

James Price
Deputy Permanent Secretary – Economy, Skills &
Natural Resources Group
Welsh Government
Cathays Park
Cardiff CF10 3NQ

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Dear Mr Price

The Welsh Government's initial funding of the Circuit of Wales project

Thank you for attending the Public Accounts Committee on 26 June 2017. Following the meeting, Members have asked that I write to you with some observations and seek further clarity on a number of points arising from the evidence. In responding to this letter, I would expect the views of the relevant officials, namely Mr McGuire and Mr Munday to be incorporated. The Committee hopes that this letter and your response will negate the need for an additional evidence session, although this will depend on the depth and completeness of the answers provided.

For ease of reference, we have added footnotes to the transcript (RoP) and the Auditor General's Report.

Overall Value for Money

One of the primary focuses of the Public Accounts Committee is to ensure that value for money is achieved when spending public funds. We do not form views on the validity of policy decisions, but instead whether those investments have been made according to the processes and procedures in place to safeguard those with the responsibility for investing public money. We have a number of questions relating to the overall value for money for the initial funding of the project:



1. During the evidence session on 26 June 2017, you stated that:

“I am persuaded that we have achieved value for money for what we have got, yes, which is a project that is ready, subject to finance, to be delivered. So, yes.”¹

And that £9.3 million represented value for money regardless of whether the Project goes ahead.² In light of the Welsh Government decision on 27 June, the Committee would like to know whether you believe this statement remains valid, and your justification for this view.

2. The Committee would welcome any evidence of value for money in relation to payments made to suppliers on the basis of monthly retainers.
3. During the evidence session, you quoted the core assumptions of 1000 jobs from the circuit and 4000 from the subsequent development.³ In explaining the reason for not deciding to invest further in the Circuit of Wales the Minister stated that:

‘...once the initial track and directly related development... had reached a steady state of trading around the year 2024, the number of direct full-time-equivalent (FTE) operational jobs would be little over 100. In addition, the circuit development could create around 500 indirect FTE jobs through potential visitor spend, as well as approximately 500 FTE construction jobs while the track was being built.’

How do the figures quoted in the meeting reconcile with the figures quoted to support the Welsh Government decision not to fund the Project?

The acquisition of FTR:

The Committee has a number of concerns relating to the purchase of FTR as part of the Property Development Grant. There are a number of areas which the Committee would welcome further clarity on, and of particular concern is the lack

¹ RoP, paragraph 22

² RoP, paragraph 428

³ RoP, paragraphs 24 – 41



of appropriate documentation about the decision for this purchase to be included as part of the Property Development Grant:

4. During the evidence session you stated that you considered the purchase of FTR represented value for money, do you still maintain that this is the case and if so, how does it represent value for money?
5. You also referred to the significant amounts of scrutiny which were being applied to the PDG, we would like to know what specific scrutiny there was of the FTR item?⁴
6. Despite your assurances at the meeting that the approval for purchasing FTR with PDG funds ‘..was considered in detail and thought through’⁵ and ‘aligns with the project’⁶ the Committee is still unclear about how these conclusions were drawn. Therefore, please could you explain precisely:
 - how the rationale for HoVDC to acquire FTR aligned with the purposes and the objectives of the PDG scheme? and;
 - how the rationale for HoVDC to acquire FTR fitted within the purposes of Phase 1 of the CoW Project?
7. The Committee are unclear from your evidence and would welcome clarification on whether the inclusion of an item of £300,000 such as FTR, which the Auditor General stated does not align with a grant scheme’s core purposes, would be considered exceptional, and your reasons for such a decision.
8. The PDG was backdated by almost three months (for reasons which the Welsh Government has not yet explained to the Committee) and the FTR transaction took place before the grant was awarded. Please can the Welsh Government confirm whether the Welsh Government reviewed the FTR

⁴ RoP, paragraph 343

⁵ RoP, paragraph 80

⁶ RoP, paragraph 76



sale/purchase contract before approving FTR's inclusion the grant, and if not, why not?

9. The Committee has particular concerns around the decision to purchase FTR potentially not being approved by the Minister. We would welcome a response on why there is no evidence of the approval of grant funding for the acquisition of FTR being brought to the Ministers attention? And under what circumstances do you think it is appropriate to bring or not bring such an item to the Minister's attention?

10. The Committee noted the comments from yourself and Ms Mayes about record keeping that 'officials should keep detailed records of all meetings and conversations with funding applicants'⁷ and that 'good practice would be the minimum level necessary to demonstrate why you did what you did'.⁸ The Committee would like to know what justification there is for the officials not keeping records concerning the decision around FTR and why is there no contemporaneous documentation relating to FTR?

Further questions in relation to oral evidence:

The Committee has a number of follow up questions arising from the oral evidence you provided on 26 June 2017:

11. During the evidence session, you stated that the HoVDC is the second time the Welsh Government has provided a loan guarantee.⁹ The Committee would welcome further information on the provision of loan guarantees by the Welsh Government. In particular:
 - what was the first guarantee referred to in evidence?
 - how was the guarantee secured?
 - was it called upon? If so, did the Welsh Government get the money back?

⁷ RoP, paragraph 337

⁸ RoP, paragraph 343

⁹ RoP, paragraph 155



– have any other guarantees been requested, declined or provided?

12. The need for separation of duties in terms of officials involved in supporting funding bids from those responsible for payment authorisation is a fundamental control. The Committee received reassurances from yourself and Ms Mayes at the meeting that the processes exist within the Welsh Government.¹⁰ However, these assurances still seem at odds with the findings within the Auditor General's report that on 11 January 2013 an official instructed his finance colleague to pay a grant claim, even though Welsh Government officials had not seen the relevant parts of the conditional sale contract.¹¹ We would therefore welcome clarification on how this official's instruction and its execution demonstrate the maintenance of an appropriate separation of duties.

13. The Auditor General's report identifies that PDG grant payments to HoVDC included reimbursing HoVDC for a deposit held in escrow, and this type of payment would not normally be considered eligible for grant because it represents settlement of a payment not yet defrayed.¹² During the evidence session, Ms Mayes set out that in this instance the Welsh Government believed the Welsh Government was correct to pay to HoVDC the full amount claimed, however it is not clear why this conclusion was drawn.¹³ While we accept that a deposit held in an escrow account is not unusual in conditional property sales transactions we also note that such amounts are not normally eligible expenditure – so please can you explain why in this case the Welsh Government considered this grant claim payment to be correct?

14. In response to the Committee questions about why the HoVDC accounts were not audited, Ms Mayes stated that the company accounts were not

¹⁰ RoP, paragraphs 272–280

¹¹ AGW Report, paragraph 3.40

¹² AGW Report, paragraphs 3.38 – 3.40

¹³ RoP, paragraph 317



audited because the companies were not required to do so.¹⁴ We have some significant concerns about this because a requirement of the loan guarantee agreement was for HoVDC to provide audited financial statements to the Welsh Government.¹⁵ Therefore we would like clarification on why this condition to provide audited financial statements was imposed as part of the loan guarantee? And then why this condition was not enforced?

15. The Committee questioned the decision not to inform WIDAB about the potential loan guarantee support when they were considering whether to support the £80 million repayable business finance application for this project. We would welcome clarification that, if the same circumstances arose, whether the Welsh Government would now tell WIDAB about the potential loan guarantee?¹⁶

During the Committee meeting there was a significant discussion around the provision of risk free finance to HoVDC and whether this could breach State Aid rules, which the Committee have a number of questions arising from this:

16. The Committee were particularly concerned about the findings in the Auditor General's report that the Welsh Government's own officials advised that 'providing the loan guarantee in addition to the RBF might be problematic in relation to state aid' and that they were '...unable to offer any reassurance to Ministers that the proposals would stand up to either judicial scrutiny or analysis by the European Commission'. Given the advice provided to the Welsh Government in relation to the risk of providing an unlawful State Aid, we would like further clarification on what basis has the Welsh Government acted as a market investor?¹⁷

¹⁴ RoP, paragraph 436

¹⁵ AGW report, paragraph 3.15

¹⁶ RoP, paragraphs 390 – 401

¹⁷ RoP, paragraphs 167–169



17. The Committee received little clarity on its questions about what certainties the Welsh Government had around the HoVDC ability to pay back the loan guarantee. Given the Welsh Government decision, do you now agree that the Welsh Government has in effect provided risk free finance to HoVDC, which could breach State Aid rules?¹⁸ If you do not agree, why not?

Clarifications and additional information:

The Committee would welcome a number of points of clarification and additional information on points raised during the evidence session. I understand the Clerks have e-mailed you with the action points you agreed to provide during the meeting, which we will be grateful to receive alongside the information below:

18. During the evidence session, you quoted a figure of 20% as the typical proportion of total project cost required to reach financial close, which led to you drawing the conclusion that the Welsh Government's exposure of 2% for the total project cost of circa £400 million to represent good value for money. What is the source for this 20% figure? Please can you clarify the type of project that is used to calculate the figure and also explain why such projects are appropriate comparators for the Circuit of Wales project?

19. We were surprised that you stated that you did not believe the number of related companies or individuals was as high as nine¹⁹, which was the figure quoted in the Auditor General's Report, given that the report was fact checked with HoVDC. The Committee understands from a Freedom of Information request disclosed by the Wales Audit Office that the names of seven companies [the names of two further individuals were not disclosed] were:

- Aventa Capital Partners Ltd;
- Stephenson Harwood LLP;
- Insight Infrastructure Ltd;
- Shaun Meadows Marketing Ltd;
- Barton Communications Ltd;

¹⁸ RoP, paragraph 181; AGW Report paragraph 2.15

¹⁹ RoP, paragraph 111



- Kalergo Ltd; and
- Altitude Aviation Advisory Ltd

Which of the companies in the list disclosed by the Wales Audit Office do the Welsh Government believe are not related and what do you believe is the correct figure for the total number of related companies or individuals who received payments under the Property development Grant or loan guarantee arrangement?

20. During the Committee, you stated that there had been a total expenditure of £55 million by all parties, of which the Welsh Government has an exposure of about £9.2 million. This is a larger figure than the £30 million which was quoted in the Auditor General's report which had been fact checked with HoVDC. You undertook to verify the £55 million sum and provide the information to the Committee. Please can you confirm the amount of private sector investment in the Project which is now at risk in light of the Welsh Government decision? Please also provide the source of this information and what the Welsh Government has done to check its accuracy?

21. You made reference to the numbers of businesses the Welsh Government supports and the failure rates associated with them, stating that 'there were 1,000 investments over five years, of which 3.4 per cent have gone wrong'.²⁰ The Committee would welcome information on the source and accuracy of the figures quoted. Furthermore, the Committee would welcome clarification on what you meant by 'gone wrong' do you mean business failure, not achieving the intended outcome (e.g. jobs created) or something else? Please clarify how you define success and failure.

22. During the evidence session, the Committee questioned you on whether the due diligence for the programme was rigorous and optimum. Due to the ongoing process, you were unable to provide a full response to this during

²⁰ RoP, paragraph 498



the meeting but you undertook to provide a note giving more details of the due diligence process following the Cabinet decision, which we would be grateful if you could include as part of the response to this letter.²¹

23. In the Cabinet Secretary's Plenary statement of 27 June, he informed AMs that: *'following discussions with Office for National Statistics and Her Majesty's Treasury during the due diligence process, it is assessed that there is a very significant risk that the full £373 million debt of the entire Circuit of Wales project would be classified against Welsh Government capital spending.'* The Committee would welcome clarification as to when these discussions took place, and at what point in the due diligence process this accounting problem was first identified.

24. The Committee note the reference to an 'internal governance group' within the Welsh Government to provide expert challenge. The Committee would like further information on what this Group is, who is on the Group; what challenge they offered in relation to Circuit of Wales, and how did officials respond?²²

The Welsh Government's responses to the Auditor General's Report:

25. As discussed during the evidence session, the Committee were concerned by the Written Ministerial statement which expressed the Welsh Government's *'surprise and disappointment'* at the Auditor General's decision to publish his Report during the pre-election period; and stated that they had not had sufficient time to consider and respond to the Report prior to its publication. A subsequent response to written assembly question from Adam Price clarified that officials did know about the intended publication of the report on 17 March 2017. Given that officials knew over a month before the Minister was formally informed, we would welcome clarification on whether the Minister was informally informed of

²¹ RoP, paragraph 349

²² RoP, paragraph 351



the Auditor General's intention to publish before being formally informed on 24 April?

26. The Committee were particularly concerned that on a number of occasions throughout the evidence session you inferred that there were factual inaccuracies in the Auditor General's Report. As the Committee understands it, the Auditor General reports are subject to a substantial and rigorous clearance process in order to be as fair and correct as possible, and we rely on these reports to undertake further scrutiny of often sensitive subjects and we take the suggestions of inaccuracies in the report very seriously. Therefore, aside from the error concerning the Economic Efficiency test being a UK and not a Welsh test²³ please can you detail, with supporting evidence, what the other inaccuracies in the report are?

27. Finally, during the evidence session you referred to having 'learnt lessons as a result of this [the initial funding of the Circuit of Wales], which will allow us to do it better next time around'.²⁴ Please could you set out what the lessons learnt were and what actions the Welsh Government is taking?

²³ AGW Report, paragraph 2.8

²⁴ RoP, paragraph 433



We would be grateful if you could provide a response by 25 August 2017, in order for the Committee to consider this early in the autumn term. I would again reiterate that we hope the responses that you provide to this letter will mean that the Committee can complete this inquiry without the need for an additional evidence session.

Yours sincerely,

A handwritten signature in black ink that reads "Nick Ramsay". The signature is written in a cursive style with a long horizontal flourish at the end of the name.

Nick Ramsay AM
Chair

CC: Ms Shan Morgan, Permanent Secretary, Welsh Government

