

EMYR JENKINS

14 May 2002

Dafydd Wigley, AM
Chair of the Audit Committee,
The National Assembly for Wales,
Cardiff Bay,
CARDIFF,
CF99 1NA

Dear Mr Wigley,

AUDITOR GENERAL FOR WALES REPORT ON *THE ARTS COUNCIL OF WALES: CENTRE FOR VISUAL ARTS*

This letter is written on behalf of Sir Richard Lloyd Jones, Ms. Joanna Weston and Mr. Robert Edge and myself, the four witnesses who appeared before the Audit Committee at its session on 13 December 2001.

We all received on 10 May copies of the letter written to you by the Auditor General, dated 3 May, and wish to make the following comments upon it.

We find it surprising that the NAO has taken five months to produce this response to our evidence which has meant that, in order to present our observations to this meeting of the Committee, we have had to prepare them in five days. For that reason, we do not wish to engage in the detail but rather in the broad sweep of the response.

We hope that the Committee will give weight to the implications of the Auditor General's statements that 'some of the evidence provided by the witnesses is either inaccurate' – which suggests that in his view some of the evidence was in fact accurate – 'or is not supported by documentary evidence contained within the records of the Arts Council of Wales' – which, though a matter for concern, does not necessarily mean that whatever we deposed on those matters was invalid or incorrect.

We find the response highly selective in the matters it addresses and consider it significant that several key issues are omitted. There is, for instance, no

explanation why the Report contains the wrong Policy Directions. This is in our opinion a 'heartland issue', because the 1995 Policy Directions, to which ACW was working at the time the original decision was taken to fund the CVA, do not require applicants to provide a business plan. This requirement only appeared in the 1998 Policy Directions. The committee might wish to consider why it was found necessary to revise the UK Policy Directions in 1998 -- it can only be because the original 1995 Directions were found to be inadequate.

The NAO still maintains that the 1992 Feasibility Study should be the base point for the estimate of visitor numbers and that ACW should not have accepted these estimates. However the NAO omits to comment on the fact that the CVA's first application for lottery funding quotes a completely different set of visitor estimates, not the figures contained in the Feasibility Study at all (see figure 9 in the Report). The NAO again admits that 'it is intrinsically difficult to forecast visitor numbers for a new public attraction' but then criticises ACW for not questioning figures that had already been revised downwards from those quoted in the Feasibility Study.

The NAO response is now critical of the speed with which ACW responded to perceived weaknesses in the CVA applications. This is not the criticism contained in the Report, which suggests that ACW did not act at all, not that it acted too slowly. The response also omits to comment on the action ACW took to address the perceived weakness in marketing the CVA (para 2.25) nor does it comment on the alleged 'disappearance' of the Tourist and Citizen Information Centre (para 2.24). We can only assume that this failure to respond is an admission that our reservations on these matters were justified, thus invalidating a whole central section of the Report.

The NAO response now quotes the Report as claiming that the programme mounted by the CVA once it had opened differed markedly from that envisaged in the 1992 Feasibility Study. Again, this is not what the Report states at all. Paragraph 2.22 of the Report claims that the first application moved away from the 'blockbuster' policy and this is the criticism that the witnesses were addressing. The policy remained the same throughout the project's history, as is demonstrated by the documentation; it was in its execution that the policy failed to attract the hoped-for public interest. This was, of course, something which only became apparent when the CVA opened to the public.

We have supplied to the NAO an ACW publication 'ARTS OPPORTUNITIES FOR PEOPLE IN WALES'. This was published in September 1997 and shows clearly that all applications for new large building projects would be subject to a 3-stage assessment process. This, of course could not be applied retrospectively to existing applications and therefore could not be applied consistently 'to all applications' until 1999 when these existing applications had passed through the system

We have never claimed the ACW's formal monitoring procedures were fully developed at the time of the CVA applications and the NAO was aware of this fact when the grants were being agreed. However, Mr Peter Tyndall has confirmed in his undated note to the Committee that CVA Board meetings were regularly attended by ACW Senior Artform Officers and, as we stated, this was an important part of the on-going monitoring of the CVA by ACW.

In the opening paragraphs of his response, the Auditor General states that his Report was 'referred to and agreed for factual accuracy with *all thirteen* (our italics) of the third parties named in it' a facility denied to the four of us. We are not aware that any of these parties was summoned to appear before the Committee; yet the four of us were subjected to a public cross-examination on a Report from whose preparation we had been excluded. Private individuals who may now (as we did) find themselves liable to be summoned to Audit Committee hearings, we suggest, are entitled to expect even-handed treatment; and we hope that steps will be taken to avoid a recurrence

Many of these named third parties were not working for ACW and none of them had any involvement in, or responsibility for, the decision to fund the CVA. This list of consultees is highly selective and does not, for instance, include Mr Hugh Hudson Davies, whose letter is at the core of paragraphs 2.22 and 2.23 of the Report, and who, until last week, was unaware of the Report's existence. If Adrian Ellis of AEA was consulted, why not Mr. Hugh Hudson Davies? If one previous Accounting Officer was consulted, why not all previous Accounting Officers? We are surprised by the statement that an Accounting Officer who had been in post a few days should be relied upon to suggest who should be, or who should not be, consulted by the NAO. Not only was Mr. Tyndall not in post when these decisions were taken, he was not in post for the whole period of the investigation and could not be expected to have a 'full understanding' of all Arts Council records.

It is a valid question as to why steps could not have been taken to keep the CVA in being, albeit in a different form, which is relevant to another matter raised in the Report, i.e. the duty of ACW to protect the investment. There was, presumably, a balance to be struck between increasing financial support to the CVA and allowing it to close, at the cost of having committed lottery funds which otherwise would have been available for other arts projects in Wales. The Report throws little light on this, and we do not recollect the Committee taking other evidence on the matter.

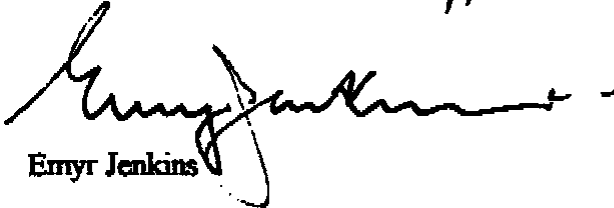
We dispute very strongly that our reservations are not relevant to the core issues on which the Auditor General reaches his conclusions and we stand by our evidence, both oral and written, to the Audit Committee. We re-iterate that it was never our intention to claim that the CVA project was ultimately other than a failure. We do, however still maintain that the judgements that were made, and the decisions that were taken, at the time were justified.

We are grateful to the Audit Committee for allowing us the opportunity to present evidence from the point of view of those who were involved in the project and we regret putting the Committee in a difficult position by disputing a report by the National Audit Office.

We feel that we have been treated badly by this investigation in that we have had to address documents which are critical of us and which are already in the public domain. We also feel very strongly that it is manifestly unjust that the Auditor General's latest communication was carried on the National Assembly website in advance of the Committee meeting, whereas our communications were not. The Press takes its material from this source and this unbalanced picture has resulted in the item in the Western Mail of Monday 13th May.

We are convinced that had our views been sought before this Report was written it would not have been published in its present form.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Emyr Jenkins', written in a cursive style.

Emyr Jenkins