

Agenda – Public Accounts Committee

Meeting Venue:	For further information contact:
External Location	Fay Buckle
Meeting date: 12 October 2015	Committee Clerk
Meeting time: 13.00	0300 200 6565
	SeneddPAC@Assembly.Wales

National Waterfront Museum, Swansea

(The Committee agreed on 6 October 2015, a motion under Standing Order 17.42 to resolve to exclude the public for items 1 & 2 of this meeting.)

1 Regeneration Investment Fund for Wales: Briefing from the Wales Audit Office

(13.00–13.40)

(Pages 1 – 14)

PAC(4)–26–15 Paper 1 – Letter from the Auditor General for Wales (6 October 2015)

(Break 13.40–13.50)

2 Regeneration Investment Fund for Wales: Briefing session with the Welsh Government

(13.50–14.30)

Owen Evans – Deputy Permanent Secretary, Education and Public Services Group, Welsh Government

John Howells – Director, Housing and Regeneration, Welsh Government

Richard Baker – Acting Joint Head of Property Division, Welsh Government

3 Introductions, apologies and substitutions

(14.30)



4 Regeneration Investment Fund for Wales: Evidence Session 1

(14.35 – 15.35)

(Pages 15 – 40)

PAC(4)–26–15 Paper 2 – Welsh Government Response to the AGW Report (7 September 2015)

PAC(4)–26–15 Paper 3 – Letter from the Permanent Secretary (23 July 2015)

Research Briefing

Owen Evans – Deputy Permanent Secretary, Education and Public Services Group, Welsh Government

John Howells – Director, Housing and Regeneration, Welsh Government

Richard Baker – Acting Joint Head of Property Division, Welsh Government

(Break 15.35 – 15.50)

5 Regeneration Investment Fund for Wales: Evidence Session 2

(15.50 – 16.50)

(Pages 41 – 47)

PAC(4)–26–16 Paper 4 – Paper from Former RIFW Board Members

Research Briefing

Former RIFW Board Members

Richard Anning

Ceri Breeze

Richard Harris

Chris Holley

6 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

(16.50)

Item 7

7 Regeneration Investment Fund for Wales: Consideration of evidence received

(16.50 – 17.00)

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Mr Darren Millar AM
Chair, Public Accounts Committee
National Assembly for Wales
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Date: 6 October 2015
Our ref: HVT/2394/caf
Page: 1 of 13

Dea Dan

REGENERATION INVESTMENT FUND FOR WALES (RIFW)

I am writing to update your Committee on various matters relevant to its consideration of my report on the Regeneration Investment Fund for Wales (RIFW), which I published on 15 July 2015. In this letter, I set out my comments on:

- the letter of 7 September 2015 to the Committee from Owen Evans, in which he provided the Welsh Government's formal response to my report and to each of the eight recommendations it makes; and
- the written submissions to the Committee by (i) the former RIFW Board members, (ii) Amber Infrastructure Ltd (Amber) and (iii) Lambert Smith Hampton (LSH) in advance of their respective appearances before the Committee.

The Welsh Government's response to my Report (the letter of 7 September 2015 to the Committee from Owen Evans)

The Welsh Government's letter rightly sets out the constraints under which the Welsh Government operated when trying to respond to the emerging concerns about RIFW from October 2012 onwards. We fully recognised these constraints in our report (**Report, paragraph 4.10**). I should also like to acknowledge the value of the extensive communication and co-ordination that took place between the Welsh Government and my study team during the course of their work, which Owen references in his third paragraph.

The fourth paragraph of the letter refers to the Welsh Government having established a multi-disciplinary steering group, which has identified wider lessons to be learned from the case. The Committee may wish to request a copy of these lessons. In addition, the letter also refers to the Welsh Government developing revised guidance for establishing arms-length bodies. Again, the Committee may wish to request a copy of that guidance.

In paragraph six the letter acknowledges that, in the absence of market exposure, it is not possible to demonstrate that the best sale value was achieved. It then states the Welsh Government's belief that valuation evidence does not point conclusively to a sale under value. Clearly, it would be very difficult indeed to prove this point conclusively either way. However, I remain of the strong view that my Report provides a considerable and detailed body of evidence to support my central conclusion that neither the Welsh Government nor RIFW can demonstrate that value for money was achieved from the portfolio sale transaction.

My report fully recognises the constraints under which RIFW operated (**Report, paragraphs 3.14, 3.17 and 3.56**). It also questions the Welsh Government's decisions to provide assets (and particularly assets with significant future development potential) in lieu of cash (**paragraph 3.16**), and makes clear that RIFW did not in fact need to sell all of the assets before the end of 2015 (**paragraphs 3.27, 3.37**). In short, RIFW was not the appropriate vehicle for liquidating those assets in order to maximise sale returns for the public purse. If the assets were to be sold, then I consider that a different, better deal (or deals) should have been done, timed to generate greater returns.

The Welsh Government's responses to my audit recommendations

Turning to the Welsh Government's specific responses to the Report's eight recommendations, I note that five have been fully accepted, two have been partially accepted, and it is unclear to me whether one has been accepted or not.

Specifically, it is unclear whether the Welsh Government has accepted **Recommendation 3**, to investigate whether an unlawful state aid has been provided and discuss with the UK Government the need to refer the portfolio sale transaction to the European Commission. The European Commission communication (97/C 209/03) on state aid requires notification to the Commission of:

'...any sale that was not concluded on the basis of an open and unconditional bidding procedure...; and any sale that was, in the absence of such procedure, conducted at less than market value as established by independent valuers.'

In this regard, the Committee will wish to note certain aspects of the sale terms (other than the sale price itself), that could give rise to a potential state aid, including the provision for payment of the sale proceeds by installments without interest, the limited application of overage, and the detailed overage terms.

Recommendation 7 related to conducting a review of the effectiveness of the Welsh Government's internal quality assurance arrangements for providing Welsh Ministers with draft responses to Assembly Questions. The Welsh Government has offered a 'qualified welcome' to this recommendation, but it is unclear whether this equates to acceptance, partial acceptance or non-acceptance of the recommendation – or indeed whether the Welsh Government is going to review its arrangements or not. My point in making this recommendation was a general one, not specific to RIFW, and so the nature of the information and by whom it was provided, appear to me to be irrelevant.

Recommendation 8 has been partially accepted, subject to the caveat that there may be circumstances in which a fact-checking process is not appropriate. The Committee may wish to seek clarification from the Welsh Government in relation to the circumstances in which they consider that fact-checking would not be appropriate.

The Welsh Government's letter concludes by assuring the Committee that the redacted sections of the Gilbert Lloyd report that they have provided to the Committee were made available to the Wales Audit Office. I can confirm that this was the case.

The former RIFW Board members' written submission to the Committee

In their written submission to the Committee, the former RIFW Board members have highlighted the context within which the Fund was established and the constraints under which it operated. These are all factors which I have recognised within my Report, alongside the pressures on the Board members and most particularly on the three external members, who were unpaid.

The former Board members have incorrectly asserted in paragraph 6 of their submission that my review took place "*some years later*". However, my study actually commenced following the receipt of correspondence from an Assembly Member in March 2012 - the same month in which the sale of 14 of the 15 assets was completed (see the timeline in **Appendix 2** of the Report).

In paragraph 12 of their submission, the former RIFW Board members refer to two of the main elements of my value for money conclusion. Firstly, they refer to the actual sale proceeds (but do not refer to the flaws in the sale process that are identified in my Report); and secondly, to an alternative approach. They incorrectly state that such an alternative approach would be based upon "*the recovery of the property market*". In my

Report, I make it clear that an alternative approach based upon changes in the assets' planning status, and therefore increased values (not predicated upon general property market recovery), could have generated greater returns whilst still meeting RIFW's cash needs (**Report, paragraphs 8c and 3.27**).

In paragraph 13 and 17, the former Board members correctly point out that the Fund's prime purpose was not to be "*a property developer*". However, it is clear that the Welsh Government did expect the Fund to take appropriate steps to enhance the values of its property assets, and to promote those assets through the planning process in order to generate funds for investment (**Report, paragraphs 2.22 and 3.14**).

At several points in their submission, the former RIFW Board members question the District Valuer's valuation approaches:

- In paragraph 17, they suggest that the District Valuer should have considered the assets' values in the context of the Fund's Business Plan. However, and appropriately, the District Valuer's brief (**Appendix 4**) was to provide market valuations.
- In paragraph 18, they question whether the District Valuer has taken a different approach to valuation of the Lisvane site in his (separate) commission for Cardiff City Council. I am satisfied that the District Valuer's involvement in providing a viability assessment for the Council in relation to a present-day planning appeal is a different exercise to providing market valuations of assets as at 2012.
- In paragraph 20, they refer to the District Valuer's approach as "*unconventional*" and question whether it meets professional standards. My Report explains clearly where the District Valuer's valuations are justifiably based upon different assumptions to other valuations of the portfolio, and also where the assumptions of other valuers do not accord with our audit findings (**Box 11, pages 76 – 78**).

I am puzzled by the former Board members' statement at paragraph 20: "*Hope value or overage but not both*". 'Hope value' is a component of market value, which recognises that an asset may have a current value above its value in existing use. Conversely, 'overage' is a mechanism, negotiated between the parties, whereby a seller may benefit from a share of future value uplift when this occurs (usually from an onward sale and/or change of use). Hope value and overage are therefore not mutually exclusive. However, a buyer is likely to negotiate a lower sale price with overage (**Report, page 8 footnote 2 refers**), and overage clauses do not provide a guarantee of future returns. A prudent seller may secure elements of both. It is important to recognise that the RIFW sale took place in 2012 at a price (£21.74 million) below the assets' 2010 'hope value' of £25.58 million, and without any overage clauses on 13 of the 15 assets sold (**Appendix 3**).

In paragraph 22, the former RIFW Board members have stated that: *"...it is important to note that even with such a [open marketing] campaign it does not automatically mean that the assets could have achieved a higher figure."* Whilst this is self-evidently correct, it is also the case that an open sale following proper marketing gives confidence in the resultant sale price achieved. The absence of such a marketing process is a key component of my overall conclusion that value for money cannot be demonstrated in relation to the sale transaction.

Paragraph 23 then claims that: *"By the very fact of the sale, the Fund can demonstrate a willing buyer for the portfolio at the valuation price"*. The reference to a 'valuation price' is erroneous, because RIFW did not obtain an independent valuation prior to sale. Furthermore, a willing buyer at the sale price does not in itself demonstrate value for money. A sale for £1 would have provided evidence of a willing buyer, but of course would not have been at market value.

Paragraph 23 goes on to say that: *"The District Valuer has been unable to produce any plausible evidence of a willing buyer at his, much higher, valuation figure."* The District Valuer's market value valuations followed RICS standards, reflecting an open sale supported by proper marketing. The RICS standards do not require the District Valuer to actually undertake marketing in order to secure a buyer.

In paragraph 26, the former Board members have commented on the appropriateness of the discount factor applied when calculating the net present value of sale receipts (**Report, paragraph 3.100 and Exhibit 8**). The discount rate of 8 per cent used in my Report was specifically chosen to be consistent with that used by LSH in the information it provided to the RIFW Board when appraising the offer from SWLD (**see page 72 footnote 70**).

Paragraph 27 suggests that not including the apportionment of sale proceeds to individual portfolio sites represents an omission within the Table in Appendix 3 to the Report. However, the Table does include the overage baselines for Lisvane and Monmouth. The Board members have rightly stated that a lower overage baseline value will generate additional overage receipts, assuming that the sale price and the net value uplift are the same. However, it is also important to recognise that payments in the future may not support RIFW's cash needs, and there is also always the risk that overage clauses can expire without being triggered or that they could be circumvented or mitigated, thereby reducing or negating overage.

Paragraph 30 states that the valuation report commissioned by RIFW from Colliers supported the sale price RIFW achieved. The Colliers' report, and the validity of the assumptions that underpin it, are all commented on in detail in **Box 11, on pages 76 – 78** of the Report.

Finally, I note that in paragraph 38 the former Board members have referred to the planning status of the Lisvane site. I understand that SWLD itself has put the development viability value per acre (which would normally be expected to be below the land's actual market value) at a rate that would value the Lisvane site at £39 million.

Amber's written submission to the Committee

The written submission from Amber correctly identifies that the District Valuer's valuation of the portfolio: "...was not prepared on a like for like basis to the actual amount achieved for the sale." However, it is important to note that this does not reflect any shortcoming in the District Valuer's valuation, which was on the basis of market value and was conducted in accordance with RICS standards. Instead, the key difference between the valuation and the sale price arises because the portfolio transaction was not an open sale supported by proper marketing.

Amber has referred to the Collier's valuation commissioned by RIFW after the sale, which accords with the sale price. The Colliers' report is commented on in **Box 11 pages 76 – 78**. In particular, my Report highlights assumptions upon which Colliers based their valuations but which do not accord with my audit findings. Crucially, Colliers assumed that the assets' 'transfer value' from the Welsh Government to RIFW represented their market value, whereas this was in fact at existing use (**see Report paragraphs 3.56 – 3.63**), and also that the sale process involved both open marketing and a competing offer when neither was actually the case.

The Amber submission goes on to state that (on the basis of the Colliers valuation) no loss can be demonstrated. Even if it were the case that no immediate loss could be demonstrated, my overall value for money judgment would be unchanged, as explained in **paragraph 10 of my Report**.

A potential loss to RIFW (and hence to the public purse) may not be confined to the immediate sale proceeds, as is demonstrated by the example of the Pyle site:

- this site was sold without overage by RIFW in 2012, even though in 2009 King Sturge had identified the site's potential for future uplift prior to its transfer to RIFW, and had valued the site at £100,000 in existing use and at £450,000 with 'hope value';
- In October 2013, Colliers stated that inclusion of overage in the sale terms would have been inappropriate for the Pyle site;
- In January 2014, SWLD sold on approximately half of the site for £2 million;

- If RIFW had sold the site subject to overage in March 2012, they could have benefited from a share of the enhanced value in January 2014.

Amber expresses its belief that the Wales Audit Office accepts that no valuation evidence would establish on the balance of probabilities that RIFW suffered a loss on the basis of negligent advice. I can confirm that the Wales Audit Office has not made any such statement. Nevertheless, I recognise of course that a post-event valuation cannot provide the same level of assurance in relation to a sale price as is gained through an open sale process supported by proper marketing or by an independent valuation prior to the sale. However, for the reasons set out in my report my value for money judgment is not based upon an immediately quantifiable and legally recoverable loss. Indeed, because of the existence of the overage terms on the Monmouth and Lisvane sites, it may be many years before the portfolio sale transaction is finally concluded and the total return for the public purse can be determined.

Amber has suggested that my audit conclusions *"are of course heavily influenced by hindsight"*. I fundamentally disagree with this statement, as the flawed sale process that was adopted by the RIFW Board and the existence of alternative approaches to disposal that could have yielded better returns are significant components of my overall conclusion. Importantly, my study has also established that various parties to the asset transfer and subsequent portfolio sale transaction were not in possession of key pieces of information that should have been provided to them, did not act on available information or gave poor advice – none of this requires the application of hindsight.

My Report states that 'Amber and LSH both maintain that ERDF match-funding placed a requirement upon RIFW to sell all of the property assets in order to invest the proceeds in regeneration projects by December 2015' (**paragraph 3.33**). In its written submission, Amber has stated: *"AFML does not accept the attribution to it of that remark. AFML has never maintained that position and is unaware of any reason that would justify the WAO assuming it has."* However, in Amber's written comments on my draft Report, provided to me in January 2015, Amber expressly stated [with its own emphasis in capitals] *"The requirement of the Fund constitutional documents and therefore investment policy was to realise ALL of its £55m assets by the end of 2015."*

Amber has asserted in its written submission that, where it circulated papers to the RIFW Board relating to the land sale, these were *"prepared by LSH which were then on-sent by AFML to RIFW."* However, my study team possesses copies of drafts of the Portfolio Transaction Report dated 21 April 2011 which include extensive 'tracked changes' amendments by Amber to LSH's initial draft, prior to the final report's presentation to the RIFW Board.

Finally, Amber refers to reassurance in relation to state aid considerations, based upon legal opinions obtained by RIFW. My reasons for not placing audit reliance upon these legal opinions are clearly set out in **paragraphs 3.131 – 3.135** of my Report.

Lambert Smith Hampton's written submission to the Committee

In its written submission, Lambert Smith Hampton (LSH) makes a number of points which are similar to those which I have already commented on above and so I will not repeat here. There are however several other LSH statements to which a response is merited.

In paragraph 1.7 of its submission, LSH outlines the terms of the SWLD transaction and compares the sale price with the transfer value of the assets to RIFW which was based upon their existing use (**see Report, paragraphs 3.62 – 3.63**). However, the transfer value that LSH has quoted of £19.83 million has been inappropriately adjusted to deduct the full transfer values of the three assets not sold to SWLD (these three assets were removed from the sale because their values had fallen).

This adjustment has had the effect of lowering the transfer value quoted in the LSH submission, thereby increasing the gap between this and the sale price and hence generating an unduly favourable comparison between the transfer value of the 15 assets sold and the sale price of £21.7 million that was achieved. My Report instead quotes a higher, more appropriate adjusted transfer value for the assets sold to SWLD of £20.04 million (**see footnote 74 on page 76 of the Report**), calculated with reference to the lower values for the undesirable assets that were retained by RIFW, and which LSH had itself provided to RIFW at the time.

In paragraph 2.3, LSH has stated that an LSH report entitled "RIFW Portfolio Transaction Report – Update for Audit Review" (dated 30 October 2012) was prepared for the Wales Audit Office. My study team has informed me that neither LSH nor Amber provided this particular document to the Wales Audit Office during the course of my study. However, I can also confirm to the Committee that the document contains no information that would have caused me to amend my study conclusions.

At paragraph 3.3, LSH has listed some of the services which the Investment Management Agreement required it to provide to RIFW. However, in addition to the services which LSH has included in that list, I should like to draw the Committee's attention to the following extract from Schedule 1 to the Investment Management Agreement. This Schedule states that, in liaison with the Fund Manager [Amber], the Investment Manager [LSH] should:

"...identify value enhancement potential at a portfolio level and through planning consents... ...seeking services/utilities improvements/upgrades, and highway improvements, liaising with Local Authority Planning Departments; submission of planning applications; negotiating Section 106 agreements; preparation of site information packs for marketing; marketing and sale of assets in accordance with the objectives of the Fund and all Statutory obligations of the Welsh Assembly Government which apply to the transferred assets."

The Schedule also specifies that the asset-specific business plans were to include a "Value Enhancement Plan" and an "Exit Optimization Strategy." It is therefore clear that the Welsh Government's intention from the outset of LSH's engagement as the RIFW Investment Manager was not for the assets simply to be sold at the first available opportunity, or to be sold at their existing use values.

In paragraph 4.4, LSH has stated that *"It was always acknowledged...that a portfolio sale may be a beneficial option for RIFW."* However, my study team found that the plans and papers provided by LSH and Amber to the RIFW Board made no mention of a portfolio sale until after the initial GST Investments [SWLD] offer had been received.

In paragraph 5.1, LSH has accepted that it did not engage in formal marketing of the assets.

In paragraph 5.3, LSH asserts that a portfolio sale was beneficial to RIFW because there was a clear risk that RIFW would otherwise be left with less desirable assets. However the fact is that, under the terms of the final deal with SWLD, RIFW has been left owning three undesirable assets.

In paragraph 5.4, LSH has identified several title defect issues that it considers could have precluded either individual sales or prudent lotting, and has compared these disposal strategies unfavourably with a portfolio sale. However, LSH has not explained why individual phased sales had in fact been their recommended disposal approach for the RIFW Board (per the approved Asset Realisation Plan prepared by LSH for the Board) right up until the portfolio offer was received. Nor does LSH explain why since the portfolio sale SWLD (who LSH is now advising) has pursued a strategy of individual disposals. I note in particular that that strategy has to date yielded total gross receipts for SWLD of £16.93 million from onward sales of just 3.5 of the 15 assets that they purchased from RIFW.

In paragraph 6.1, LSH has stated that overage was agreed on the Monmouth and Lisvane sites. They have not stated that this overage was included for Lisvane on Amber's recommendation, and was not instigated on LSH's advice (**paragraph 3.124**).

LSH has acknowledged in its submission that it is difficult to value development land with any degree of accuracy. This difficulty is precisely why the greatest assurance in relation to a sale price is achieved by properly marketing the assets, regardless of whether the subsequent sale is achieved through an open sale, an auction, or by sealed bids. LSH has also described the levels of uncertainty that exist around the planning status of the assets, principally the Lisvane site. Such uncertainty increases the risk of an inopportune disposal, which can only be mitigated to a limited extent by overage agreements. As my Report makes clear (**paragraph 3.27**), RIFW could have met its funding requirements whilst still retaining those assets that had the greatest potential for future increases in value, via phased disposals timed to maximise returns once greater planning certainty had emerged. To illustrate this point, I note that SWLD sold on the residential portion of the Monmouth site for £12 million in April 2015, following its inclusion in the Local Development Plan in February 2014 and the granting of planning consent for development of the site in December 2014.

LSH has correctly drawn a distinction between existing use and 'hope value' in its submission to the Committee, and in paragraph 8.17 has pointed out that existing use value is normally used for financial statements, disregarding any hope value arising from alternative uses. This is why in 2009 King Sturge provided valuations for the purposes of transferring the assets from the Welsh Government to RIFW and for EU match-funding that were based upon existing use. However, King Sturge also identified 'hope value' for those assets with future development potential. As explained in my Report (**paragraphs 3.56 - 3.63**) LSH should have used the higher, with 'hope value', King Sturge valuation which reflected the assets' market value (£25.58 million) as the comparator when evaluating both the initial SWLD offer of £23 million and also the eventual negotiated sale price of £21.747 million. It is appropriate for a valuer to identify 'hope value' separately when providing existing use valuations. However, and contrary to what LSH suggests, when providing market valuations hope value is incorporated rather than stated separately.

LSH's statement in paragraph 8.21 appears, incorrectly, to equate full development value (i.e. with planning consent in place) with market value, which can include a premium over existing use for a site with development potential in advance of achieving planning consent for development.

In paragraph 9.1, LSH states that: *"Common anecdotal opinion that has been expressed indicates that... the development value [of the Lisvane site] is close to £1m per acre."* However, such figures are not merely 'anecdotal'. As an example, in January 2012 Savills (acting for SWLD) stated that:

"We are therefore confident that if land at Lisvane were to come to the market with planning consent in the current market we would expect to achieve offers of £2.0m per net acre (clean) for private housing.... We have

assumed a net payable land value of £1.0 million per acre for residential land reflecting deductions for all planning gain (including affordable housing), infrastructure and abnormal costs."

LSH goes on to state that the developable area of the 121 acre Lisvane site is circa 60 acres (around 50 per cent). The District Valuer assumed a developable area of 59.7 per cent, whilst SWLD in their initial planning application assumed 60.27 per cent and, in their planning appeal, 53.72 per cent. In contrast, in June 2011 LSH reported to the RIFW Board that they considered that the developable area of the Lisvane site was only 30 acres (25 per cent). This statement could well have had the effect of very significantly understating the site's potential value in the minds of the RIFW Board. In general, my study team found that in LSH's reports to the RIFW Board, the company provided copious information and details on matters such as problems with the assets within the portfolio, market weakness and planning uncertainty, and rather less information on the potential for value uplifts and the risks of inopportune disposals.

In paragraph 9.21, LSH provides its assessment of the developable value per acre for the Lisvane site (£600,000) and states that this has since reduced to £400,000 per acre "*verified by the District Valuer*". This is factually incorrect. The District Valuer has not 'verified' City of Cardiff Council's land value of £400,000, which is in any case simply a benchmark land value against which to assess development viability. It is not a market value.

LSH has included comparisons with various other sites in South Wales and the West of England to support its assertions in relation to the difficult state of the property market and sale prices achieved, whilst seeking to contrast its views with the District Valuer's market valuations. I should therefore like to draw the Committee's attention to the following statement from Savills, in their valuation report for SWLD dated January 2012 (the month before contracts for the portfolio sale were exchanged):

"Cardiff residential land values, particularly in the suburbs have recovered almost to pre crash levels in early 2007 and in most cases were sold by tender with competitive bidding."

In paragraph 9.14, LSH states that the onward sale by SWLD of the residential portion of the Monmouth site for £12 million was achieved following open marketing with: "*a formal bidding process and offers received from five national house builders*". This statement begs the obvious question as to why a similar sale process (which was concluded well within the timescale for the December 2015 EU match-funding requirement) was not deemed to be appropriate for RIFW itself, given that:

- RIFW's sale of 14 assets (including the Monmouth site) to SWLD was completed in March 2012. The final site sale (at Brackla) was completed in March 2013;

- In May 2012, LSH (acting for SWLD), commenced formal marketing of the Monmouth site and sought formal financial expressions of interest;
- Multi-million pound indicative bids were received from three major house builders by the closing date in July 2012;
- Final bids were received in November 2012 with final clarification of terms in January 2013; and
- A preferred bidder was selected and legal contracts for sale were exchanged in October 2013 with final completion, following planning consent, in April 2015.

It is therefore clear to me that RIFW would also have had bidders immediately interested in purchasing Monmouth (at a potential price of many millions of pounds) if it had not been sold as part of a portfolio, and that these purchasers would themselves have been prepared to invest time and money in the pursuit of planning consent for the site.

In section 10 of their submission, LSH has commented on their handling of conflicts of interest. It is important for the Committee to be aware that LSH accepted instructions from SWLD on the day following sale completion of 14 of the 15 sites. At this point, although contracts had been exchanged, the sale of Brackla to SWLD had not completed and also that, under the overage clauses, RIFW retained an interest in both the Lisvane and Monmouth sites. The individual referred to by LSH in paragraph 10.3 was the named contact for the RIFW Board in relation to investment in regeneration projects and regularly attended RIFW Board meetings. I note that in its submission to the Committee, LSH has not addressed the specific point made in my Report (**paragraph 3.103**) that its management of this conflict of interest did not meet the requirements of the RIFW Investment Management Agreement, RICS standards or LSH's own company procedures.

Finally, in paragraphs 10.12 and 10.13, in relation to a potential investment opportunity in Mumbles, LSH has asserted that: *"We did not have a contractual or fee generating relationship with the parties involved and there was no conflict of interest."* However, in an e-mail from LSH to my study team dated 13 June 2013, LSH stated: *"LSH has acted for the... Project Sponsor."* In a further e-mail dated 14 June 2013, LSH also confirmed that: *"LSH is providing retail agency advice to the... scheme Project Sponsor."* In such circumstances, under the terms of the RIFW Investment Management Agreement, LSH was required to make a declaration to the RIFW Board. As noted in **paragraph 3.104 of my Report**, it did not do so.

I appreciate that this is a lengthy and detailed letter, but I do hope that these points are of assistance to the Committee when it considers the written submissions that it has received from the various witnesses.

Yours sincerely



HUW VAUGHAN THOMAS
AUDITOR GENERAL FOR WALES

Sir Derek Jones KCB
Ysgrifennydd Parhaol
Permanent Secretary



Llywodraeth Cymru
Welsh Government

Darren Millar AM, Chair, Public Accounts Committee
National Assembly for Wales
Cardiff Bay
Cardiff
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Dear Darren,

23rd July 2015

Thank you for your letter dated 15 July requesting a response from the Welsh Government to the Auditor General for Wales report: *Regeneration Investment Fund for Wales*.

Whilst your letter is addressed to directly me, I have in this instance asked Owen Evans, Deputy Permanent Secretary, Education and Public Services, to lead on the development of the Welsh Government's response. Given the complexity of the issue, and a period of annual leave I will be taking out of the country in August, I believe this is the best course of action.

I understand that the PAC Clerk has sought reassurance that cross-departmental consideration will be given to the recommendations. I would like to give the PAC my personal assurance that a whole-government response will indeed be produced which takes into account how the recommendations will apply across the organisation.

Your letter also requests a copy of the Gilbert Lloyd and Deloitte Reports referred to in the Auditor General's report. My colleague John Howells has discussed these reports with the PAC Clerk and explained that further work is required before they can be provided to the Committee.

With the timing of this and the impending summer break in mind, I understand that the submission of both the Welsh Government response to the Auditor General's report and reports requested in your letter by the beginning of September is acceptable to the PAC. With your agreement we will let the Committee have the material requested by 04 September.

Yours,
Derek





Mr Darren Millar AM
Chair
Public Accounts Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

7 September 2015

Dear Chair

WAO REPORT ON REGENERATION INVESTMENT FUND FOR WALES

Further to Derek Jones' letter of 23 July, the purpose of this letter is to provide you with the Welsh Government's response to the WAO report on the Regeneration Investment Fund for Wales (RIFW) as requested in your letter of 15 July.

We welcome the publication of the WAO report. We believe that the report's publication helps to resolve the uncertainty and concern which has surrounded the Fund since its activities were suspended in October 2012. The sensitivities surrounding the Fund were further heightened when it became public knowledge that matters relating to this case were also being examined by the police. This complicated our ability to respond to the concerns identified by the WAO as well as extending the period over which those concerns were investigated. Now that the WAO report has been published and the history of the events surrounding the Fund has been made clear we are better able to attend to the challenge of ensuring that the Fund's resources can be utilised as effectively as possible for the benefit of Welsh communities.

Ensuring that we could safeguard and then make best use of the resources tied up in the Fund has been the central aim for the Welsh Government throughout the period of the WAO study. We took urgent action in October 2012 to suspend the activities of the Fund. We worked closely with WEFO when they decided in July 2013 that the European funds invested in the Fund should be removed and reinvested in other projects. In November 2013 the then Minister for Housing and Regeneration announced, following consultation with the RIFW Board, that he was placing the activities of the Fund under direct Ministerial control. It is important to acknowledge the full support we received from the original RIFW board through each of these developments. We would also wish to emphasise the importance of our joint working with the WAO.

Given the nature of the concerns identified by the WAO another early action was to establish a cross departmental steering group designed to strengthen our oversight of the Fund. This group has also provided us with a multi-disciplinary forum to reflect on and respond as quickly as possible to the findings of the WAO study as they have emerged throughout the period since October 2012. It has also enabled us to identify and address any shortcomings identified in the governance and oversight arrangements originally established for the Fund. The steering group has also allowed us to identify the wider lessons to be drawn from this case and helped shape subsequent changes to our policies and practice in connection with arms length bodies. We have for example introduced stronger and more effective guidance covering the establishment and oversight of such bodies. This guidance includes draft terms of reference for Welsh Government observers on commercial boards. We have also been able to draw on our experience in this case to inform the way we have established other arms length organisations subsequently.

The two independent reviews announced by the Minister for Housing Regeneration and Heritage on 7 February 2013 provided an important insight into the early activities of the Fund and the process for disposing of its land assets. With the benefit of hindsight we are clear as to the significance of the decision to dispose of RIFW's land assets without a public sale. This means that we are unable to demonstrate conclusively that the sale has achieved best value. The WAO report concludes that the decision taken by the RIFW Board in the early part of 2011 with regard to the sale was reasonable in principle given the technical advice the Board had received. We share that view. We believe that it is important to consider the Board's decision in the context of the very significant economic uncertainty the Board had to deal with at that time with Wales still emerging from the worst effects of the global financial crisis in 2008. However what is also now clear is that the decision to sell the RIFW land assets privately was one of the crucial factors contributing to the uncertainty which has subsequently surrounded the Fund.

The WAO report highlights the conflicting valuation evidence regarding the land assets disposed of by RIFW. We have acknowledged that in the absence of full exposure to the market it is not possible to demonstrate conclusively that best value was achieved for the asset portfolio. But it is important to note that neither do we believe that the valuation evidence available in this case points conclusively to there having been a sale at under value. We note the District Valuer's conclusion that greater value could have been achieved through the sales process had RIFW been tasked solely with realising the best possible price for the land assets in optimal market conditions. But the circumstances in which RIFW was conducting the sale were more constrained than that. RIFW needed to realise the assets it had been given in lieu of cash in order to proceed to invest in desperately needed regeneration as a stimulus to a recessionary economy and to secure European funds for Wales. The WAO have also recognised this point in their acknowledgment that it was unlikely that RIFW could have achieved sale proceeds consistent with the District Valuer's valuation.

We have scrutinised the WAO conclusions regarding valuation evidence and the professional advice received by the Board throughout the land disposal process very carefully indeed. We are not only concerned about these matters because of the importance of RIFW maximising the funds it had available to support regeneration projects. In the context of our continuing oversight of the Fund, we have also needed to be careful to reserve our position on whether the evidence available to us in this case justifies taking any further action in the public interest. I would be pleased to brief the Committee on the latest position.

We are pleased that the report recognises the innovative nature of RIFW and the potential it offered to make available much needed funding in support of regeneration in our towns and cities. We continue to believe - as was the case with RIFW - that wherever possible we should be examining the use of loan rather than traditional grant finance to support regeneration projects with a commercial component. We will draw on the wider operational experience gained through RIFW to inform future policy initiatives in this area.

I will now address each of the Auditor General's recommendations in turn

Recommendation 1 In relation to RIFW, the Welsh Government should ensure that arrangements for its future governance, oversight and accountability are robust and clearly understood by all stakeholders.

We fully accept this recommendation. Since the decisions to suspend the activities of the Fund and then to bring RIFW under direct Ministerial control by appointing an interim Board of officials these matters have effectively been dormant. We are however clear that before we could advise that RIFW could be used as a delivery model in the future we would need to initiate new structures and procedures for its governance, oversight and accountability. There are clear lessons to be drawn from the Auditor General's findings which would inform this process. These include the design and recruitment of the Board; how the Board is briefed regarding its role and the status of the Fund; arrangements for reporting the activities of the Fund to Ministers; as well as clarity around reporting lines and expectations to the Accounting Officer.

We have begun the process of giving practical effect to these findings in the guidance on arms length bodies which has been developed since the investigation began and which has been informed by the emerging findings of the Auditor General.

Recommendation 2 When making decisions on disposing of the remainder of its asset portfolio RIFW should take account of the findings of this Report in relation to the sale process.

We fully accept this recommendation. We will ensure that there will be a clear understanding with RIFW that the remaining assets will only be sold when there is full confidence that the market has been fully tested and the opportunity to optimise the return for the public purse in pecuniary or policy terms has been addressed.

The interim RIFW Board has already sought professional advice on how best to optimise the public return on the small number of remaining assets. The approach will be guided by decisions regarding the future of the Fund. The publication of the Auditor General's report clears the way for such decisions to be taken.

Recommendation 3 The Welsh Government should investigate whether state aid was provided and, if so, whether it was unlawful; and should discuss with the UK Government the need to refer the portfolio sale transaction to the European Commission as required by the European Commission's Communication on state aid elements in sales of land and buildings by public authorities.

We recognise that because there was no open sale process or independent valuation at the time of the sale we can not demonstrate whether best value was achieved in this case. However, we are also clear that the fact that the sales price which was achieved by RIFW may have been less than that which could have been achieved in different circumstances does not in itself allow us to conclude that state aid has been provided. For there to have

been a state aid we would need to be able to demonstrate that a selective economic advantage had been granted. Because of the range of valuation evidence available in this case determining whether there has been a sale at undervalue is highly uncertain. We are continuing to scrutinise whether any advantage may have arisen from the other aspects of the evidence highlighted in the report; we would be pleased to brief the Committee further on this.

Recommendation 4 The Welsh Government should clearly define the functions of arms-length bodies and ensure that their boards:

Understand their functions and have appropriate capability and capacity to discharge them;
are clear about the time commitment for board members and that remuneration levels are appropriate;

are provided with effective induction training covering the respective needs of:

- Welsh Government officials appointed to boards; and
- non-executive and externally appointed board members.

We have already begun to take action to address this recommendation. Revised guidance on the establishment of arms length bodies has been developed to reflect the learning from this case and is now available to staff. We are also now developing training materials for boards intended to be drawn upon as part of the induction process for new board members. In conjunction with representatives of our sponsored bodies we are reviewing the process for appointment and induction of arms length board members, including the development of a programme of core training on matters common to all bodies.

Recommendation 5 The Welsh Government should exercise proper oversight of its arms-length bodies to ensure that they each demonstrate good governance and remain focused on their core activities. This should include an appropriate level of oversight by Welsh Government Corporate Governance Committees.

We fully accept this recommendation. Whilst it is important that arms length bodies have a level of independence reflecting the purpose in establishing them as such, it is also essential that there is clarity about how oversight is achieved through corporate governance mechanisms and through direct reporting. This includes ensuring that there is greater clarity regarding the role of independent board members as well as the role of Welsh Government officials acting as board members or observers. There is also a need to be as clear as possible in establishing reporting lines through to Additional Accounting Officers.

The main Welsh Government Corporate Governance Committee has discussed this issue and has also advised that more should be done to support arms length bodies in their governance arrangements and to ensure that board members are properly trained and equipped to discharge their governance responsibilities effectively. We are developing our response to this as part of the work referred to above and we will report back to the Corporate Governance Committee regularly.

Recommendation 6 The Welsh Government should ensure that transfers of the responsibility for overseeing arms-length bodies between its departments are managed effectively.

We fully accept this recommendation and the implication that arrangements on this occasion could have been improved. The intention has to be to act quickly, to remove any doubt

about where responsibility lies and to ensure that key facts are exchanged to ensure that oversight can be exercised in an informed fashion. Revised protocols and guidance ensures that we now have much improved procedures for transferring business and risks between departments. We have also developed mechanisms to allow a clear handover between Corporate Governance Committees including the need to highlight those projects that carry the biggest risks.

Recommendation 7 The Welsh Government should review the effectiveness of its internal quality-assurance arrangements for providing Welsh Ministers with draft responses to Assembly Questions.

We would offer a qualified welcome to this recommendation. We always keep our policies in this area under review and will continue to attach the highest importance to providing Minister and Assembly Members with answers that are as accurate as possible. I have reviewed the answers given in this case. The information was mainly factual and not entirely provided by third parties. We were not aware of Mr Davies' concerns regarding the sale of the RIFW land assets until some time after they had been referred to the Auditor General.

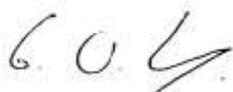
Recommendation 8 When engaging external consultancy services, the Welsh Government should make clear at the outset its expectations concerning the agreement of consultants' reports with relevant third parties for factual accuracy, completeness and balance.

We partially accept this recommendation. It clearly would have been preferable for the peer review we commissioned from Deloitte relating to the professional advice received by RIFW to have been fact checked prior to it being submitted to us for action. However in certain cases where reports are being commissioned and where there may be a dispute as to the facts or the presentation of a case or where it is not intended that the report should be published it may not be appropriate to require a fact checking process. In the case of RIFW the reports we commissioned did succeed in shedding an independent perspective on complicated events which at that time had been referred to the police for further consideration.

I am as requested enclosing a copy of the review of RIFW's governance arrangements we commissioned from Gilbert Lloyd. This has been partially redacted to reflect the fact that certain key sections had not been fully fact checked during the report's preparation. I can however reassure the Committee that the relevant sections have been addressed by the Auditor General during the preparation of the WAO report which was able to examine the circumstances surrounding the sale of RIFW's land assets in more detail. I understand that arrangements are in hand to enable the Committee to have access to the peer review report we commissioned from Deloitte.

We would be pleased to provide any further information the Committee might find helpful in advance of the scrutiny sessions that are planned.

Yours sincerely



Owen Evans

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

Public Accounts Committee: Inquiry into the Regeneration Investment Fund for Wales

Paper from former Board members of the Fund

Introduction

1. This paper responds to the Public Accounts Committee's request to former Board members of the Regeneration Investment Fund for Wales for comments on the Auditor General's report as part of its inquiry. The Committee asked for information on the Board's role, perspective and actions taken on the property sales.
2. The paper is submitted on behalf of five of the six former Board Members of the Fund, namely: Ceri Breeze (Welsh Government - Board member from March 2010; Chair from October 2011); Councillor Christopher Holley (WLGA Representative – Board member from November 2010; Jonathan Geen (Acuity Solicitors – Board member from December 2010); Richard Anning (Sydney and London Properties – Board member from December 2010); Richard Harris (Welsh Government – Board member from July 2012 to June 2013).
3. The following pages highlight information the former members of the Board consider important to the Committee's inquiry. The points major on the portfolio sale and the valuation which underpins the report's findings. Where appropriate, information is also provided on matters which were put forward during the study but which are not reflected in the report.

Background

4. The Auditor General's report sets out in detail the concept of the Fund, its structure and how it was established. Without repeating its contents, the former Board members believe there is a need to highlight some aspects of the Fund as discussions during the Value for Money study revealed some confusion and misconceptions about its nature and purpose. As the report acknowledges, the Fund was innovative and quite different to most bodies established by Government.

Wales-Wide role

5. The Fund was established to invest money in regeneration projects in order to create jobs. Whilst there was a prominent EU element to the Fund, it was set a clear Wales-wide role by Ministers. This was at the forefront of the Board's role and thinking

Operating environment

6. The establishment of the Board and the Fund's operation from January 2011 coincided with deep recession, which had significant impact on the property

market and property values. Forecasts were of declining property market and very poor prospects for recovery. Any review which takes place some years later will inevitably encounter difficulties in achieving a full understanding of the operating environment at that time and the prevailing circumstances.

7. In 2011, rising unemployment and a lack of senior bank debt combined to create an environment of severe economic uncertainty. The fund had been created with the specific intention of assisting in alleviating these types of issues; i.e. market intervention to address finance problems encountered by projects so that regeneration and job creation in particular could proceed. In 2011 and 2012, there was a significant degree of urgency to assist the economic regeneration in all parts of Wales.

Investment vehicle not property speculator

8. The report puts forward an alternative approach to the disposal of assets with a phased disposal over several years and developmental action to secure higher returns over an extended period of time. However, the Fund was not established as a property investor or developer and therefore had a completely different set of commercial drivers. The Fund was designed specifically to compete in the secondary banking sector, providing finance for regeneration for organisations which were not been in a position to obtain sufficient senior debt from traditional sources.
9. As stated in the report, the Fund's chief assets were land, which it needed to sell to facilitate investment in regeneration projects. The time between the sale of assets and the receipt of cash was a key consideration, together with projected cash needs of pipeline projects both inside and outside the ERDF area. The Auditor General's report is clear that, given this context and in difficult economic circumstances, the Board's decision to arrange for the early disposal of the Fund's portfolio was reasonable based on the advice it received.

Business Plan

10. The Asset Realisation Plan was dictated by the Business Plan. The Business Plan had three core elements, namely the "Pan Wales" investment plan to meet the Fund's Wales-wider remit, the investment plan requiring ERDF requiring match funding, and finally, and perhaps not given sufficient prominence in the report, to create a business model which would attract significant external equity investment representing a significant multiple of the public investment of £55,000,000.

The portfolio sale

11. The Fund was referred to the Auditor General specifically in relation to the portfolio sale of its assets. Whilst the Auditor General extended his Value for Money study to consider the establishment of the Fund by the Welsh Government and matters relates to its oversight of the Fund, the primary issue is the sale of the portfolio of properties and whether or not it was undersold.

12. The Auditor General concluded neither the Welsh Government nor the Fund can provide public assurance that the land and property portfolio sale achieved best value for money. There are two elements to this. Firstly, the return on the assets as they were sold i.e. as stated above, an early disposal via a portfolio sale. Secondly, and quite different, the return which might have been possible from the alternative, completely different, strategy of holding on to sites and phasing sales over an extended period based on speculation on the recovery of the property market.
13. The alternative approach is recognised by the former Board members as another option but one which is at odds with the prime purpose of the Fund i.e. an investment vehicle, and the way it was constituted. It is clear the Welsh Ministers did not envisage the Fund as a property developer. It was not in the brief given at public appointment of Members and had it been the intention, it is likely a larger Board would have been appointed to include members with the relevant development expertise.
14. This paper focuses on the former, which is the nub of the original referral to the Auditor General i.e. whether or not the sale, in the way it was done, was made at under value. The report's conclusion about being unable to demonstrate best value was achieved is acknowledged. However, this does not mean the portfolio was actually sold at undervalue, and our view is the valuation evidence presented cannot support any such assertion.

Valuation

15. The critical factor is property valuation, which is influenced by a wide range of factors. The Auditor-General commissioned the District Valuer to produce a valuation and it is the foundation for many of its conclusions. It is not for the former Board members to specifically challenge the individual valuations of the District Valuer, as the Board relied upon the advice it received. However, a number of points are important to the Committee's inquiry.
16. We have significant concerns about the methodology which underpins the District Valuer's valuation, which is unconventional, and the lack of transparency around it. Unfortunately, the former Board members have not been allowed access to the valuation, and therefore have been unable to undertake any proper scrutiny. This contrasts with the Board's approach of allowing unfettered access to the valuation it commissioned from Colliers. The lack of access puts the former Board members at a disadvantage in commenting on the valuation and it therefore welcomes this opportunity to highlight to the Committee its concerns and questions to inform the inquiry.
17. From our discussions, there appears to be a possible departure from the aim of the Valuation Brief issued to the District Valuer. It is clear the District Valuer was not considering the valuation exercise in the context of the Fund's Business Plan. His approach allowed for phasing of disposal to obtain the maximum possible value and he appears to have concluded the potential for creation of additional value by speculative capital expenditure as a property developer. As

stated earlier, the Fund is not a property speculator or developer and was not established as such.

18. There is a question on whether the District Valuer has taken a different approach to the valuation of the Lisvane site for the Auditor General to that he has undertaken in his commission for Cardiff City Council. As the Committee is no doubt aware, the District Valuer was also commissioned by the Council to advice on the planning process for the Lisvane site. This is further discussed under “Outcomes” at the end of this paper.

Planning advice

19. Of all the valuations presented in the report, the District Valuer’s is the outlier. It is considerably higher than those of four major firms. Significantly, it is the only one which, to the Board’s knowledge, has not been subject to any professional Planning advice, which is considered a prerequisite for a valuation of this nature.

Hope value or overage but not both

20. The District Valuer’s valuation is based on an unconventional approach and there is a question on whether it meets the Royal Institution for Chartered Surveyors’ Red Book standards. The valuation is a quite different approach to the other professional valuations and therefore, is not “like-for like”. The report acknowledges the District Valuer’s figures are predicated on different valuation assumptions and an alternative approach to disposal but unfortunately, it has been perceived as being a like-for-like comparison with the other valuations, which it is not.

Open marketing and a willing buyer

21. The report (footnote 71, page 76) explains the District Valuer’s valuation is based upon an open sale of the portfolio, supported by proper marketing, between a willing seller and willing buyer, in which both parties acted knowledgeably, prudently and without compulsion.
22. On the point of open marketing, it is important to note even with such a campaign it does not automatically mean the assets could have achieved a higher figure. This is Deloitte’s view in its report for the Welsh Government.
23. A valuation cannot be realised without a willing buyer. By the very fact of the sale, the Fund can demonstrate a willing buyer for the portfolio at the valuation price. The District Valuer has been unable to produce any plausible evidence of a willing buyer at his, much higher, valuation figure.

Prudent Lotting / Phasing of development

24. “Lotting” refers to the parts of an asset or collection of assets which can be broken up and sold separately. The valuation of such assets should be done on the assumption that they will be lotted in such a way as to maximise the proceeds of sale. In relation to undeveloped land, prudent lotting can take place without phasing for a valuation certificate provided the valuer is confident that at

the specific valuation date there will be sufficient parties to exchange contracts on every one of the lots being put forward. In reality, lotting usually takes place where the phasing of development is envisaged.

25. The lotting of large areas of land which does not have the necessary infrastructure or planning consent is counter-productive. The attraction for a property speculator is the ability to control the planning process and the timing of the infrastructure. At Lisvane, there are already a number of land owners and therefore, to some extent, a "committee" approach has had to be coordinated. This would have been exacerbated by any sub-dividing of the Fund's land at Lisvane at the point of sale and would have made it far less attractive. If such an approach had been taken by the Fund, in all probability it would have attracted a lower overall price.

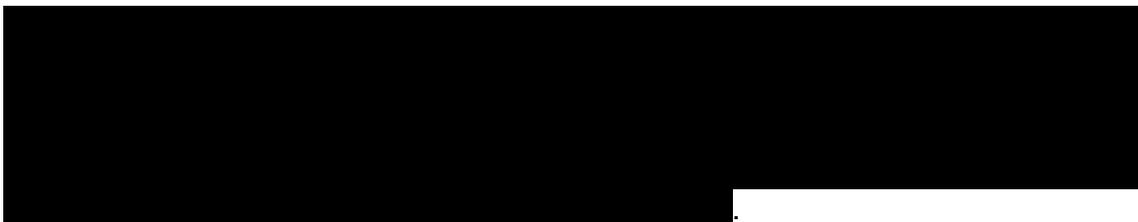
Net Present Value

26. The phasing of payments for large land sales is common. There is an opportunity costs to such arrangements. The critical issue is that that an appropriate discount value is used when calculating Net Present Value. The District Valuer appears to have used a discount value which would be appropriate for a property developer. Given that Fund is not a property developer, a discount value for a vehicle similar to the nature of the Fund would have been more appropriate.

Apportionment

27. When land is sold, there is an apportionment of the income or expenses between the vendor and the purchaser. The table in Appendix 3 does not include the apportionment of the sale consideration for the portfolio. This is particularly important when assertions are made concerning properties which should, or should, not, have included overage in the contract. We confirm the extent of the knowledge of, and recommendations received by, the former Board members concerning the two sites which should have had an overage calculation attached to them. In a sale, it is in the interest of the vendor, in this case the Fund, to secure the lowest possible base values of sites which are most likely to provide the greatest uplift and therefore the greatest percentage increase in additional income from the sale.

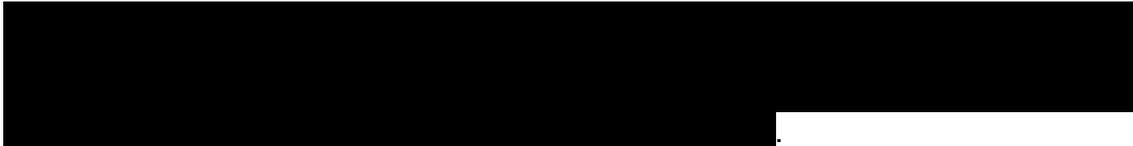
28.



Discount for Property Portfolio Sale

29. The former Board members relied upon the advice of Amber and Lambert Smith Hampton. The subsequent valuation advice from the various valuers suggests different discounts. This is clearly a matter for conjecture. 

30.



Action by the former Board members post sale

31. In view of the concern raised about the terms of the contract for sale, the Board decided to undertake its own independent review. Messrs Colliers International was instructed to prepare an independent comprehensive report, which was supportive of the value achieved. The full report was made available to the Wales Audit Office.

Outcomes

32. In relation to Monmouth and Lisvane, it is important to note the current environment is completely different to that which existed in 2011 and 2012. There is now ample senior debt available for housing development and the national House Builders are keen to acquire land and commence development as soon as is practical. In any consideration of the outcome with the benefit of hindsight, the different economic conditions must be reflected.

Monmouth

33. The Board was correct to accept the advice that this was a speculative residential site. The granting of Planning Consent by Monmouth District Council was on the basis of a split vote and a majority of one.
34. The former Board members are not fully aware of the commercial matters associated with the recent disposal of the site. However, we understand that a detailed report on the marketing campaign, its results, subsequent negotiations, and conclusions was submitted by Lambert Smith Hampton to the Wales Audit Office prior to the publication of its report. It is understood that following a full marketing exercise, there was a competitive bidding process and detailed negotiations, which arrived at a headline price but on the basis of a phased payment. This is normal for large land sales. The headline price achieved is understood to be slightly below the valuation advice given to the Board at the time of sale. This indicates that Lambert Smith Hampton had appropriate knowledge of residential land values as at the date of sale.

Lisvane

35. The planning position has yet to be resolved. A Planning Inquiry in relation to the proposals was held in July 2015. We understand significant discussion took place as to the potential land value for the purposes of Community Infrastructure Levy. It appears Cardiff City Council has been promoting a rate of £400,000 per acre, whereas the national House Builders have been promoting a rate of £600,000 per acre. Under normal timetable arrangements, the Planning Inspector's report would probably now be with the relevant Minister for review and decision. However, we understand that the Inspector is likely to reconvene

for two days later this month, which means it may not reach the relevant Minister until the end of the year.

36. None of the former Board members were present at the Inquiry but we are aware representatives of both Lambert Smith Hampton and Amber were present and heard the evidence given by the District Valuer. We understand that as part of his evidence and during cross-examination, he stated it was particularly difficult for valuers to assess “hope value”, presumably because of the lack of certainty as to density, “abnormals”, the risk that Planning Consent might not be obtained, and the time taken to achieve that consent. In light of this, it would seem reasonable for the District Valuer’s “hope value” valuation of the Lisvane site to be reviewed against the range of valuations produced on or around the time of sale given the fact that his is the outlier.
37. It should be noted that the rate adopted by Lambert Smith Hampton for the net developable acre was in line with the House Builders’ opinion at the Public Inquiry.

Conclusion

38. This paper is provided to assist the Committee’s in taking evidence on matters relating to the Fund. As requested, it focuses on matters relating to the Board’s role, perspective and actions taken on the property sale. It summarises key points on a range of matters, behind which is detailed, technical, information relating to land and property transactions. The former members of the Board attending the Committee session will be pleased to answer questions from Assembly Members.
39. As a broad but important point on which to end, the process by which the portfolio was sold has been scrutinised and the report identifies ways in which it could have been better. In acknowledging this, the former Board members believe the final outcome i.e. the initial sales price achieved plus all additional income from overage clauses, is the most significant factor to any consideration of whether or not the portfolio was sold at undervalue. Lambert Smith Hampton, Amber and the current Board members may be able to provide the Committee with the most up-to-date information on this. The Planning Inspector’s report for Lisvane may also be of assistance to the Committee.
