

Audit Committee

Date: 19 December 2002
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Venue: Committee Room 2, National Assembly for Wales

THE ARTS COUNCIL OF WALES: CENTRE FOR VISUAL ARTS (CVA)

The Welsh Assembly Government's response to the Report Recommendations of the Audit Committee, following the presentation of their report (05/02) on 19 June 2002.

The Welsh Assembly Government is grateful for the report. We fully support the Audit Committee's eleven recommendations to the Arts Council of Wales (ACW) set out in the report. We were pleased to note that the Audit Committee acknowledged that lessons had already been learnt by ACW and would want to add that the Council already had, before the Auditor General's Report on the CVA, put measures in place to prevent problems similar to those experienced in respect of the CVA happening with its future lottery projects. These changes to assessment and monitoring procedures were introduced in 1999.

The Cabinet is confident that the Council's procedures are now more thorough and responsive to any difficulties should they occur. The emphasis is on the prevention of difficulties but with strategies to tackle difficulties should they occur. ACW will give further consideration to its procedures in the light of the Deloitte Touche Review which it commissioned to look at its grant monitoring procedures, and will also take account of any other recommendations emerging from reviews, planned for the future, such as the Quinquennial Review next year and the ACW's own review of their new structure which is due at the end of the first 12 months of implementation. This latter review is expected to take place in summer 2003.

Quarterly monitoring meetings between Assembly Government officials and ACW continue to include discussion on ACW lottery projects - as is the case with the Culture Minister's bi-annual, formal monitoring meetings with the ACW Chair. Any difficulties are reported immediately.

The Cabinet acknowledges that it is not possible to eliminate risks altogether but they can be managed effectively. We are satisfied that ACW now have appropriate procedures in place and that these are also being implemented and we will work closely with the Council and the Auditor General to minimise the risk of the CVA experience being repeated; and to ensure that the lessons are learnt as widely as possible.

We offer the following more detailed response to Report recommendations.

i) as part of the independent review that it has commissioned of its procedures, the Arts Council of Wales examines the adequacy of its assessment of risk in lottery projects. In particular, a rigorous scrutiny of the key risks underpinning the financial viability of projects, including the visitor numbers forecasted for new arts attractions, should be an intrinsic part of the assessment of all lottery applications [35/i]

The ACW's independent review, which it has commissioned from Deloitte Touche on its grant monitoring procedures, is due to report by the end of July. The review will look to implement a lighter monitoring approach for small, fast track applications for instruments or equipment purchases of less than £20,000. However, those projects at the other end of the scale (projects over £100,000), mainly construction projects, would have considerably closer and more comprehensive monitoring. New procedures for risk assessment have been in place since 1999 (as detailed in Annex C of the Audit Committee's report). Procedures will be amended further as appropriate to take on board the outcome of the independent review. We will supply the Committee with details of the outcome and action taken by ACW.

ACW appoint external assessors to evaluate all major lottery projects (in excess of £100,000 and some projects under £100,000 if ACW feel it is necessary following consideration of a risk analysis which is provided by the applicant). The assessors will be qualified and experienced to deal with the specific projects to ensure they are viable and fit for purpose. Financial viability is assessed as part of the business plan.

ii) that ACW ensure that adequate contingency plans are in place in the event that risks to the financial viability of the project materialise. [35/ii]

Plans have been in place since 1999. ACW include "scenarios" as a requirement in their business projections for the planning of individual projects. Applicants must provide three scenarios where funding is provided at its optimum level, secondly, where it may be reduced by 25 per cent and finally where it may be reduced by 50 per cent. Contingency plans are based on these scenarios.

iii) properly document its consideration of such fundamental issues as the relationship between entry charges and visitor numbers on projects to which it proposes to award lottery grants. [35/iii]

Part of the role of the ACW assessor is to evaluate the business plans, artistic programmes and the forecast of visitor numbers of the projects. Specifically, the assessor will base his reports documenting the project, on issues of viability, using the original forecast visitor numbers and projections, revisiting them at regular intervals. It is an absolute requirement of the legal contract that fully documented revised business plans must be submitted six months prior to practical completion. This allows any developing difficulties to be considered and solutions found before the project is completed. This process now happens automatically and these mechanisms have been in place since 1999.

The procedures for appointing external assessors are rigorous and ACW now have a pool of experts such as business advisers, venue managers, programmers and architects, upon whose expertise it can draw. Decisions on many lottery projects are now deferred which allows applicants to deal with difficulties and clarify issues raised at an early stage. External assessors' reports are also copied to the applicants in order to obtain their feedback.

iv) Assess its general record keeping policies to ensure that adequate records are maintained of the Council's key decisions and deliberations about lottery projects. [35/iv)]

Since 1999, staff training includes the requirement that all ACW projects must be well documented and audited regularly. ACW is also moving to a position where they will have a duplicate electronic copy of the files and wish to invest in technology in order to make this possible. ACW files are monitored and reviewed to ensure follow up action.

v) monitor closely any changes to the nature of the attractions to be offered by projects to which it awards lottery grants, to ensure that the possible revenue consequences of changes introduced after lottery grants have been approved are properly examined. [35/v)]

The applicant is legally bound to inform ACW of any proposed changes to the project purpose. ACW has to approve these proposals prior to their implementation. ACW could therefore withhold payment or initiate clawback procedures if conditions are not followed. ACW regularly conduct site visits which provides ACW with an opportunity to raise any concerns which they may have and to question the applicant. Either ACW officers or external project monitors visit projects on a regular basis (quarterly as a minimum). These procedures have been in operation since 1999.

vi) Not only draw weaknesses identified by its independent assessor to the attention of the applicant but that, as part of its monitoring of the project, take positive and early action to ensure that the applicant has addressed these concerns. [35/vi)]

As part of the assessment procedures, a copy of the assessor's report is submitted (minus the conclusions) to the applicant – they have to inform ACW whether the report is factually correct or not. This allows ACW and the applicant to take action to make changes in order to eliminate any problems or weaknesses. The applicant has one week to clarify any other issues raised by the assessor. These comments are then taken to the Capital Committee for further consideration.

Whilst there was no formal revenue funding agreement between ACW and the Cardiff Old Library Trust in respect of the CVA these have, since April 2002, been introduced for all revenue and lottery clients.

vii) review its scrutiny arrangements to ensure that the need for such items such as IT equipment are fully recognised and properly costed at the lottery grant application stage. [35/vii)]

This was addressed in ACW's new procedures in 1999. Applicants submit a cost plan which is reviewed

by the Quantity Surveyor and the artistic assessor to check that the specification and costings are appropriate for each project. ACW are also considering a further change to its application procedures to deal with rising project costs at stage D; ACW are planning a two-stage process which covers Stage D and E to more accurate cost estimates before a final decision is taken on the project. This is a complex area and ACW are in discussion with architects and quantity surveyors about the proposals. Draft proposals will be available by October 2002 and ACW plan to institute this change in all their projects by December 2002.

viii) Ensure that for any project of this scale that the business plan includes a full-scale risk assessment process complete with realistic and fully developed contingency plans. [35/viii]

Since 1999, ACW has, in addition to the contingency scenario requirements set out at 35/ii, also requested a risk register for the construction element of the project.

ix) Impress upon successful lottery applications, at the outset of each project, that they should not change the original plans without the full prior knowledge of the Council. [35/ix].

The Legal contracts which successful applicants sign, bind them so that they cannot deviate from the original plans unless they have the agreement of the Council. This procedure has also been in place since 1999. As part of the monitoring process, existence of an inventory list is verified and the list is checked thoroughly by the ACW assessor. Again, failure to follow procedure could result in ACW withholding or clawing back funding.

x) specify clearly, at the outset of each project, the information to be provided by the lottery applicant and how frequently it should be provided. These requirements should be set out in a legally binding agreement between the Arts Council of the Wales and the applicant. If an applicant fails to adhere to this requirement, then funds should be withheld. [35/x]

ACW has already been doing this since 1999 and contracts make it clear that funds could be withheld or funding clawed back. However, the timing of when to withhold funds would be a matter of judgement. Bringing a project to an abrupt halt can often lead to the incursion of further costs - for example, if contractors terminated their contract. All minutes of Monthly Design Team Meetings are forwarded to ACW and these are reviewed by the external project monitor.

xi) Review its procedures to ensure that prompt action is taken to safeguard its interest in any residual assets when a project that received a lottery award fails. [35/xi]

Should problems similar to those experienced in respect of the CVA arise in the future, ACW would appoint an auditor immediately.

Funding agreements between ACW and its clients now stipulate more clearly that repayment /clawback of grant is an option (or at least a pro-rata percentage of it or proceeds from the sale of the building).

Since 1999, ACW places charges on all buildings on all major capital projects. In common with other grant distributors, ACW's interest in equipment lapses after 5 years owing to depreciation. ACW has all the legal procedures in place to safeguard its interest in any residual assets but acknowledge that further work is needed to tighten these up. ACW's procedures are in the process of being changed to ensure that inventories and the timing of disposing assets are drawn up immediately if a project fails. Under the 1999 arrangements, inventories will already be in place, and if a project were to fail, the inventory list would be checked immediately to verify what is there. This was not carried out in the case of the CVA.