could you tell us why that is, given that it seems to be the core business?

[154] **Ms Giles:** We made the recommendation that Forestry Commission Wales should carry out scenario planning to put in place mechanisms to address fluctuating timber incomes. When we did the audit work, we found that it had not done the scenario planning that we had recommended it should do in 2008, which is what we reported. In response, the Forestry Commission said to us that it had sought to increase its resilience to fluctuating prices by doing two things. The first thing that it reported back to us was that it had increased the amount of money that it had made by selling to the wood energy market. Some 10% of the timber that the Forestry Commission now sells is to the wood energy market, and the commission told us that that market and the prices that it receives from it are much more stable than the prices it gets from its traditional timber customers, namely people buying for construction purposes. That is one of the main things that it did, namely to increase the volume of business with the wood energy market.

[155] Secondly, it put in place something called 'long-term contracts'. The Forestry Commission sells its timber through two mechanisms: it has short-term contracts, which span a period of 12 months, and then it has a number of longer term contracts of five to seven years. The Forestry Commission's argument to us, which we found reasonable in this sense, was that the longer term contracts give it greater resilience to the fluctuating prices that it was seeing in the timber market. That is not to say that it did not meet a number of the recommendations around scenario planning to give it greater resilience to fluctuating timber prices, however.

[156] **Jenny Rathbone:** I do not understand why it has not pursued the renewable energy generation options. Why are we not seeing whole sides of south-facing hills under solar panels? That would obviously generate an income.

[157] **Ms Giles:** As we have reported, it has put in place a number of initiatives to generate income from other sources, some of which are to generate income from renewable sources. Clearly, it runs the wind energy programme in Wales, and it also has a number of smaller contracts to build access roads to windfarms. So, it has put in place a number of initiatives to build income and to diversify its income, but as yet, you are right, that income has remained small-scale in comparison to the income it receives from its traditional timber customers.

[158] **Andrew R.T. Davies:** Aled, I think that you had something on this.

[159] **Aled Roberts:** Hoffwn ofyn am **Aled Roberts:** I would like to ask about the reoli'r amrywiadau yn y farchnad. Dywedoch managements of these fluctuations in the

yn gynharach eich bod wedi nodi bod prosesau caffael y comisiwn wedi gwella. O ran y datganiad am gytundebau hirdymor, a ydych chi'n fodlon bod gan y corff fel y mae ar hyn o bryd, ac yn bendant y corff newydd pan fydd yn dechrau ym mis Ebrill, ddigon o reolaeth dros ei bolisiâu? Rwy'n ymwybodol bod llawer o bolisiâu'r comisiwn o ran caffael wedi cael eu clymu wrth Gomisiwn Coedwigaeth Lloegr, ac os yw hwnnw'n dilyn polisiâu hollol wahanol i'r hyn sydd gennym yma, sut fydd y corff newydd yn ymateb?

market. You said earlier that you had noted that the commission's procurement processes had improved. With regard to the statement on long-term contracts, are you satisfied that the organisation as it currently is, and certainly the new body that comes in in April, has enough control over its policies? I am aware that many of the commission's procurement policies are tied to Forestry Commission England, and if that commission follows completely different policies to what we have here, how will the new body respond?

[160] **Mr Morris:** At this stage, we have looked, to a limited extent, at the arrangements for bringing together the different bodies, and at the tensions that that creates. Significant aspects of Forestry Commission Wales's current arrangements draw support from Forestry Commission for England and Wales, and disentangling them and identifying how it needs to change those UK-wide arrangements, in order to bring them together under the new body, is part of the extensive planning that is currently going on with regard to the new body.

[161] As part of this report, we have not looked in detail at those arrangements going forward, or at their implications. Emma, can you say anything more about this?

[162] **Ms Giles:** On the procurement, you are absolutely right, and some of the case studies that we looked at showed the reliance of Forestry Commission Wales on expertise that exists in the wider Forestry Commission Great Britain structures. So, it has been reliant on expertise until recently in relation to procurement. However, as we have explained, it has also more recently developed its own procurement expertise, and setting up the single procurement service was part of that; it was about developing its own ability to do these things. So, as Alan said, it has, to some extent, been disentangling its arrangements, particularly in relation to procurement.

[163] **Aled Roberts:** It may be setting up its own service or unit, but the reality is that, contractually, it is still bound to agreements that it has with the Forestry Commission in England; for example as far as the provision of nursery services is concerned. I question what flexibility it will have to pursue the degree of independence that you suggest that it must have going forward.

[164] **Mr Morris:** It will take a period of time to shift from where it has been in the past to it becoming a new body, as long-term commitments and agreements are worked through and move forward. My understanding of the approach to the merger at the moment is that it will very much be business as usual on 1 April. There will then be a gradual integration of the various functions over time. I think that part of that process will be asking, 'What do we need to change?' and 'Which of these arrangements with the Forestry Commission in England will take longer for us to move out of, and which ones can we change immediately?' That process will inevitably take a period of time to get fully integrated in the new body.

[165] **Mr Thomas:** We put those comments about timber and the direction that the body is looking to take with regards maximising income from timber production against a wider vision that the Minister gave to the Forestry Commission in 2011. It is that wider vision that is going to be carried forward to natural resources Wales.

[166] **Julie Morgan:** The Welsh Government told us that it was developing a customer relations management scheme. It told us that in response to our interim report on grants

management. Can you tell us whether there has been any progress with Forestry Commission Wales or with the new body, natural resources Wales?

[167] **Mr Morris:** Grants management has, historically, been a significant issue with this body and there has been a lot of activity regarding our work with the Welsh Government over recent years. Customer relationship management is a key part of that. We have found that Forestry Commission Wales alone has been developing this. However, at this stage, we are unclear as to the extent to which it is working with the Welsh Government and the new body to develop a new framework for the new body. It is, perhaps, a bit early for us to judge that at the moment.

[168] One positive note is that the chief executive of the new body—a former director general in the Welsh Government—has been actively engaged with us regarding our grants management work. We would hope that he will be well placed to bring the learning from a lot of our recent audit work to the three parts of the new body to identify how it is going to operate. Clearly, you have three bodies with their own particular customer and client bases and, perhaps, their own different arrangements need to be brought together. That is another significant challenge with regards developing a single arrangement and culture for relationship management regarding grants; they probably have very different grants processes as well. There is a big challenge ahead for the body to adopt a single coherent approach that is understood across the organisation, moving away from the three slightly different processes and cultures with which they will, inevitably, go into the process.

[169] **Julie Morgan:** I can see that the new appointment will be helpful, but are you confident that this is going to have the priority that history has shown that it needs? You say that you are not clear that there has been anything in that regard.

[170] **Mr Morris:** I think that we would have to ask that question to the chief executive of the new body. At the moment, we are at the early stages. We have not done a great deal of work to look at the process of integration and change. As the auditor general says, that is something that we want to look at during the first year of operation. We have had some engagement on planning, but it is very much a process that is being worked through at the moment. It is difficult for us to comment on the precise stage of the process at present. Again, the chief executive has not been in place for that long. There are some interesting questions to explore here regarding the plans that he is putting in place to make sure that these new arrangements and the culture that will need to be established are successful.

10.30 a.m.

[171] **Aled Roberts:** Rydym ar fin gorffen ein hymchwiliad i Powys Fadog a gwesty'r River Lodge yn Llangollen. Y brif wers i'w dysgu o hynny yw bod problemau ynglŷn ag integreiddio gwahanol sefydliadau. Rydym yn sôn yn y fan hon am dri sefydliad gwahanol yn dod mewn i gorff cyfoeth naturiol Cymru. A ydych yn fodlon ar hyn o bryd bod digon o dystiolaeth eu bod yn ceisio integreiddio, neu a ydych yn meddwl bod problemau a heriau yn wynebu'r corff newydd hwn wrth fynd ymlaen?

Aled Roberts: We are about to conclude our inquiry into Powys Fadog and the River Lodge Hotel in Llangollen. The main lesson to be learnt from that is that there are problems with integrating different organisations. We are talking here about three different organisations coming into natural resources Wales. Are you satisfied at present that there is sufficient evidence that they are attempting to integrate, or do you think that there are problems and challenges facing this new body going forward?

[172] **Mr Thomas:** Yn sicr, bydd problemau a heriau yn wynebu'r corff newydd. Mae wedi cael staff o'r tri chorff i

Mr Thomas: The new body will certainly face problems and challenges. It has managed to get staff from the three bodies to

gydweithio a pharatoi, ac maent i gyd yn dangos cyfeiriad, sy'n rhywbeth y gallwn roi gobaith ynddo. Y cwestiwn sydd heb ei ofyn yw hwnnw ynghylch yr amserlen maent yn gweithio iddi, oherwydd i symud yn naturiol o'r lle y mae'r cyrff hyn ar hyn o bryd i mewn i'r corff newydd, mae angen amser i wneud hynny'n iawn.

collaborate and prepare, and they are all showing direction, which is something in which we can have hope. The unasked question is the one on the timetable that they are working to, because it will require time for these bodies to move seamlessly into the new body from where they are at present.

[173] **Andrew R.T. Davies:** Before you go any further, you said 'hope', but do you have confidence? There is a difference between hope and confidence, is there not?

[174] **Mr Thomas:** I will answer the question about confidence in the review that we will carry out at the end of the first year. I will always have hope.

[175] **Andrew R.T. Davies:** Okay. I am sorry to cut you off, but I think that that was an important distinction to make. Please carry on.

[176] **Mr Thomas:** I think that I had ended at that point.

[177] **Aled Roberts:** On that, I understand that there will probably be a report at the end of the year that gives us a clear indication as to whether the integration is bedding down. One of the messages from the inquiry into the River Lodge Hotel was that there was no clear understanding within the organisation of what the model and aim of the organisation was from the outset, and that there were different interpretations. 'Business as normal' was the description given by a civil servant of the previous practices of the Welsh Development Agency. Is the whole of the organisation on message with regard to the manner in which it will be run? If there are differences to previous working practices, will those differences be put to one side?

[178] **Mr Thomas:** That is a difficult question for me. First, I should indicate that I am conflicted and therefore I do not comment on the River Lodge case, but I take the more general point that when you merge organisations, there are often issues of assumptions going on, where people will say, 'We all do it this way, don't we?', without making sure that staff fully understand that there is a new culture and a new method of working, and that a whole range of things are being reviewed in order to get the new organisation to work correctly.

[179] The appointment of the chief executive and the board has been done in a way that allows those types of directions to be set for natural resources Wales. The work that was done beforehand looks encouraging in terms of what has happened. However, the general lesson from nearly all mergers is that people make assumptions and do not double-check that the new arrangements are in place and that staff understand them.

[180] In the case of the report on the Forestry Commission Wales that you are currently looking at, there are lessons to be learnt about the way in which the commission administered the grant at Ffynone and Cilgwyn. That was carried forward into the work that we did on grants management in general. The Welsh Government is setting a new direction. I would hope that those lessons have been picked up by natural resources Wales.

[181] **Andrew R.T. Davies:** Thank you very much for your evidence. The clerk will send you a copy of the record for you to look at. If you find that there are factual inaccuracies in the evidence that has been taken, please liaise with the clerk for corrections to be made.

10.34 a.m.

Papurau i'w Nodi
Papers to Note

[182] **Andrew R.T. Davies:** I draw the committee's attention to the papers to note that have been circulated prior to the meeting.

Cynnig o dan Reol Sefydlog Rhif 17.42(vi) i Benderfynu Gwahardd y
Cyhoedd o Weddill y Cyfarfod
Motion under Standing Order No. 17.42(vi) to Resolve to Exclude the Public
from the Remainder of the Meeting

[183] **Andrew R.T. Davies:** I move that

the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order No. 17.42(vi).

[184] I see that the committee is in agreement.

Derbyniwyd y cynnig.
Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 10.34 a.m.
The public part of the meeting ended at 10.34 a.m.