



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

Cofnod y Trafodion The Record of Proceedings

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[The Public Accounts Committee](#)

28/3/2017

[Agenda'r Cyfarfod](#)

[Meeting Agenda](#)

[Trawsgrifiadau'r Pwyllgor](#)

[Committee Transcripts](#)

Cynnwys Contents

- 4 Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau
Introductions, Apologies, Substitutions and Declarations of Interest
- 4 Cyfoeth Naturiol Cymru: Craffu ar Gyfrifon Blynnyddol 2015–16
Natural Resources Wales: Scrutiny of Annual Accounts 2015–16
- 38 Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd
o'r Cyfarfod
Motion under Standing Order 17.42 to Resolve to Exclude the Public
from the Meeting

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd. Lle mae cyfranwyr wedi darparu cywiriadau i'w tystiolaeth, nodir y rheini yn y trawsgrifiad.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included. Where contributors have supplied corrections to their evidence, these are noted in the transcript.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Mohammad Asghar Bywgraffiad Biography	Ceidwadwyr Cymreig Welsh Conservatives
Mike Hedges Bywgraffiad Biography	Llafur Labour
Neil McEvoy Bywgraffiad Biography	Plaid Cymru The Party of Wales
Rhianon Passmore Bywgraffiad Biography	Llafur Labour
Nick Ramsay Bywgraffiad Biography	Ceidwadwyr Cymreig (Cadeirydd y Pwyllgor) Welsh Conservatives (Committee Chair)
Mark Reckless Bywgraffiad Biography	UKIP Cymru (yn dirprwyo ar ran Neil Hamilton) UKIP Wales (substitute for Neil Hamilton)
Lee Waters Bywgraffiad Biography	Llafur Labour

Eraill yn bresennol
Others in attendance

Kevin Ingram	Cyfarwyddwr Gweithredol Gwasanaethau Cyllid a Chorfforaethol, Cyfoeth Naturiol Cymru Executive Director of Finance and Corporate Services, Natural Resources Wales
Derwen Owen	Swyddfa Archwilio Cymru Wales Audit Office
Dave Rees	Swyddfa Archwilio Cymru Wales Audit Office
Dr Emyr Roberts	Prif Weithredwr, Cyfoeth Naturiol Cymru Chief Executive, Natural Resources Wales

Huw Vaughan Thomas Archwilydd Cyffredinol Cymru
Auditor General for Wales

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

Claire Griffiths Dirprwy Clerc
Deputy Clerk

Fay Bowen Clerc
Clerk

Katie Wyatt Cynghorydd Cyfreithiol
Legal Adviser

Dechreuodd rhan gyhoeddus y cyfarfod am 09:30.
The public part of the meeting began at 09:30.

Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau
Introductions, Apologies, Substitutions and Declarations of Interest

[1] **Nick Ramsay:** I welcome Members to this morning's meeting of the Public Accounts Committee. Headsets are available for translation or amplification, should they be needed. Please ensure that electronic devices are on silent. In an emergency, follow directions from the ushers. No apologies—well, actually, one apology has been received, from Neil Hamilton, and Mark Reckless has kindly agreed to substitute for UKIP. Do Members have any declarations of registrable interests? No. Great, okay.

09:31

Cyfoeth Naturiol Cymru: Craffu ar Gyfrifon Blynnyddol 2015–16
Natural Resources Wales: Scrutiny of Annual Accounts 2015–16

[2] **Nick Ramsay:** Item 3 is the scrutiny of the annual accounts 2015–16 of Natural Resources Wales. Can I welcome our witnesses to the public session of this meeting? Would you like to give your name and positions for—?

[3] **Mark Reckless:** Sorry, Chair, could I just declare, just for the record, that I chair the Climate Change, Environment and Rural Affairs Committee

and we may follow up on this session through our annual scrutiny, just so that people are aware for the record?

[4] **Nick Ramsay:** Yes, that's fine. We'll record Mark's declaration as Chair of that committee.

[5] **Dr Roberts:** Thank you. I'm Emyr Roberts; I'm chief executive of Natural Resources Wales.

[6] **Mr Ingram:** I'm Kevin Ingram. I'm exec director of finance and corporate services at Natural Resources Wales.

[7] **Nick Ramsay:** Great. Thank you for being with us today and helping us with our enquiries. Can I ask you, first of all—the contracts awarded to the sawmill operator in May 2014 were very large in terms of both timber volumes and value: do you consider that NRW's board and executive team were sufficiently involved in scrutinising the proposed deal with the operator?

[8] **Dr Roberts:** At the time, we were dealing with a mounting crisis regarding larch disease. It was expanding very, very quickly. So, we had to move very quickly, we felt, to deal with the issue. The team that was dealing with the contracts, and with the issue, were a very experienced team—obviously, previously the Forestry Commission Wales—and they knew the market very well. I, as chief executive, was briefed on the situation, and we briefed the NRW board on the position as well; some of the members were more closely involved than others. So, there was awareness of the issue. I was certainly told about the issue. I should, perhaps, also point out that, 2013–14, Natural Resources Wales had only recently been set up, so we were still evolving our governance arrangements. But, Chair, I do accept that, with hindsight, I think both myself, as accounting officer, the executive team, and the board should have had a much greater role in scrutinising the contracts as they developed. So, yes, I think that's a lesson learnt there. In fact, we will be considering those arrangements in responding to the auditor general's report.

[9] **Nick Ramsay:** And do you think that that's a lesson that goes back to NRW being a very new body at the time? Is that something that wouldn't have happened had we been five or 10 years down the line?

[10] **Dr Roberts:** Yes, I think that's fair to say. I think we've evolved our structures much more. I think the board wants to be involved in scrutinising

these decisions that we're taking. So, yes, I think it is a reflection of that. As I say, we will reflect on those arrangements for the future.

[11] **Nick Ramsay:** Given that these contracts committed NRW to selling up to a quarter of its sales timber to a single supplier for 10 years, do you think it was appropriate for the organisation to delegate the decision to one NRW officer?

[12] **Dr Roberts:** I'm very comfortable with the delegation that was given to the officer. It was, in fact, the former director of Forestry Commission Wales, so, he was very well-versed in forestry issues and timber matters. So, I have every confidence in that decision taken. I should also say that he didn't take that decision in isolation. There was a full business case behind the options and the strategies that we could have taken, and it was felt that that was the right thing to do. So, there is the business case, and that has been shared with the auditor general. Again, Chair, I think we'll be looking at the delegation arrangements on contracts moving forward to see whether they are set at the right level, in terms of executives but also the board itself, but I'm comfortable that the decision was taken by the right person at the time.

[13] **Nick Ramsay:** Thanks. Lee Waters.

[14] **Lee Waters:** Thank you. Given what you've just said about your reflection on the role that the governance arrangements had in this situation arising, you therefore accept some culpability in the role of the management in the situation that you now find yourselves in with this contract.

[15] **Dr Roberts:** Well, as I say, I think—there was a full business case set out, and the way forward, I think, was very clear. It set out the risks of doing what we were proposing to do and the other options, and, in fact, the conclusion was that our options were very limited. So, I'm happy that the right decisions were taken by the right people going forward. Clearly, there are lessons learnt in the way that we recorded those decisions, which the auditor general has given us, but I'm happy with the way the decision was taken.

[16] **Lee Waters:** So, when you say that, had the governance arrangements and the maturity of the organisations been in place that now exist, things would have been done differently, that's simply in relation to process, not in terms of outcome, is it?

[17] **Dr Roberts:** Indeed, I think so. I think there should have been a discussion amongst the executive team, for a start. We would probably have—well, almost definitely—brought this more to the attention of the board. The board or audit committee may have wanted to have looked at the issues. So, yes, we would have handled it differently in terms of the process.

[18] **Lee Waters:** Would you have brought it to the attention of the Welsh Government?

[19] **Dr Roberts:** Yes, well, I think that's one of the issues that has been raised by the auditor general—what is novel and contentious? At the time, the Welsh Government was aware of the fact that we were proposing to deal with it in this way, but we do accept that we didn't actually formally ask for their approval to do that. But they were certainly aware of that. Again, I think, with hindsight, we would have probably been more explicit in the way that we actually discussed that with the Welsh Government so that they were quite clear in what we were doing and why we were doing it. So, yes, another lesson there.

[20] **Lee Waters:** So, in a sense, you think the auditor general's conclusions about the way the process was followed are reasonable.

[21] **Dr Roberts:** Well, I think the process was reasonable, but I think some of the difference I've expressed is over whether this was novel, contentious and repercussive. I think my position on that one is that it is unclear as to what the definition of novel, contentious and repercussive actually is, and I would be looking, perhaps coming out of this report, for greater clarification on that issue.

[22] **Lee Waters:** The thing I'm puzzled by is, given you're approaching this this morning in a reflective way and a way that accepts that there were flaws on your part—given that—why you've gone to the lengths you have in challenging the auditor general and taking expensive legal advice to challenge his conclusions, so that we find ourselves in the situation that we are in this morning. Wouldn't it have been better just to have simply put your hands up and said, 'Yes, you've got a point, this wasn't great—we'll learn lessons from it'? Instead, you've gone into battle on it—I don't understand.

[23] **Dr Roberts:** Okay, I'm not sure we've gone into battle on it, but I think—

[24] **Lee Waters:** You've sought counsel's opinion on the auditor general's conclusions. That's—

[25] **Dr Roberts:** No, I think the auditor general took counsel's opinion. I think there are three issues at the heart—

[26] **Lee Waters:** Sorry, I understood you'd taken legal advice, too. You haven't taken legal advice?

[27] **Dr Roberts:** We've taken legal advice, but we didn't go to counsel.

[28] **Lee Waters:** A semantic distinction. You've used legal arguments to challenge the auditor general's judgements.

[29] **Dr Roberts:** Right, I think—

[30] **Nick Ramsay:** Lee, let Dr Emyr Roberts answer.

[31] **Dr Roberts:** At the heart of this there are three issues: one is the definition of novel, contentious and repercussive. As I say, the auditor general believes that it was—as accounting officer, I'm not so sure about that. I think the main point is that I think that needs to be clarified. The auditor general sought legal advice on two other aspects: one was the state aid and one was the way that we took the decision. We've also taken legal advice, and the legal advice I have received is that there was no state aid involved and the way we took our decision was appropriate. Now, ultimately, that can only be resolved by the courts. The auditor general has come to a position and I needed to take my legal advice as well, so I'm certainly not—. You know, we're not trying to raise this as an issue or a battle, but I think there's a genuine difference between us on those points.

[32] **Lee Waters:** Well, before you go through those issues in turn, I wanted to ask a specific question about the sawmill operator. One of the reasons you give to justify awarding the contract in the way that you did was the need for additional capacity for the market in Wales to deal with the outbreak of this disease, and the reason that you went to this contractor without going to tender was that they offered the opportunity of expanding the capacity to the market in Wales. Has that happened? Has the market received that additional capacity that you thought it would?

[33] **Dr Roberts:** Yes, it has. The policy has been very successful. What we

were very concerned about at the time was that there would be displacement of all the timber capacity in Wales, so it couldn't take the normal volumes of timber. Through the actions that we took through these contracts, the operator did take those additional volumes on and removed the larch, the diseased larch in particular, from the market. So, it has been successful. The situation today is a lot more stable than it was in 2013–14, but I think our policy, our decisions, on these contracts, together with the overarching policy on treating larch disease, has been successful. It's stopped the spread, but it's also meant that the timber market has been able to carry on as well.

[34] **Lee Waters:** So, the way you thought that capacity was going to be increased was through the construction of a new saw line—has that happened?

[35] **Dr Roberts:** There is a requirement on the operator to put in a sawmill line by the end of March 2017. We are in ongoing discussions with the operator on that, but I can confirm that the additional larch has been taken off the market.

[36] **Lee Waters:** It's 28 March 2017 today. Has a new saw line been installed?

[37] **Dr Roberts:** We're in ongoing discussions with the operator.

[38] **Nick Ramsay:** I think that's the answer to that question, Lee.

[39] **Lee Waters:** Well, it is the answer, Chair, but it doesn't satisfy my concern that one of the main reasons for going about this in a way that the auditor general concluded was novel—I realise there's a dispute about that, but the auditor has a say on this—was justified on the basis that a new saw line would be installed. I appreciate that there are ongoing discussions, but we are three or four days away from the deadline and I don't think it's an unreasonable question to probe whether or not those conditions have been satisfied and whether or not this whole approach was justified on a premise that has been fulfilled.

[40] **Nick Ramsay:** Right, I think the witness has been clear that that was expected to be fulfilled by the end of this month, and that is the position, as things stand, I believe.

[41] **Dr Roberts:** That is correct—that's a commercial matter between

ourselves and the operator. Those discussions are ongoing.

[42] **Lee Waters:** I'm happy to take the auditor general's advice on this, Chair, but I'm not satisfied that that—. I appreciate that there are sensitive considerations at play here, but I think there is a key matter of procedure and policy at stake here, and I don't think that that answer gives us the clarity that we expect.

[43] **Nick Ramsay:** Auditor general.

[44] **Mr Thomas:** I think that the chief executive has answered in a way that is the current position. The current position is that the contract was extended, in terms of being able to introduce the saw line, until the end of March 2017. I think it's appropriate that NRW is now talking to the operator about what they intend doing to discharge that contract.

[45] **Nick Ramsay:** Did you want to come in, Neil?

[46] **Neil McEvoy:** Yes. I'm slightly confused, really, listening to the evidence, because you say that you were happy with the way that the decision was taken, and then you seem not to be. Who was aware of what was going on within the Welsh Government? You said that they were aware, so, who was aware?

[47] **Dr Roberts:** Who was aware? We were discussing with forestry officials within Welsh Government how we were proposing to deal with the larch disease. So, this was part of the discussions we had with them. We also notified our sponsorship division, on the back of the original tender, that one of the operators may be unhappy with what had happened on that. So, we spoke to the sponsorship division as well.

[48] **Neil McEvoy:** How much was the legal advice?

[49] **Dr Roberts:** I'm sorry?

[50] **Neil McEvoy:** How much was the legal advice?

[51] **Dr Roberts:** The legal advice?

[52] **Neil McEvoy:** Yes. Was there a cost to that?

[53] **Dr Roberts:** In responding to the auditor general's report?

09:45

[54] **Neil McEvoy:** Yes.

[55] **Dr Roberts:** I don't have a figure in front of me, Chair. I can provide that.

[56] **Neil McEvoy:** If you could, I'd be grateful.

[57] Just dealing with the issue of 'contentious' and 'novel' and so on, we should all be aware of the guidelines with the Welsh Government managing Welsh public money. Paragraph 18 of the auditor general report states that you did not think the award of contracts was contentious at the time—I think you've sort of repeated that today. But, given that the contracts had a sales value of £72 million, the operator had been unsuccessful in the tender process, the operator was threatening NRW that it would withdraw from its Welsh operation, and that NRW had recognised that it risked challenge by deviating from the tender process, how can you still believe that the decision was not contentious?

[58] **Dr Roberts:** Any decision we would have taken in this area would have been contentious, in the sense that it would have benefitted some operators and not others. I think my issue, as I've said before in response to the question, is that I think there needs to be greater clarity around what precisely 'contentious' actually means. So, in this case, had we provided 100 per cent of the timber to an operator, that is almost definitely contentious, yes; 50 per cent—contentious. Five per cent—would 5 per cent have been contentious? What about 20 per cent? So, I think there is an issue here that needs to be resolved so that all accounting officers, not just me, are aware of the issue.

[59] Specifically on this contract, it was not challenged at the time. We published a press notice and nobody came back to us. It was some time after the event that a third party actually challenged this. So, how do you define 'contentious'?

[60] **Nick Ramsay:** You said earlier that it wasn't explicit whether you should be seeking permission—clearance—from the Welsh Government, or whether you should simply be notifying them. Did you say in answer to the

earlier question that, the Welsh Government, you had had discussions with them about the overall issue?

[61] **Dr Roberts:** Yes, we did. I can't say how in-depth those discussions were, but certainly we know that we were talking to them about the way that we were proposing to deal with this, although in fairness I don't think we ever presented the actual proposal to them.

[62] **Nick Ramsay:** Was there not ever an element of thought that it might have been better to err on the side of caution and to seek clearance, given that there could be issues in the future like this?

[63] **Dr Roberts:** I think, with hindsight, on reflection, yes, we should have been—that should have been a much more open discussion and a much fuller discussion, I think, perhaps, with them. But it still, I think, leaves me in a bit of a quandary as to what the line is, because the last thing that we want to promote in Wales is to stop innovation and to stop novel thinking around things. So, there needs to be a balance there between what we need approval for and what we don't.

[64] **Nick Ramsay:** Thanks.

[65] **Neil McEvoy:** Can I just—?

[66] **Nick Ramsay:** One final question at this point.

[67] **Neil McEvoy:** You say that it was contentious and then you sort of backtrack. You say that you let the sponsor department know, but then you also say that you did not present the proposal to them. So, which is it? Did you let them know or did you not present the proposal to them?

[68] **Dr Roberts:** We did let them know.

[69] **Neil McEvoy:** But you didn't present the proposal.

[70] **Dr Roberts:** It wasn't specifically to seek their approval for the contracts. So, that was the difference—there was an awareness there, but we didn't actually formally seek the approval. I think that's what the auditor general is commenting on.

[71] **Mr Ingram:** I think just to follow up on that, what we would usually do

with something that's novel, contentious or repercussive is we would formally put that to our sponsor department and say, 'We believe this may be—can we take your view on that?' They refer that to the corporate governance unit and come back to us. So, in this case, we didn't do that formal submission of this information.

[72] **Nick Ramsay:** Did you have the same problem as us—that we couldn't find 'repercussive' in the dictionary? [*Laughter.*]

[73] **Dr Roberts:** Yes, I think that highlights the issue.

[74] **Nick Ramsay:** It wouldn't be accepted in Scrabble, would it?

[75] **Dr Roberts:** I think what would be helpful is more examples of what is repercussive.

[76] **Nick Ramsay:** Indeed. Mark, do you have a question on this specific point, because I've got to make progress?

[77] **Mark Reckless:** On this, isn't the meaning of 'repercussive' anything that later appears to get the Welsh Government in political hot water?

[78] **Dr Roberts:** I can't possibly comment on that. Clearly, the way that any organisation puts its contracts is of interest, isn't it? So, you know, I think we just all need to be a bit clearer on what the expectation is on public bodies around this.

[79] **Nick Ramsay:** Okay. Mike Hedges.

[80] **Mike Hedges:** The auditor general identified in his report that the NRW's documentation of its decision-making process was poor, and as a result he cannot be certain what considerations NRW took into account when deciding to enter into the timber sales contracts. Do you accept that comment, and what are you doing to make sure that when he looks at your accounts again, he doesn't say that?

[81] **Dr Roberts:** Okay. First of all, I'd say that there was a full business case against which the decision was taken, and that went into the risks and the options there. However, I do agree that the documentation was not good from the point of actually taking those decisions to the final contract. And that's something we need to learn from, and that is an area we will be

addressing going forward.

[82] **Mike Hedges:** Okay. I was just going to say, a full business case, we had full business cases for private finance initiative contracts, which, when they came out, didn't actually make—. Anybody can make a full business case, and you start off with your end result and work your way back. Is that the message you did, or did you create a business case from not with the decision first, case after?

[83] **Dr Roberts:** No, not at all. The business case did consider all the options that were available to us, including possibly retendering, but we felt that that would take certainly a number of weeks, if not months, and we needed to actually act immediately. So, no, it wasn't—. You know, we weren't looking for a particular answer here. We looked at all the issues, we looked at the risks behind them, and that was the professional judgment taken forward.

[84] **Nick Ramsay:** Rhianon Passmore, did you have a very brief question? Then I'll come back to Lee Waters.

[85] **Rhianon Passmore:** Yes, I do, before I get to my questions later. With regard to this thorny issue around a mechanism or more clarity and guidance from Welsh Government, perhaps as to when you go to Welsh Government if something is deemed by yourselves—because you've already outlined that you can understand when something is contentious or repercussive—did you generally feel, bearing in mind the number of different points that have been made around the cost of the sales in terms of £72 million, as has already been referenced, and the fact that they were threatening to pull out of the Welsh operation in the marketplace, that this wasn't contentious enough to bring it to Welsh Government's oversight, in terms of being able to sign off on a business case?

[86] **Dr Roberts:** First of all, I'd say the fact that the operator was unhappy with the original contract had no bearing on this at all. This is a very experienced team who were used to dealing with operators, so there was no concern from that. But I think there was a concern that this matter could be raised politically, for instance, and it's our duty to inform the division if that's a possibility. My own view is that this was an extension of a commercial negotiation. There was an original tender there, and we continued with that negotiation. These were exceptional circumstances. We needed to move quickly, which is what we did, and decisively. So, that's why

I'm saying that it's not clear in my mind whether this was novel, contentious and repercussive. We had to deal with it. We had to deal with it at the time.

[87] **Rhianon Passmore:** So, there is no definition at all, then, in terms of what you would see to be contentious in any regard.

[88] **Dr Roberts:** Well, no, I think we've looked at Welsh public money. It's one of those things—. You know, I've been an accounting officer for many years. It's one of things that's never really been written down. Usually, it's very, very clear, you know, if you're threatening to break the law or something, obviously. Usually, it's very clear one way or another. I think in this case it wasn't particularly clear. We were continuing the commercial negotiations, as I said. You know, the auditor general has drawn the line on this. I think we all need to reflect on what's in and what's not.

[89] **Nick Ramsay:** Just before I bring Kevin Ingram in, this wasn't a minor extension to a contract though, was it? I know that contracts have within them an ability to extend, but looking back at it now, do you think that, really, the scale of the extension that was involved didn't really fulfil those criteria of a normal extension to a contract?

[90] **Dr Roberts:** It was within our policy, but, yes, the contract did move a long way from the original contract; I can see that. Whether it went into repercussive, I think that is the issue. But, clearly, within our policies, there is that scope, and it's recognised—I think the auditor general commented on this—to have that commercial negotiation, which we felt was necessary at the time.

[91] **Nick Ramsay:** Kevin Ingram.

[92] **Mr Ingram:** Coming back on your question there about novel and contentious, and just saying that, certainly, 'Managing Welsh Public Money' sets out some examples within the document of things that clearly are novel and contentious. So, we do use that guidance, but there's not a clear definition. Certainly, in my discussions with the Welsh Government during the last few months, I think they've recognised as well that this is something they need to work on with us and other sponsored bodies, to get some clearer guidance, so we'll be working with Welsh Government on that.

[93] **Rhianon Passmore:** And if you were in the same scenario at this point in time, would you have then yourselves volunteered this as a proposal to

Welsh Government?

[94] **Dr Roberts:** We certainly would have done. Bearing in mind the auditor general's comments on this, yes, we would. But, equally, I'd say again: I don't think anybody wants a situation that we're referring every decision to Welsh Government. We're set up as an organisation, as a delivery body, to take decisions, which is what we obviously do.

[95] **Nick Ramsay:** Lee Waters.

[96] **Lee Waters:** So, as you said, there was a tender process. This operator's offer in that tender process was found to be completely unacceptable. You then find yourselves in a situation that without going back to the market, you amend the offer to include 25 per cent of the available larch—available for sale by NRW over 10 years—and you don't feel the need to see if any other operator would be willing in that, which is significantly different from the original offer you put to tender. Why?

[97] **Dr Roberts:** The view at the time, amongst a very professional team, was that, in reality, there were only two operators who could have taken on the volumes that we were looking for. And the view of the team was, had we gone out to retender, there would not have been a different outcome of that, and we would have lost weeks, if not months, during that process. That was a risk that was recognised in the business case. That was the view that we came to at the time.

[98] **Lee Waters:** But the process took a year as it was. So, what did you have to lose by being able to satisfy the market, and the governance arrangements, that you were getting best value for money?

[99] **Dr Roberts:** Well, I think we would have had to go back to step one on that. I can only again emphasise—it's easy to say with hindsight—that we had a real crisis on our hands at the time. We had to move very, very quickly. There was a danger of the timber market collapsing at that time. So, it's easy to say, with hindsight, that we should have spent that extra time going back to the market. Our view at the time was that we would have come out with the same outcome on that.

[100] **Lee Waters:** Were you at all influenced by the fact that—? You mentioned earlier your duty to bear in mind the political fallout from decisions. Were you influenced by the fact that the sawmill operator was—?

You were clearly concerned that they were going to be lobbying Ministers, and you were concerned that they were going to withdraw from Wales. How much of that was a factor in your deliberations?

[101] **Dr Roberts:** We were aware of that, but that did not influence our decisions at all. Our team are well used to dealing with pressure like that from commercial operators.

[102] **Lee Waters:** But you were influenced by the promise of a new sawmill line, which, three days before the deadline, you can't tell us if it's in place.

[103] **Dr Roberts:** At the time, we thought it was important to have that extra capacity. In the event, the extra capacity has been provided within the industry, and the larch has moved on.

[104] **Lee Waters:** So, you misjudged that then. You misjudged the fact that the capacity could have been brought into the system without a new line.

[105] **Dr Roberts:** At the time, we were extremely concerned that timber prices would collapse. More importantly, we could not shift the larch off the estate. So, at the time, we believed that that capacity was necessary. In the event—and this is outside all of our control, it's largely because of climatic factors—the expansion has not been as rapid as we had originally anticipated. So—.

[106] **Lee Waters:** The sawmill operator found other ways of increasing capacity, other than bringing in a new line.

[107] **Dr Roberts:** That's right.

[108] **Lee Waters:** And you misjudged that, because you thought the only way to bring in extra capacity was to bring in a new line, which was a key factor in giving them this contract without going to market.

10:00

[109] **Dr Roberts:** At the time, in 2013, there was a significant increase in larch disease, so the area under statutory plant health notices had gone up from 2,320 hectares to 6,698 hectares in a year. Had that exponential increase continued, we would have been in deep trouble, both in terms of removing the larch and in all timber markets. So, at the time, we felt that the

right thing to do was actually to increase capacity. Fortunately, that did not happen. It's easier to look with hindsight at it, but at that time, that was necessary.

[110] **Lee Waters:** With hindsight, do you think they pulled the wool over your eyes in making you feel that the only way in which they were going to deal with this crisis, which you were understandably concerned about, was by investing in new, expensive capital equipment, which would justify a contract of this size being awarded to them without going to market, and being done quickly, and in the event, they didn't do that? Do you feel they pulled the wool over your eyes?

[111] **Dr Roberts:** No, I don't think they've pulled the wool over our eyes at all. At the time, there was no market for larch, and I can say this from personal experience because, at the time, I visited timber merchants—they would not touch larch, let alone diseased larch. So, there was no market. So, what the operator did, and the rest of the industry did, was actually build up that market, so now we do have a market for larch, going forward. So, there was no pulling of wool over the eyes—it was a considered decision that was taken at the time.

[112] **Lee Waters:** So, if I'm hearing your evidence correctly, a series of things went wrong. You say that you can only see those things with the benefit of hindsight. You're willing to accept, in some aspects of the process, that on reflection you would have done things differently, but by and large, you haven't got a great deal to be accountable for.

[113] **Dr Roberts:** No, I'm accountable for—

[114] **Lee Waters:** Sorry—'to account for' rather than 'be accountable for'.

[115] **Dr Roberts:** I am accountable for all those decisions. I think there are two points really: one is that, at the time, larch disease was starting to get out of control, basically, which would have had a devastating effect on forests and a devastating effect on the markets. So, fortunately that didn't happen.

[116] The second thing I'd say, and perhaps this isn't adequately covered in the report, is that this has been a successful outcome. We have grown markets, we have dealt with the disease and, meanwhile, normal markets for timber have continued. Had we not stepped in at this time, I don't think we

could have guaranteed that.

[117] **Lee Waters:** It seems to me, from my reading of these papers, that you didn't test the market, you didn't refer the decision to the Welsh Government and you didn't record the decisions clearly—that's novel. You were influenced by the pressure from the sawmill operator, either political embarrassment or withdrawing from Wales and affecting the capacity—that's contentious. And you may be in breach of state aid rules, you may be open to legal challenge on contracts, and you've led to the auditor general qualifying your accounts—that's repercussive. How on earth do you think that you haven't done anything that does not justify the actions that the auditor general has taken?

[118] **Dr Roberts:** Obviously, we're well aware of the auditor general's position. I think, I have to say, that at the time, I made sure that the right decisions were actually taken. With hindsight, things did not develop in the way that was anticipated, but nevertheless, we had to move, as an organisation, into that. As I said before, I think we would welcome greater clarification about when we should be seeking Welsh Government approval for things and also, on the two points of law, I think it is debatable; these can only be sorted out by the courts. So, I think there are some issues behind all of this. Clearly, we need to learn from this experience and we will do: we have an action plan in place to actually address these issues. But, at the end of the day, we are an operational outfit and we have to take some decisions.

[119] **Nick Ramsay:** At what point did you become aware that that original prediction—that fear of that exponential growth in the disease and a lack of capacity in the future—wasn't going to transpire and that actually the situation was resolving itself without the need for extra capacity?

[120] **Dr Roberts:** I think the first indication came around 2015–16, when the spread of larch disease did not continue as we had originally feared. That was a big relief to us. But also I think that the precipitate action that we took in terms of distinguishing between the edge of the disease and the control area also played its part on that. The larch disease could still explode, as it was doing in 2013. We're not in control of that, but we're in a far better position now than we were at that time.

[121] **Nick Ramsay:** Mike Hedges.

[122] **Mike Hedges:** You said there were two operators. Were you talking

about two operators in Wales, two operators in Britain, two operators in Europe or two operators in the world?

[123] **Dr Roberts:** There are two significant operators in Wales.

[124] **Mike Hedges:** Are there any operators close to the border?

[125] **Dr Roberts:** Yes.

[126] **Mike Hedges:** So, it wasn't just the two operators; there were other operators available. I may be wrong on this, but my understanding is that Britain is a net importer of timber. Therefore, we get quite a lot from Scandinavia, for example. So, moving timber over relatively large distances does not appear to be a large problem—or am I missing something?

[127] **Dr Roberts:** That is true; timber is mostly imported to the UK. But in terms of the original tender, only three operators bid. So, it's a weak market. One of those operators subsequently pulled out. So, this is not a strong market.

[128] **Nick Ramsay:** Rhianon Passmore.

[129] **Rhianon Passmore:** You've touched upon this previously. In regard to your consideration around state aid, what consideration did you give to this prior to the contracts being awarded?

[130] **Dr Roberts:** Again, we believed we were operating on market principles, so there would be no state aid involved. The auditor general has raised a question over that. I have different legal advice on whether state aid is actually present here. So, as I say, state aid can only be sorted really if there's a challenge. Obviously, we would defend our position on that. I think, moving forward, we are far more aware now of state aid issues, so we will be building that into our action plan. But in terms of this actual decision, our position is that there's no state aid payable.

[131] **Rhianon Passmore:** I understand retrospectively looking back—and hindsight is a fantastic thing. Do you think there needs to be more clarity around this issue in regard to state aid, or is there enough advice out there at the moment and enough guidance out there at the moment? What's your position? You say, with hindsight, that you would talk about this in your action plan.

[132] **Dr Roberts:** Certainly, I think the report has raised our awareness of state aid issues. So, I think we will be thinking far more about that in terms of our commercial decisions going forward. As I say, part of our plan is to actually raise awareness within the organisation on that.

[133] **Nick Ramsay:** Kevin Ingram.

[134] **Mr Ingram:** I was just going to add, state aid is a very complex area but, in essence, it comes down to us acting as a reasonable market operator would. I think, in our view, we were. But, as Emyr just said, I think the key bit for us is just around new areas of business or new investments we may make now, that we just build that into our decision-making process internally—that we stop and we ask that question and challenge ourselves whether state aid is applicable. So, it's more internally, I think, where we need to raise awareness, rather than outside.

[135] **Nick Ramsay:** At the time the decisions were taken with the operator, was any consideration given at the time that this could be perceived in hindsight as a conflict with state aid rules?

[136] **Dr Roberts:** We didn't take advice at the time. However, as I say, the legal advice we've subsequently had is that there is no state aid here. We do differ with the auditor general on that point.

[137] **Mr Ingram:** We did raise questions at the time around procurement aspects and whether any of this would fall under public contract regulations, but we made the decision that it wouldn't. But we didn't specifically ask the question on state aid.

[138] **Rhianon Passmore:** Chair, on that point on public procurement contracts, I'm just curious to understand—bearing in mind I do fully get it in regard to the expediential urgency around stopping this disease from spreading, and contagion across the market must have been forefront in your minds, and you're absolutely correct that this seems to have worked so far, to date, in terms of your strategy—but I'm just still concerned around the fact that you did not feel it was appropriate, prior to any contracts being awarded, to seek legal advice. I'm just not understanding that.

[139] **Dr Roberts:** Again, it was, in a way, usual practice to have a tender and a negotiation afterwards. That is the way these contracts are determined. It

was very much in line with policy and it was in line with delegation on that. Again, looking ahead, we need to review all of that. But it was in tune with what we were doing generally on timber market contracts.

[140] **Rhianon Passmore:** Okay.

[141] **Nick Ramsay:** Lee Waters.

[142] **Lee Waters:** The last thing we want to see is a risk-averse culture developing in public bodies, but I must say I am flabbergasted that you say that issues around state aid have only been drawn to your attention by the auditor general's report, which raises awareness of them. Given that state aid is a clearly understood risk for anybody spending public money, you felt it necessary to flag up to the Welsh Government there might be some political bother coming their way over the fact that somebody hadn't been awarded the contract and somebody had, but you didn't feel the need to cover yourselves in getting advice on state aid, when there are commonly understood risks to public spending decisions. I don't understand that.

[143] **Dr Roberts:** Well, I can only repeat, really, that at the time we did not believe state aid was an issue and we still don't believe that state aid was actually payable on this case. So—

[144] **Nick Ramsay:** But you didn't have any legal advice at the time that said that state aid wasn't an issue. This was a decision taken internally by—

[145] **Dr Roberts:** Yes, that's right. We didn't take advice on state aid. Obviously, we will raise awareness of this going forward. But that was the position at the time.

[146] **Lee Waters:** Given that the auditor general has sought fit to qualify your accounts, which is not something that the auditor general does very often, and given the nature of the issues that he thinks that you've exposed yourselves to as a result of it, you seem remarkably relaxed about the situation you find yourself in.

[147] **Dr Roberts:** No, I'm not relaxed about the situation at all. Clearly, yes, as you say, qualification of accounts is a very big issue for me as an accounting officer. I would, though, point out that we had a clean bill of health apart from this particular issue. Clearly, there are lessons to be learnt going forward and we will learn those lessons. My issue, in a way, is that the

novel, contentious and repercussive is unclear, and I would welcome more clarification of that. And the two—

[148] **Lee Waters:** On a common sense basis, you're finding yourself in front of the Public Accounts Committee answering these questions at length. In itself that's repercussive, isn't it? Just a common sense application would tell you that.

[149] **Dr Roberts:** I believe I'm trying to apply common sense here.

[150] **Lee Waters:** You don't need a legal definition of 'repercussive' to understand that this set of decisions has got yourselves into this position.

[151] **Dr Roberts:** It is not clear in terms of how that is defined and to be interpreted and I think we need to reflect on that. As you say, we don't want to create a culture that is not innovative and looking forward. So, that's the balance that I think we need to strike in all of this. So, I'm certainly not relaxed about this at all. I have not been relaxed through this process at all. There are lessons for us to learn here. But I think there are some points to be actually sorted out as we go along.

[152] **Nick Ramsay:** Okay, I think there's a danger here that our questioning will become repercussive at this rate, and we have more questions on the rest of the accounts. There are other issues to discuss here. But I'll bring Neil McEvoy in briefly, lastly, on this area then we'll move on.

[153] **Neil McEvoy:** Very quickly, what lessons have you learnt?

[154] **Dr Roberts:** Certainly, the area we've just been discussing about what is novel, repercussive and so on—certainly, we need to be much clearer about that going forward. I think we need to look at the delegation arrangements that we've got within NRW on that. Obviously, we need to raise awareness about state aid law, about public law as well, and we need to look at the way in which we set contracts in the future. So, there are things that we actually need to look at.

10:15

[155] **Neil McEvoy:** You said earlier you were very comfortable with the delegation and now you say that you need to look at the delegation arrangements. Again, which is it? I'm slightly confused listening.

[156] **Dr Roberts:** I was comfortable at the time that it was delegated to the right person with the right qualifications to actually take the decision, but we do need to actually review that, going forward.

[157] **Nick Ramsay:** Okay. Moving on, and looking at the use of financial information more broadly, how do you intend to balance the implementation of your long-term strategic plan for 2017–22 with the priorities set for NRW in the Welsh Government’s annual remit letter?

[158] **Dr Roberts:** Well, obviously, we have an ongoing relationship with the Welsh Government, so we’re well aware of policy development, which we discuss fully with Welsh Government, so we believe that we’re very much in line with their strategy. In terms of the remit letter, obviously, the Welsh Government specifies specific issues on that, which we implement. So, we work very closely on policy and implementing policy with Welsh Government.

[159] **Nick Ramsay:** Neil McEvoy.

[160] **Neil McEvoy:** Could you summarise the internal governance framework at NRW and how this provides the accounting officer with the necessary assurance to approve the annual accounts?

[161] **Dr Roberts:** I’ll ask Kevin to—.

[162] **Mr Ingram:** Coming back to you on that, we have a well developed governance framework. A lot of it’s summarised in the annual report—I think it’s page 22 onwards, on the governance framework—and that sets out how Emyr gets his assurance as accounting officer on regularity and propriety of NRW. That varies from the role of our board and the scrutiny that they play in our set-up—that we have an audit and risk committee and remuneration committee set up to scrutinise parts of the business, our structures around senior managers and our clear levels of delegation within the organisation. We have systems of, obviously, internal control and approval set up. We have a range of policies and procedures and we’re quite clear on how we manage and report performance. All of this comes under the scrutiny of—we have an in-house internal audit team with a clear audit plan. And, obviously, we also come under the scrutiny of the Welsh Audit Office as well.

[163] **Neil McEvoy:** Did you identify any control issues during the year?

[164] **Mr Ingram:** The last head of internal audit report identified one area where we could strengthen, and that was the management of risk. So, certainly, that's something during the current financial year—that we've had a refresh of how we manage risk within the organisation. We already have a corporate risk register and different directorate risk registers, but we had a process there of sort of refreshing that and just checking that those risks and corporate risks are clearly aligned with the outcomes that we're achieving.

[165] **Nick Ramsay:** Mohammad Asghar.

[166] **Mohammad Asghar:** Thank you very much, Chair, and Dr Roberts. I think I'm pretty impressed with what you have done, but the fact is that the auditor general's job is to make sure that the 2014–15 to 2016–17 accounts show the fair and true picture of your business—because it's public money and it's got to be spent properly and the public purse must not lose money no matter whatever it is. It's the job of the auditor general to work it out, to make sure it's all balanced. Could you tell us why you find the auditor general's report, in your opinion, disproportionate?

[167] **Dr Roberts:** Thank you. Again, to stress, you're absolutely right—the primary responsibility is over public money and protecting it. I think the issue about disproportionate is in the context of the other aspects of the annual accounts, where the auditor general said that they are a fair and true account. I think my words were 'disappointed'—that this has actually led to a qualification of the accounts. There were other ways of dealing with it; through the management letter, for instance. I'm disappointed from that point of view. Having said that, obviously we can learn lessons from here.

[168] **Mohammad Asghar:** To follow it up, what evidence—

[169] **Nick Ramsay:** Oscar, just before you go on, I think Kevin Ingram wants to add to that.

[170] **Mr Ingram:** I think, just trying to set that in context as well, we do take the issues that have been raised very seriously and we have lessons to learn. But just to clarify, as well, for the committee, on the basis of true and fair, the auditor general has said that these accounts are accurate, and even the regularity opinion is an acceptable opinion. So, we have this issue, which we recognise, but in all other areas there weren't issues of regularity. And I fully respect the auditor general's opinion on that, but, from what I understand, some of that opinion is around a level of uncertainty. So I think in point 20 of

the auditor general's report, it says that he is not saying in this that we've delivered poor value for money, and he's not saying what we've done is unlawful. But because of the uncertainty, and certainly that relates to some of our documentation, that means that there needs to be a qualification. Hopefully, that's a correct interpretation.

[171] **Mr Thomas:** [*Inaudible.*—the correct one and, of course, the sums involved are above the level of materiality that need to be applied to the accounts.

[172] **Mohammad Asghar:** Thank you very much indeed. But the fact is, in certain areas, when you've made major decisions, the documentation was not there. That is one of the serious anomalies in qualifying the report by the auditor general. What assurance can you give that the deficiency that the auditor general has identified in respect of these contracts does not apply to other contracts awarded by NRW?

[173] **Dr Roberts:** We do accept that the documentation was not very good on this. First of all, I'd say there are very few other long-term contracts like this. Most of those contracts were agreed by the former Forestry Commission for Wales. So, when they came into Natural Resources Wales, there was some due diligence around those contracts. But, more immediately, I've asked our head of internal audit to review the existing contracts that we have. She has started that work and has said she hasn't identified any fundamental issues, although there are some areas for improvement. So, we will be looking at that report, and I hope to have that report by about Easter.

[174] **Nick Ramsay:** So, as things stand at the moment, you're confident that in other areas, and particularly in the work that was inherited from the Forestry Commission, that the sort of issues that we've been talking about today won't arise again in the near future.

[175] **Dr Roberts:** At the moment I'm confident, yes.

[176] **Nick Ramsay:** Right. Lee Waters.

[177] **Lee Waters:** Thank you. I want to ask about the risks that you're facing as an organisation. And one of the ones that you identify in your report is the risk from a reduction in grant from the Welsh Government to your ability to deliver your objectives. I wonder if you could tell us what you think those risks are and how you're mitigating them.

[178] **Dr Roberts:** Indeed. We've had around a 15 per cent real-terms cut in our grant-in-aid over the last two years. So, inevitably, there are risks to our services. And what we've done is to set up a review throughout the organisation of the activities that we carry out. So we you call it 'the business area reviews'. We've got eight different projects, looking across the board at all the services that we offer, including our enabling services as well. So we're getting a picture of what we're doing, what our priorities are. In some areas, yes, there will be an increase in risk, but we are managing those, we're putting mitigating actions in to actually manage those risks properly.

[179] **Lee Waters:** I was just wondering in terms of its practical effect on the day-to-day business of NRW. Clearly, the ability to have specialist expertise is something that we expect from NRW, and the lack of resources, clearly, has an effect on that. I'm thinking particularly of the Swansea tidal lagoon, which is an area where NRW has been drawn into public debate. I believe it's taken some three years since the tidal lagoon submitted an application to you for a fish licence, and there's been a delay in reaching a judgment, which obviously puts the whole project at risk. I wonder if you could just tell us a bit about why it's taken three years and there's still no prospect of a judgment in sight, and whether or not that is related to resources. Or is that related to any other issues?

[180] **Dr Roberts:** Okay. Certainly, it's not related to resources. As you say, we have experts in this area and we have a marine licensing team as well, so there's no question that it's about resources. The discussions that we are having with the Swansea bay tidal lagoon company are around the evidence for the proposal that they've got. And there is a fairly rigorous process, which is determined by European regulation, in terms of the evidence that they need to provide to us for us to be able to determine a marine licence. I think this is difficult for all parties. Nobody's ever built a tidal lagoon like this before, so we are dependent on modelling what might happen, particularly on, as you say, fish migration. And the stage that we're at, at the moment, is that there are ongoing discussions between ourselves and the company on that evidence. Those discussions are ongoing, involving experts from the company and ourselves, and before that evidence can actually be agreed, we can't continue with the marine licensing process.

[181] **Lee Waters:** So, when do you anticipate you'll be able to form a final view on that? Because two years, when this is a commercial project—

[182] **Dr Roberts:** Well, there was a meeting—

[183] **Lee Waters:** It could well be prohibitive, couldn't it?

[184] **Dr Roberts:** There was a meeting fairly recently. There's been a whole series of meetings, obviously between ourselves and the company, and we have agreed a timescale by which the company need to come to us with definitive evidence, and that is in May. So, those discussions are ongoing.

[185] **Nick Ramsay:** Mark Reckless.

[186] **Mark Reckless:** As accounting officer, your responsibilities include the propriety and regularity of the public finances for which you're responsible, yet in your annual report, it says:

[187] 'the role and responsibility of the Board is to...ensure propriety, regularity'.

[188] Which is it?

[189] **Dr Roberts:** I think it's for me, as accounting officer—the regularity and propriety—but obviously the board has an oversight of that, and needs to assure itself it's got the governance arrangements in place, and to make sure they give themselves the assurance that we are managing the public money properly.

[190] **Mark Reckless:** And those governance arrangements, am I right in understanding that the board has a part-time chair, 10 non-executives, and then you're the only executive on that board?

[191] **Dr Roberts:** That's correct. There are 10 non-executives, myself, and the chair, yes.

[192] **Mark Reckless:** And you then have what you describe as an executive board, which meets on a three-weekly cycle, and it says,

[193] 'with six Executive Directors, three Directors, and our Chief Information Officer'.

[194] Can you describe a bit more to me about how that board functions? I mean, the three directors on that—are those main board directors, or is that

a junior version of an executive director? I mean, what's going on here?

[195] **Dr Roberts:** The situation has evolved a bit since the annual report for 2015–16. I chair our executive team, which is made up of executive directors, like Kevin, and directors. There's a slight difference in grade there. We're fewer than in 2015–16, so we currently have six [correction: seven] executive directors and directors. I chair that. We actually meet three times a month—so, three weeks in four—and we consider strategy and policy at one meeting, we consider management information in another, and we consider our change programme in the third meeting. So, there's a regular cycle of meetings there.

[196] **Mark Reckless:** And you say the

[197] 'Strategy and Policy meetings develop strategy for the organisation and recommend new policy positions'.

[198] Surely that's a matter for the board.

[199] **Dr Roberts:** Indeed. What the executive team is doing is actually developing the policy to submit to the board, as it were. So, that's the role that we play in that.

[200] **Mark Reckless:** Because in the UK we have legislation that provides for a unitary board, and I'm a little concerned that you have a board perhaps akin to a supervisory board on the German model, where you have 10 non-execs with presumably a fairly limited time commitment, a chair with a bit more, and then just you, and you're the only hinge between that board and what the organisation as a whole is doing. And that the main board meets in public, but then you have this executive team that's meeting three-weekly, formally, not in public—you and your executive team. And I just wonder if that is driving on with stuff without, actually, the board really being in charge in the way it should be.

[201] **Dr Roberts:** No, I don't think that's the case at all. In fact, Natural Resources Wales is a bit unusual, because normally the chief executive is not on the main board, so we're a bit unusual from that point of view.

[202] **Mark Reckless:** Unusual compared to what?

[203] **Dr Roberts:** To other Welsh Government-sponsored bodies.

[204] **Mark Reckless:** Right.

[205] **Dr Roberts:** I think it is important to have that connection. Clearly, I think we all understand what the board's responsibility is. As you say, it's to direct strategy and policy and direction, and making sure that there's good governance. The executive team implements that. Obviously, there's a lot of day-to-day work that we do as well. It's a system that works very well, in fact.

10:30

[206] **Mark Reckless:** And do you see the role of Assembly committees as holding the executive team to account or more liaison at the board level?

[207] **Dr Roberts:** Well, I think the line of accountability goes from the Cabinet Secretary to the Chair and, obviously, I am accountable to the Chair. I think the committee—the Assembly Committee—reflects the true sense of the whole organisation, which is why the Chair and I attend those meetings. So, it's our total output. [all of us ha](#)

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[208] **Mark Reckless:** And just to take an example, you have quite a lot of new legislation coming in: the Well-being of Future Generations (Wales) Act 2015; the Environment (Wales) Act 2016; and, the Planning (Wales) Act 2015. Who should we be, you know, expecting to see the plan as to how that's going to be dealt with? You know, what are you doing to ensure your compliance and actually change your working procedures to be compliant with that legislation? How does the relationship between the executive team and the board facilitate that?

[209] **Dr Roberts:** I mean, that's obviously an area where the board has got a high degree of involvement and interest. So, we regularly report to the board, particularly on the well-being of future generations Act and also the environment Act. So, we're very much accountable to the board on that. Nevertheless, there is a programme of work that is ongoing under those Acts. So, for instance, we're the only public body in Wales that sits on all the public services boards. So, we have a team of people who are actually doing that and reporting back in to us. Things like making sure that the well-being of future generations Act is embedded in our corporate plan. That's a joint responsibility and, in fact, we had a meeting of our board last week where we approved our well-being statement under the Act. So, in a way, what I'm

trying to say is that it's a joint responsibility. Obviously there's a lot of work going on underneath those Acts, but we report to the board on it.

[210] **Mike Reckless:** Thank you.

[211] **Nick Ramsay:** Mike Hedges.

[212] **Mike Hedges:** Before we move on to questions on key performance indicators, can I go back to the tidal lagoon? Yes, it's the first tidal lagoon, but we know there are lots of rivers, including the Mississippi, for example, where there are over 100 species of fish, which do have turbines in them. Aren't there any lessons that can be learned from fish and turbines when it's in a river? The tidal lagoon is going to be going into a river estuary. Aren't there any lessons that can be learned from that?

[213] **Dr Roberts:** Yes, I'm sure there are, and that's what we're discussing with the company. Obviously, the factors in this particular case, Mike, are the scale of the project and the particular fish migration in the estuary. So, those are the particular issues we've got. Our evidence is showing that there is a substantial impact on the fish population, but that's the area that we are discussing with the company.

[214] **Mike Hedges:** Yes. This, perhaps, isn't for here, but I would have thought that the Mississippi is a reasonably wide river and the tidal lagoon is not particularly wide in terms of the amount of the area out of Swansea bay it's taking in. But I won't pursue that any further.

[215] **Dr Roberts:** But they haven't got a—. They haven't got a lagoon there, have they?

[216] **Mike Hedges:** No, but they've got a river. The water is moving—. You've got a fast-flowing river and that's what they're using: a fast-flowing river. The fish are going along the fast-flowing river and they are going through, or bypassing, the turbines and then with the fish canning factory at the end of it. So, obviously they're getting through. But can I just take you to questions on key performance indicators? How do you measure the overall value for money of NRW?

[217] **Dr Roberts:** As I said before, the business area reviews that we're carrying out on our activity are providing us with a lot of information in terms of our value for money; how much our services cost; what the income

we get is and so on. So, were able to track that very carefully. We've got a new finance system, which is helping us greatly. We could analyse costs and income in different ways. So, we're in a much better place than, I think, previously to show that we are getting value for money. We also—and this is in the annual report—had an efficiency programme in 2015–16, which contributed about £2.5 million in savings to the organisation. We're also tracking our benefits against the original business case that set up NRW. So, we're reporting on that as well. So, we've got a lot of information that is showing us how we're getting value for money.

[218] **Mike Hedges:** And you've used invest-to-save, haven't you, in order to help restructure fairly substantially, and you've gone back on a number of different occasions to get money from it?

[219] **Dr Roberts:** Yes.

[220] **Mike Hedges:** So, you're having to pay that back as well.

[221] **Dr Roberts:** Yes, we do.

[222] **Mike Hedges:** Is that having an effect on your day-to-day operations?

[223] **Dr Roberts:** Well, clearly, some of that invest-to-save money has been for voluntary exit schemes. We've had three schemes. So, the number of posts have been reduced by about 300 since NRW was set up. Obviously, that does have an impact on the services that we provide, but we try to manage that very carefully. In financial terms, there is a payback from that. So, that does lead to cumulative savings, which we're able to reinvest in the business.

[224] **Mike Hedges:** So, you said some of the invest-to-save was used for redundancies and restructuring. How much of it wasn't, then?

[225] **Dr Roberts:** We had some other moneys for ICT provision as well. So, we've had about four—. Was it four?

[226] **Mr Ingram:** We've had three other invest-to-save bids. We had one around the set-up of NRW and the transformation. We've recently just had one about green investment as well, so, investing in energy-saving projects.

[227] **Mike Hedges:** But the ICT was part of the restructuring, wasn't it, of the organisation and the creation of the organisation. It was one of those

costs that everybody forgets about when they think a merger's a good idea.

[228] **Dr Roberts:** Obviously, we had a big ICT programme, but it's been very effective because we've actually been able—. By putting up the upfront investment, in particular, by getting off the previous Environment Agency and Forestry Commission systems, we have been able to save substantial amounts of money.

[229] **Mike Hedges:** That's me, Chair.

[230] **Nick Ramsay:** Lee Waters, before I bring Rhianon Passmore in.

[231] **Lee Waters:** Yes, I just want to ask you—in terms of performance—in terms of your sickness absence. Your report shows an average sickness absence of 5.2 days per employee, which is better than target and compares very favourably to a number of organisations we've had before us to look at their accounts. Given what a difficult merger it's been and the poor results from the staff surveys that you've had, I think it's an impressive achievement. I wonder if there are lessons other organisations can learn from that and what they might be.

[232] **Dr Roberts:** Yes. Thank you. Yes. Thank you for those comments. Yes, I think we are managing it very well, particularly against the change that we've been through. I should say, in fairness, there may have been some under-reporting during 2015–16, but our latest figures are still very, very favourable compared to the rest of the public sector. We're managing this very carefully. Obviously, the managers have information about sickness levels. We are particularly strong, I think, in our well-being. So, we run a lot of support for members of staff who may be ill or suffering from stress or something like that. So, there's a very high degree of awareness within the organisation. I think that's really important for an organisation that's going through change, that we do invest in that. So, yes; obviously, we're not complacent at all on that, but we think we're managing it fairly well.

[233] **Nick Ramsay:** Your colleague is eager to chip in.

[234] **Mr Ingram:** I was just going to say, just for clarification, that the current rates of sickness absence are running just over 3 per cent at the moment, in the current year, which is still very favourable, I think, with other organisations. I agree; I think it's a credit also to our staff and their commitment. They've gone through a huge change in this organisation, but

we're very fortunate to have very dedicated and professional staff.

[235] **Dr Roberts:** Building on that, I'd also say, for an operational outfit, obviously, we take health and safety very, very seriously indeed. So, we have committees and regular reporting on that. So, our level of incidence is fairly low. There's a lot of work actually going into staff welfare.

[236] **Lee Waters:** Given that this has been a concern of ours with other organisations, it would be useful—if it's possible—to have a note of what you think is particular good practice that other organisations could learn from.

[237] **Dr Roberts:** Yes, absolutely. Yes, certainly.

[238] **Lee Waters:** Thank you.

[239] **Nick Ramsay:** Rhianon Passmore, did you have any more questions?

[240] **Rhianon Passmore:** Yes: two, briefly. I would echo what has just been said by Lee Waters. In regard to your five-year valuation, how do you satisfy yourself that that is rigorous and robust?

[241] **Dr Roberts:** [*Inaudible.*]

[242] **Rhianon Passmore:** Your five-year valuation.

[243] **Mr Ingram:** Of the forest estate.

[244] **Dr Roberts:** Oh, sorry. Okay.

[245] **Rhianon Passmore:** Particularly around financial management—so, how do you satisfy yourself that that is robust?

[246] **Mr Ingram:** Yes, if I pick that up, obviously, we have a five-year valuation of our forest estate and our assets. I guess our main controls around that is that the valuation is obviously performed by a qualified external valuer. So, in the case of the forest estate, that was by John Clegg and Co, chartered surveyors and land valuers. We apply—. And the way that valuation is done is through accepted process. We have an internal principal surveyor who then looks at the results and QAs that—compares that to market conditions in the rest of the UK and their understanding of that. We're quite happy that those results are okay. I know they can move

significantly from year to year. That valuation is based on samples of our forest estate, around about 10 per cent of our forest estate.

[247] **Rhianon Passmore:** So, there's a considerable increase in your asset base, as has been recorded, and that seems very high.

[248] **Mr Ingram:** Yes, but I think that was very much in line with what was seen in the rest of the UK in general asset prices. They compare that with market sales of forest land at the time. What we actually saw was an increase in the value of forest land that was quite significant, and that was partly offset by a reduction in what we call the biological assets—the trees. Also, the WAO, it was probably a very significant element of their external audit review as well.

[249] **Rhianon Passmore:** Okay. Finally, in regard to key performance indicators, we'll talk a little bit about the 95 per cent target to pay suppliers within the 30 days. For 2015–16, I think you failed on that particular key performance indicator, so how are you going to realise that for 2016–17?

[250] **Mr Ingram:** We did, you're right, and that's payments to suppliers. So, that started off—we had a new finance system, which Emyr's referred to earlier, which was implemented at the start of the year. I think at the start of the year, while staff were getting used to that system, there were delays in people entering purchase orders, so there were some delays in there. So, what we saw then was a payment performance that improved throughout the year. It started off in the 80s and finished at about 97 per cent during the year, and that's where you had the average. During the current year, 2016–17, we've exceeded the 95 per cent every month. The current average is just short of 97 per cent.

[251] **Rhianon Passmore:** Okay, so that was a temporary blip, and you're now in a different position.

[252] **Mr Ingram:** It was; we're in a much stronger place now.

[253] **Rhianon Passmore:** Okay. Thank you, Chair.

[254] **Nick Ramsay:** Great. Any final question or comment? Oscar, briefly.

[255] **Mohammad Asghar:** Very short—anyway, thanks. Mr Roberts, how do you demonstrate and measure the compliance with relevant legislation on

equality and sustainability in your department?

[256] **Dr Roberts:** Thank you. Well, we have an equality plan, which we publish each year, and we report against it, so, on our website there is the plan. So, we are very active on equality, and we have some groups who are contributing to that, so we feel that we're doing a good job on that. The sustainability plan is within the annual report, so we have targets for reducing carbon, for instance, and, again, we report on that every year. So, equality and sustainability are very important to what we do.

[257] **Mohammad Asghar:** Including Welsh language.

[258] **Dr Roberts:** Sorry—and Welsh language as well. Again, we have a Welsh language plan, and we report against that. I'm pleased to say that we have over 250 Welsh language learners within the organisation. It's been very popular and I very much encourage that, so that's really good to see.

[259] **Mohammad Asghar:** Thank you.

[260] **Mark Reckless:** Can I just ask on the Welsh language? I think your forestry estate is disproportionately concentrated in parts of Wales where Welsh is more widely spoken. I wonder what consideration you'd given to the value of your foreign forestry estate, relative to alternative uses, such as agriculture, where the regime is likely to change in a post-Brexit scenario, and whether you think expanding the area covered by forest is likely to support or impede nourishing Welsh as a language in those areas in terms of, not least, the employment generation.

[261] **Dr Roberts:** Okay. In terms of the Welsh language, obviously a lot of the people working in the forestry sector, including our own people, are Welsh speakers, they're very locally based and there's a lot of subcontracting that goes on with small businesses, which we very much support. So, in a way, forestry is like agriculture; it's very much local, and has been for many years. We have people on the staff whose fathers and grandfathers used to work for the forestry commission before NRW. So, there's a strong connection there, I think, between forestry and the Welsh language.

[262] 10:45

[263] In terms of the balance between forestry and agriculture, that's a really interesting question, I think, and there's quite a significant policy issue

here, particularly as we go into a post-Brexit situation. One of the things that our 'The State of Natural Resources Report' identified is that, on the whole, there is proportionately less woodland in Wales, and indeed in the UK more generally, than in the rest of Europe. So, there is potential to actually increase woodland quite considerably, and we believe that that would contribute to biodiversity and so on. So, I think there's an interesting issue there, and I think, also, from NRW's point of view, is whether we should be more active in, perhaps, buying and selling land for agriculture. Now, this is clearly a matter for Welsh Government. It's the Welsh Government woodland estate that we manage. Our job is to manage that properly.

[264] But, looking ahead, I think we need to start thinking about whether the current configuration is right, whether there are areas that would benefit from more woodland and are there areas of forestry that shouldn't be forestry, as it were. I think that's a very live debate, and, again, my personal view is that, as we move forward, then agricultural policy and environmental policy should be brought more closely together so that can we start having those kinds of discussions.

[265] **Rhianon Passmore:** Chair.

[266] **Nick Ramsay:** Very briefly, because we are a minute over time.

[267] **Rhianon Passmore:** Very, very briefly. In that regard, you've mentioned and we've talked about assets and the increases in valuation around that. Bike trails, for instance, as well as increases in forestry: do you see that there's a duty on yourselves, as well as the environmental and regeneration issues, to build economically in terms of what you can input into areas that you are currently within?

[268] **Dr Roberts:** Absolutely. A key thing for us is to make connections with local communities so that people can use bike trails, but also the whole tourist industry. A huge number of people come into Wales for mountain biking. So, we've run a number of trails and we're looking for opportunities to expand them. The other thing, linking to the equality point, is that we're always looking for ways of improving accessibility for, for instance, disabled people. We've got a very good track record there. Coed y Brenin has got many tracks that are suitable for disabled people, as well, which we're very proud of and we want to build on. So, it's very much part of what we do.

[269] **Rhianon Passmore:** Thank you.

[270] **Nick Ramsay:** Great, thank you. The clerks will be in touch with you on some of the issues you've said you'd be providing some more information on. As my memory serves, Mike Hedges had a request on the differing costs of timber across different parts of Wales. Neil McEvoy had a request regarding the cost of legal fees dealing with the auditor general's office, and, Lee Waters, you wanted some more information on the way that you've managed to get your sickness rates so low vis-à-vis other organisations in the public sector and how we can spread that good practice. I also understand that there's an internal audit report that you are working on and that should be due out by Easter.

[271] **Dr Roberts:** Yes.

[272] **Nick Ramsay:** So, if the committee could have sight of that at some point that would be helpful.

[273] **Dr Roberts:** Indeed, yes. I'm very happy—. Our normal procedure is to present that to our audit committee for them to look at, but there's absolutely no problem with sharing it.

[274] **Nick Ramsay:** That's excellent. And we'll see you again on 8 May, I believe, as things stand. Anyway, thank you, Dr Emyr Roberts and Kevin Ingram for being with us today from Natural Resources Wales. That's been really helpful. We will send you a transcript for you to check for accuracy.

[275] **Dr Roberts:** Thank you.

[276] **Nick Ramsay:** Thank you.

10:49

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd
o'r Cyfarfod**

**Motion under Standing Order 17.42 to Resolve to Exclude the Public
from the Meeting**

Cynnig:

Motion:

*bod y pwyllgor yn penderfynu that the committee resolves to
gwahardd y cyhoedd o weddill y exclude the public from the*

*cyfarfod yn unol â Rheol Sefydlog remainder of the meeting in
17.42(vi). accordance with Standing Order
17.42(vi).*

*Cynigiwyd y cynnig.
Motion moved.*

[277] **Nick Ramsay:** I move Standing Order 17.42 that we meet in private for item 5.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10:49.
The public part of the meeting ended at 10:49.*