



Cynulliad Cenedlaethol Cymru **The National Assembly for Wales**

Y Pwyllgor Cyfrifon Cyhoeddus **The Public Accounts Committee**

Dydd Mawrth, 10 Gorffennaf 2012
Tuesday, 10 July 2012

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal, cynhwysir
trawsgrifiad o'r cyfieithu ar y pryd.

The proceedings are recorded in the language in which they were spoken in the committee. In
addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol **Committee members in attendance**

Mohammad Asghar	Ceidwadwyr Cymreig Welsh Conservatives
Mike Hedges	Llafur Labour
Darren Millar	Ceidwadwyr Cymreig (Cadeirydd y Pwyllgor) Welsh Conservatives (Committee Chair)

Julie Morgan	Llafur Labour
Gwyn R. Price	Llafur Labour
Jenny Rathbone	Llafur Labour
Aled Roberts	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Lindsay Whittle	Plaid Cymru The Party of Wales

**Eraill yn bresennol
Others in attendance**

Gillian Body	Swyddfa Archwilio Cymru Wales Audit Office
Paul Dimblebee	Swyddfa Archwilio Cymru Wales Audit Office
Y Fonesig/Dame Gillian Morgan	Ysgrifennydd Parhaol, Llywodraeth Cymru Permanent Secretary, Welsh Government
James Price	Cyfarwyddwr Cyffredinol, Busnes, Menter, Technoleg a Gwyddoniaeth, Llywodraeth Cymru Director General, Business, Enterprise, Technology and Science, Welsh Government
David Richards	Cyfarwyddwr Llywodraethu, Llywodraeth Cymru Director of Governance, Welsh Government
Arwel Thomas	Dirprwy Gyfarwyddwr, yr Is-adran Llywodraethu Corfforaethol a Sicrwydd, Llywodraeth Cymru Deputy Director, Corporate Governance and Assurance Division, Welsh Government

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

Dan Collier	Dirprwy Glerc Deputy Clerk
Tom Jackson	Clerc Clerk

*Dechreuodd rhan gyhoeddus y cyfarfod am 9.56 a.m.
The public part of the meeting began at 9.56 a.m.*

**Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions**

[1] **Darren Millar:** Given that we started our meeting in private session, we start the public part of our committee meeting with the fourth item on the agenda. There are no apologies, so we will move straight into the next item.

9.57 a.m.

**Proses Gaffael Llywodraeth Cymru a'r Camau a Gymerwyd Ganddi i
Waredu Hen Westy River Lodge, Llangollen: Tystiolaeth gan Lywodraeth
Cymru**

**The Welsh Government's Acquisition and Action to Dispose of the Former
River Lodge Hotel, Llangollen: Evidence from the Welsh Government**

[2] **Darren Millar:** Members will remember that the Wales Audit Office published a report on the acquisition and disposal of the River Lodge Hotel on 14 June, and that the Public Accounts Committee, on 12 June, agreed to take evidence from a range of witnesses, including the Permanent Secretary. This inquiry will continue into the autumn term.

[3] I welcome to the table Dame Gillian Morgan, the Permanent Secretary, who has recently announced her intention to retire from the Welsh Government. I also welcome James Price, Director General, Business, Enterprise, Technology and Science, Arwel Thomas, Deputy Director, Corporate Governance and Assurance Division, and David Richards, the Director of Governance. We have quite a panel before us today, so, given that we have a lot of ground to cover this morning, we will try to keep our questions brief. We would appreciate it if you could keep your responses brief as well.

[4] The first question is to the Permanent Secretary. What was lacking in the governance arrangements that operated at the time that the acquisition of the River Lodge Hotel and the agreement for lease with Powys Fadog were permitted? What allowed that to happen in the first place?

[5] **Dame Gillian Morgan:** I will start, if I may, by saying a couple of things. First, my thanks go to the Wales Audit Office, because I requested this report. It is quite unusual for the PAC to consider a report that was requested. I requested it, because, of all the things that I have seen in the time that I have been in post, there has been more misinformation in the public domain about this issue than about anything else. I was therefore keen that we should have an objective report that put everything that happened into context. So, I very much thank the Wales Audit Office for doing that. Secondly, I should also say sorry, because this should not have happened and we should not be here. The third thing that I ought to say is that, as Members will be aware, we were in a potentially difficult situation, given that an industrial tribunal was running. However, Amanda Brewer withdrew from the industrial tribunal on Friday, so we are now in an easier position.

[6] What happened? A number of things happened in terms of governance. The first thing was that people did not recognise for some time that the standards and beliefs and the way that things worked in the old Welsh Development Agency, which was much more entrepreneurial in some ways, differed very much from what was needed within a governmental organisation. I think that people did not recognise in the transition for some time that those are two very different roles and that your use of public money in a Government has to be bound in much stricter ways than it would be if you sat in an external organisation.

10.00 a.m.

[7] The second thing that went wrong was that the due diligence process was not appropriate. If you go back through all the files, it becomes clear that almost an a priori decision was taken to buy the building to give to a particular organisation. Once you have fallen into the trap of believing that that is what you are doing, it is inexorable that you follow a set of ways that end up with what you have. At no point did people stop to say, 'Hang on; we have looked at due diligence, but we need to check the options, so let's reassess'. There were a number of opportunities for that re-assessment to happen, and there were also a

number of warning signs in the organisation. The legal advice was absolutely crystal clear. We should not have entered into the lease in the way that we did. It was not until all those came together at a very senior level that we recognised that what had happened was not acceptable with the use of public money. When it came across my desk, looking with an external eye, it was absolutely clear that there was a whole series of things that could and should have been put in place—and which I believe are in place now—but which did not happen in this case.

[8] **Darren Millar:** You have suggested that there was a failure to recognise the difference in approach that was required by former Welsh Development Agency officials when they shifted into Welsh Government. Was that poor planning on the Welsh Government's part?

[9] **Dame Gillian Morgan:** Consider the nature of the cultural change that was needed, the pace of change, and the length of time that it takes to produce cultural change. Most organisations talk about it being about a three-year journey from the time of a merger to beginning to put the cultures together to create a new environment. It is not a quick fix. You do not move from here to there and then suddenly become imbued with the values of the new organisation. You of course bring things with you. That takes around three years. We are still tightening up a lot of things, and we will continue to do so over the next couple of years.

[10] **Darren Millar:** The simple things like the thresholds for financial decision making are fundamental to an organisation, are they not?

[11] **Dame Gillian Morgan:** I do not think that the issue here is about the threshold but about the attitude towards the use of public money. At the end of the day, public money is my tax pay and the money that you pay as taxes. If we would not spend the money personally in that way, we should not do it. If you sit in an external organisation, your attitude to the money is slightly different. I think that this is an attitudinal and cultural set of issues, rather than being about delegation limits. We have changed, and James can talk later about what he has done in his time at the Department for the Economy and Transport to change some of those things, but I think that this is about attitude to public money and governance of public money, not about delegation limits.

[12] **Darren Millar:** Even the WDA itself, prior to its abolition, had set a ceiling on the price that it felt ought to be paid for the River Lodge Hotel. Given that the final price that was paid was 60% higher than that—it was £1.6 million rather than the £1 million that was deemed to be appropriate—why did that not set alarm bells ringing within the department?

[13] **Dame Gillian Morgan:** The reason for that is twofold. First, it was at the height of the property and land boom, so the price was at the top of the market, while the WDA had made that decision some time earlier.

[14] **Darren Millar:** Was it the year before?

[15] **Dame Gillian Morgan:** Yes. The other thing that happened, which is not the case now, was that north Wales worked as a pretty self-contained unit. Once you had fallen into the trap of having a set of beliefs about how things would happen, that continued, as it stayed within the north Wales setting. That could not, and would not, happen now.

[16] **Darren Millar:** Of course, the purchase price was agreed without a prior independent valuation. There was no due diligence check at all of Powys Fadog's financial viability.

[17] **Dame Gillian Morgan:** Exactly.

[18] **Darren Millar:** Paragraph 1.24 of the report makes clear that the officials who were responsible for the project were not challenged in any way by more senior officials when a report was prepared that went to the Minister for sign-off. What was the problem there? That should not have been down to a cultural shift from the WDA to the Welsh Government. This was a fundamental issue that everyone ought to get right. When a report goes to a Minister, the Minister expects it to be right.

[19] **Dame Gillian Morgan:** Absolutely. In this case, the report was issued by someone who believed that they had the authority of senior staff and therefore did not deal with a conflict of interest in a way that I believe is appropriate. It is exactly what you are saying. Once it came across my desk, it was quite clear that the decision that we had reached was unsafe and that the money that we had spent did not offer value for money and was quite inappropriate. That is what I apologise for.

[20] **Darren Millar:** I have a couple of Members who want to come in.

[21] **Aled Roberts:** Were the senior officials in the department present when that briefing was given to the Minister and did they not feel some discomfort regarding the circumstances that were outlined in the briefing?

[22] **Dame Gillian Morgan:** I cannot answer that. The briefing that was given was written by the individual who project-managed the purchase. It was handled and the final sign-off was given in north Wales. At the time this happened, the structure in the Department for the Economy and Transport gave an awful lot of authority to the senior managers in each of the regions. We do not have that regional structure now, for exactly that reason.

[23] **Aled Roberts:** Can you remind us of the structure above the regions in the Welsh Government at the time?

[24] **Dame Gillian Morgan:** Above the regions, there was a governance team, then a director general, and then a director who took responsibility for the regional directors.

[25] **Aled Roberts:** Were those briefings seen by those people in the management level above the regional level before they were presented to the Minister?

[26] **Dame Gillian Morgan:** I cannot answer that. We could track it. Do you know, Arwel?

[27] **Mr Thomas:** I do not know. We would have to track that.

[28] **Darren Millar:** That would be helpful information.

[29] **Dame Gillian Morgan:** If people were signing for amounts within their delegated authorities, it would not necessarily be seen by somebody more senior. The issue, for me, is why, when we knew that there was a conflict in respect of the lease, we did not escalate it to my level, to the director of governance, or to internal audit. It was not until later that it came across our desks and we were able to act on that.

[30] **Aled Roberts:** Surely, when you say that those briefings were not seen, those people who were higher up the management chain would have been present when the Minister considered the briefing.

[31] **Dame Gillian Morgan:** Not necessarily. We can check the answer to that question, but that is not necessarily so.

[32] **Jenny Rathbone:** I am struck by the wording in the briefing, which says

[33] ‘There has been absolutely no conflict of interest in the way your officials have dealt with this matter’.

[34] Even if the word ‘absolutely’ were not there, we would disagree with that, but how often are briefings so categorical when, clearly, the opposite is the case?

[35] **Dame Gillian Morgan:** I cannot answer how often. What I can say is that, of all the cases that I have looked at in four years, this is in a league of its own for the information and the way that that information was presented. I have never seen anything written that way or such a denial of the degree of conflict of interest. I can accept that Amanda Brewer believed that she had the approval of her senior managers, but as soon as you looked at it externally and as soon as it came across my desk, it was obviously quite inappropriate.

[36] **Mike Hedges:** To come back to the WDA, which existed prior to this, surely it had its own rules. It was also spending public money. Although it was not a direct part of the Welsh Government at the time, it was wholly funded by public money, so it was a public sector organisation, whatever its terms. Surely it must itself have had rules on such things as due diligence checks and independent valuations. You would expect that in any organisation, let alone a public sector organisation. I am not convinced that it was because there was a change from the WDA to Welsh Government. Something is fundamentally wrong when two things that any organisation, public or private, would do were missed out. The question—and it is almost Aled’s question again, but asked in a different way—is why somebody higher up the food chain did not look at it and ask why those two things, an independent valuation and a due diligence check, had not been carried out. I would have thought that, as the bits of paper came through at different levels, someone would have said, ‘Hang about, where are these two things?’

[37] **Dame Gillian Morgan:** You are absolutely right, and the WDA rules were not followed either about the valuation or about due diligence. On the question of how and when very senior people get involved, you have to remember the scale and the number of transactions that go on. So, there is usually something that would put it onto the agenda of senior people to say that it was a problem. You only know that it is a problem if someone in the system says, ‘This doesn’t feel quite right’. Just reading papers does not necessarily give you that sense of what is going on.

[38] We are in a completely different position now, in that we have far more checks and balances in the system, and far more encouragement of whistleblowing. Those sorts of things do not seem to have been there. My view is that people got into group-think mode. They decided that they wanted to do something really important for renewal in Llangollen, and they had a vision of what it was going to be, and that vision drove across putting the appropriate due diligence checks in place. The points that you are making are exactly the points that arose when it came across my desk, which is why I stopped it. It was clearly not a safe set of judgments, and we should not have been in that position.

[39] **Darren Millar:** With respect, Permanent Secretary, you seemed to suggest earlier that this would have been normal practice for the WDA before it came into the Welsh Government, and now you are saying that the WDA had procedures in place to overcome these sorts of problems. Were there other cases in the WDA before it became a part of the Government of decisions flowing in this sort of way?

[40] **Dame Gillian Morgan:** There are examples of other things that have gone on from old WDA days, where they had a set of rules but people interpreted them differently from the—I was going to say ‘rigidity’, but that is not fair—robustness with which we interpret

them in the Welsh Government. There was a cultural difference between the two in the use of public money.

[41] **Darren Millar:** This is not a cultural difference, is it? You are now telling us that there were policies and procedures in place that were not followed.

[42] **Dame Gillian Morgan:** There was a cultural difference, for example with regard to conflicts of interest.

[43] **Darren Millar:** With respect, you referred to policies and procedures earlier. Which policies and procedures specifically did you have in mind?

[44] **Dame Gillian Morgan:** There was a different attitude to conflicts of interest within the WDA. They did not stick to the policy and procedure. There is a rule about the red-book valuation, but that was not carried out until the day after the lease was signed, so you have both things running in parallel. It is not either/or; it is both.

[45] **Julie Morgan:** You have partly covered what I was going to say, but is the fact that the WDA was described as 'entrepreneurial' used as an excuse for what it did?

[46] **Dame Gillian Morgan:** I think that we have to be very careful in this case about generalising based on a set of behaviours that was abnormal. The degree of conflict of interest that appears when you look at this externally would be very unusual. However, we have to be careful that we do not blame the whole of the WDA, which did lots of really good and remarkable things, but which had a different attitude and culture, for the actions of a particular individual who, for various reasons, did not follow the rules that were there because she wanted to make something happen for Llangollen.

[47] **Gwyn R. Price:** What happened to the proposal to dispose of part of the site, valued at £1 million in 2007, for residential development? Just to follow on, what is preventing the Welsh Government from cutting its losses and disposing of the site for residential development now?

[48] **Dame Gillian Morgan:** Do you want to talk about how sites are valued now, James, because I think that there is some confusion?

[49] **Mr Price:** If that is all right, I will come in on this one. I need to distance some of the comments that I will make from this case, though, because clearly the decision to buy the property for £1.6 million was a bad decision regardless. There is one point in the audit report that could be taken out of context, and it would be useful to explain that. If a piece of land has a certain value for residential or maybe retail use and you want to buy it, you have to pay the cost for whichever possible use has the highest value, even if you decide to use it for something else. That stands to reason. You do not go into a Mercedes dealer and say, 'I want to buy that car, but I am going to use it for transporting coal around Cardiff, so I will only pay the price of a van'. I need to take that point away from this, because clearly that is not what was going on here.

10.15 a.m.

[50] With regard to where we are now with the site and why we do not cut our losses and sell, there is a protocol in place in the public sector that says that if land is declared surplus to use against the policy environment of the time, which is currently economic renewal policy, as it was at the time this audit report was drawn up, the land has to be made available to other public sector players first. That is what has been happening for the last 12 months, basically. The local health board up there has expressed an interest in buying it. The value is somewhere

between £500,000 and £550,000, and if the consultation that the board is going through now decides that the right outcome would be to have local service provision there, it will buy it from us. The River Lodge buildings will be demolished immediately and a new building will be put up.

[51] I have looked at whether we could sell it immediately to the private sector. The issue from a public sector value-for-money perspective is that, if we sell it to the private sector, the private sector will up the price by a couple of hundred thousand pounds in two months' time and sell it back to the public sector in the form of the local health board.

[52] **Gwyn R. Price:** You have to draw a line under it somewhere, or it will go on and on. Somebody has to put a determined line under it and say, 'There is the due date; we want action by that date'. You cannot carry on pouring money into this project.

[53] **Mr Price:** Agreed. We are not pouring any more money into it at all. However, I completely agree with your point. I have asked the local health board to buy an option on the site, which means that it would typically put in 10% or 15% of the value of the site. If, in six months, it has not bought it, we will dispose of it in the way that you suggest, and the health authority will not get that money back. It therefore has to be very serious about it if it signs the option, and all the evidence is that it is.

[54] **Gwyn R. Price:** Are we saying that a date has now been set—of six months?

[55] **Mr Price:** I would need to get back to you in writing on that.

[56] **Darren Millar:** Are we not in danger here of making another mistake that will cost taxpayers dearly? The site is either worth £1 million, should it be disposed of for residential development, or it is not. You are now suggesting, James, that you are going to release this site for around £550,000 to the local health board. Given the huge gaffe that has taken place here, if there is potential to realise more by disposing of the site to the private sector, or to anybody else that might be interested, should we not be pursuing that?

[57] **Mr Price:** The issue here is one of public sector rules. I can clearly see where you are coming from. There is a question as to the value that we could realise on the open market for residential use at the minute, and while I think that it is marginally higher than £500,000, I do not think that it is anywhere near £1 million.

[58] The rules that have been set down, and which I have to work to, currently say that if land is declared surplus, we have to—it is not a choice—make it available to other parts of the public sector. If land is not declared surplus, then we can simply maximise the value, which we do routinely. In quite a lot of property transactions, we will maximise the value when we sell land. This land has been declared surplus, therefore it needs to go back into the wider public sector arena.

[59] I guess that the wider point is that if the local health board were to go to the open market to buy land—which it will if it does not buy this land—then it will pay more money for it. So, the point is this: the public sector is not losing out. That is the argument behind the policy. It is not my policy—

[60] **Darren Millar:** The public sector does lose out if you can dispose of it for higher value elsewhere, does it not?

[61] **Dame Gillian Morgan:** We bought at the top of the market and we are selling at the bottom of the market. Our priority is to use public land for public services. That is a ministerial priority, which is what we are working to. Independent valuation now says that it

would actually only be worth between £500,000 and £600,000. That is the sort of amount of money involved.

[62] We have been through the process of inviting expressions of interest, and only one organisation was interested, namely Betsi Cadwaladr health board. It is in the process of consulting the public on how to develop health services in that area. As it has expressed an interest and as the priority for Ministers is to use public land for public good, I think that it is quite appropriate to wait to see what comes out of that consultation.

[63] **Darren Millar:** When does that consultation end?

[64] **Dame Gillian Morgan:** The consultation will end in about six weeks.

[65] **Darren Millar:** Okay. Aled has the next questions.

[66] **Aled Roberts:** Is the health board's interest in the site dependent on any conditions, such as the construction of a footbridge over the River Dee?

[67] **Dame Gillian Morgan:** I cannot answer that in detail.

[68] **Aled Roberts:** Has any discussion taken place with the Welsh Government to fund that footbridge?

[69] **Mr Price:** Again, I do not believe so. I would like to provide a note on this issue, regarding the valuations and on what basis it is being done, and I will answer that question as well.

[70] **Darren Millar:** That would be helpful.

[71] **Mike Hedges:** You will probably tell me that I am wrong, but I always thought that the valuation of land depended on what it was designated for under the local development plan, or the unitary development plan. If it is worth £1 million for housing, does that mean that, under the local development plan, it has been designated for housing?

[72] **Mr Price:** Yes. Whatever is the most expensive use that you can legally put the land to will determine its value.

[73] **Mike Hedges:** We are talking at cross-purposes—I will try to explain myself more clearly. You could build almost anything, on any parcel of land—as long as the land is big enough—but it is what is actually in the local development plan, or the unitary development plan, that will state what is likely to be agreed and is possible. I might have a parcel of land, which might just be scrubland, and say, 'I am going to charge you as if you were building a supermarket here'. However, if I had a piece of scrubland in Gower, you would not be able to build a supermarket on it—it would only be available as agricultural land. Therefore, if the land was designated as housing land, its value would be as housing land; if it was designated under local plans as land for a hospital, or for something else, its value would be as designated.

[74] **Mr Thomas:** I will answer that. I will quote from the project itself when it was first created. The land is described there as 'residential/mixed-use development'—those are the words that are used in the project itself.

[75] **Mike Hedges:** Is it in the unitary development plan, or the local development plan, as such?

[76] **Mr Thomas:** It is described as the 'business plan'.

[77] **Darren Millar:** That is their business plan—it is not necessarily what it has been allocated as within the local authority's planning regime, is it?

[78] **Mr Thomas:** I would expect the words used there to be consistent with the local authority plan.

[79] **Darren Millar:** We will clarify that with the local authority. We will move on now; Jenny Rathbone has the next questions.

[80] **Jenny Rathbone:** I want to go back to what the Permanent Secretary said about needing someone in the system to say that something is going wrong in terms of the judgments made or the inaccurate information given by Ministers when the purchase was made. Clearly, inaccurate statements were made, but they were not picked up by senior management. Going forward to 2008, and the leasing arrangements for this new organisation, serious concerns were being expressed by Legal Services, from early in that year, stating that this had the potential to be unlawful state aid; yet, those voices were not being heard. I do not understand how Legal Services, which are there to ensure that the Government is acting within the law, seem to have been ignored. Could you explain how that could happen?

[81] **Dame Gillian Morgan:** When we do a transaction—if we are going to buy or sell something, or we are going to give aid to an organisation—there is always legal advice. Legal advice is about making a judgment on the balance of what Legal Services sees and hears about what it thinks the legality is. We do not always follow legal advice; sometimes, legal advice is rejected. What we would expect—this is a recurring conversation—is that, if you follow legal advice entirely, you may become so risk averse that you miss opportunities that would benefit the system. So, there is always a robust challenge between legal advice and policy makers. At the end of the day, policy makers and Ministers make decisions that are informed by legal advice. What we would expect, however, is to see a proper set of reasons for why you are not following legal advice. In fact, a set of reasons were given in the submission on why legal advice was not being followed.

[82] However, you then come back to the fact that the decisions were made in north Wales. The question that I asked was: why, when there were such significant concerns about this issue, were the legal concerns not escalated to a more senior level outside north Wales? I think that the answer is that, because the most senior people in north Wales were involved in agreeing the decision, Legal Services felt that it was an appropriate decision; it did not like it, but it felt that it was appropriate, at the end of the day, for the risk assessment to be made by senior managers. That goes on all of the time. There is a continuing debate about the fact that, if you only ever followed legal advice, you would be so risk-averse that you missed out on opportunity. On the other hand, if you always rejected legal advice, you would be too gung-ho and entrepreneurial. So, the issue is whether there is sufficient and appropriate challenge to legal advice.

[83] **Jenny Rathbone:** However, in this case, are you saying that the Government was just not aware of the potential for this to be an inappropriate lease, given that the legal advice was not given to the Minister until after the lease was signed? That seems to be arse over tip. I appreciate that legal advice is not always followed, otherwise we would never do anything, but in this case, the legal advice seems to have been very robust.

[84] **Dame Gillian Morgan:** I think that in this case, the legal advice should have been followed and as soon as I looked at it I could see that. The legal advice was categorical: this was an unsafe set of decisions and I will not defend something that was unsafe all of the way through from the beginning to the end. This is not acceptable and there should have been

enough alarm bells ringing in north Wales for people to say, ‘This does not feel safe; let us step back and reassess and look at where we are’. That did not happen. I think and hope that, given what we have put in place since then, if exactly that were to happen again, there are more systems and processes in place to ensure that anything about which there is a disagreement, is escalated. People who are not part of the decision can look at the situation more objectively and make those sorts of critiques, rather than those caught up in the decision to make something happen. Things would now be referred to a more senior level. However, this is indefensible—let us start from that position. We are not trying to defend this; we are trying to explain it, but that is different from defending it. You are absolutely right; this is a sorry story and we should not be in this position.

[85] **Jenny Rathbone:** So, in this specific case, the legal advice was only shared with people in north Wales and not with the Minister’s office. It seems to me that someone should be have been knocking on the Minister’s door and saying, ‘You had better look at this one’.

[86] **Dame Gillian Morgan:** It was shared with the team in north Wales, which made the decision; it was also shared with the central governance unit. However, if you believe that policy decisions are made by policy people, then remember that we have disagreement all of the time; why would you be alert to this one? We are alert to it because we are looking back and can see that what happened is dreadful. However, you are not alert to things at the time that they are happening. Why would you separate this from other things where you have that robust and appropriate set of discussions about the balance of risk? This was unsound from beginning to end and should not have happened.

[87] **Aled Roberts:** Moving from north Wales to Cardiff, paragraphs 1.22 to 1.24 of the report talk of concerns about the accuracy of briefings to Welsh Ministers in Cardiff. Were the protocols that were in place in the Government the same throughout this period? When we move to 15 January 2010, a briefing is withdrawn from the Minister because it had not been cleared by Legal Services. So, were all of these other briefings, where concerns were raised regarding accuracy, cleared by Legal Services before they went to the Minister?

[88] **Dame Gillian Morgan:** Could you answer that, Arwel?

[89] **Mr Thomas:** I am not aware of the track of the particular briefings—which were written, ministerial briefings—in these particular instances.

[90] **Aled Roberts:** If you are not aware of the track, is the protocol that Legal Services always clears briefings?

10.30 a.m.

[91] **Mr Thomas:** Yes.

[92] **Dame Gillian Morgan:** Yes.

[93] **Darren Millar:** So, would that have been down here in Cardiff and not exclusively bound up in north Wales?

[94] **Dame Gillian Morgan:** There are two components of Legal Services, and part of the issue here is that there are legal services that give advice on issues such as propriety and so on, but the lease, for example, was done by the commercial legal team, which deals with commercial property. At the time, they worked to the regional director. Therefore, once a decision had been taken, the people who did with the lease were not the same people who sit in Cardiff who give the other advice. So, you have some sort of breakdown there. However, we have tightened things up over this period of time. There have been a lot of governance

changes, and you are talking about one of them, and what it showed is that things that we have put in place subsequently—although not because of this—have begun to pick up this sort of problem. That was the first example of the system working properly, as you would want to see, because, without that advice, it was unsafe for it to go and be considered.

[95] **Darren Millar:** I want to check something on the timeline. Obviously, the report specifically mentions that the local Assembly Member at that time, Karen Sinclair, had been corresponding with Ministers in Cardiff about her concerns about the River Lodge and the way things were tracking. Therefore, surely, the central units, as it were, would have been aware that there was a problem. Is that not enough of a flag for people to say, ‘Wait a minute, we need to get a grip on this’? If she was writing to the First Minister and the Business Minister at the time, senior officials down here, including, for example, the Permanent Secretary, should perhaps have been aware of the situation.

[96] **Dame Gillian Morgan:** You have to remember how systems and processes work. When something very detailed comes through, you ask the people with the expertise to respond. Normally, that is fine. In this case, you were asking for a response from the people who were at the heart of why we had a problem. Therefore, the responses that were going back were written by the people—not the individual, but her manager and the other manager—who were actually involved in having taken the decision to proceed with the River Lodge. Therefore, you ended up with something that did not trigger a response at a sufficiently senior level. The governance unit within the Department for the Economy and Transport has been fundamentally changed, and this is one of the reasons it has been changed—to make it much more objective and challenging when these things come through. However, you are dealing here with a historical set of things, where everyone assumed—and there was no reason to assume because no-one had looked at it objectively and reassessed it—that this was a sound decision. That was the first trigger of the new systems that we had put in place that said that this should not have happened.

[97] **Darren Millar:** So a serious concern is raised by an Assembly Member with a Minister or the First Minister and that is just bounced down to whoever is considered to be dealing with that particular issue, even if it is a very serious concern that is being flagged up.

[98] **Dame Gillian Morgan:** Such matters are sent to the most appropriate official at the most appropriate senior level to respond.

[99] **Darren Millar:** So, that happens even if concerns are being raised about decisions at a local level.

[100] **Dame Gillian Morgan:** Again, it depends on the nature of the concerns, the way the letters are phrased, and what the particular concern is. Concerns were being raised, but there were also positive things coming through, so you had a mix of things sitting on ministerial desks.

[101] **Darren Millar:** You suggested earlier that this was all confined to north Wales, but it is becoming clear that it was not.

[102] **Dame Gillian Morgan:** No, I did not suggest that.

[103] **Darren Millar:** You are saying that these decisions were all made exclusively within north Wales, but you now seem to be suggesting that there was correspondence centrally, that different legal departments were involved—

[104] **Dame Gillian Morgan:** You are talking about what happened later on. There was a series of letters being raised, which I think I—

[105] **Darren Millar:** The earliest was in 2007, according to the report.

[106] **Dame Gillian Morgan:** Yes, which I did not see centrally at all. The first letters I saw were much later than that. However, at that time, it was being managed within the delegated authorities that sat within north Wales. You then have a central compliance unit, which is meant to challenge and raise issues. It did not do that as robustly as we would have liked, which is why we now have a different system.

[107] **Lindsay Whittle:** This sounds like a game of Monopoly without the rules, with respect, and that is extremely worrying from a public point of view. We have heard from the Chair's question that the Assembly Member first raised this in 2007. Are civil servants totally disregarding what local Members are saying? What action has been taken to ensure that, when elected Members raise serious issues about large sums of money such as this, it is brought to the attention of the Minister? It seems, from what the Chair has said, and what the report says, that these were brought to the attention of the Minister and the First Minister. Maybe we should be asking what they did. What did they do?

[108] **Darren Millar:** What systems are in place now?

[109] **Dame Gillian Morgan:** On the systems that are in place now, do you want to talk about within DET?

[110] **Mr Price:** Or BETS, as it is now. It is fundamentally different from what we had before. I have sat in this room on different occasions defending some of the changes that we have made because they have other consequences as well. So, to start, we no longer have a regional set-up as a department, so there is no regional autonomy in terms of defined geographic areas for managers or civil servants to do what they want to do. It is important to say that we have not centralised everything in Cardiff; what we have done is centralised different functions around different parts of Wales, but they are all on an all-Wales basis and within an all-Wales governance framework. That is the first thing that we have done.

[111] The second thing that we have done has been to introduce processes and systems so that no one person can sign anything off anymore. So, if you were looking at this type of activity, the biggest changes would be in something called the 'property leadership team'. In essence, it is a peer review activity, where every single property transaction—and I mean every single property transaction, down to things like £25 for grazing rights at St Athan—is considered and thought through. On the back of that, on a weekly basis, a submission goes up to the Minister and, normally, it is routinely signed off because it has been thought through, and the Minister may refer things back to me. That is the second thing that we have done.

[112] If I can go all the way through to the other end of this, we were talking about what would happen if a letter came in complaining about things, which of course happens quite routinely. What happens now, as a matter of course, is that those letters are referred straight to me. I will look at them and I typically will not send them down to the person working in the area to which the complaints relate because I want to have a peer review to look at what is going on, even if that is only for presentational purposes. The big cultural thing that we have been stressing to people within what was originally DET, when I was first asked to go in, but more latterly BETS, is that people have to be beyond a suspicion of doing anything wrong. It is not simply that they cannot do anything wrong; they have to be beyond suspicion of doing anything wrong and that is the culture that we have tried to push through.

[113] In terms of the legal question that you asked, about what would happen if Legal Services had a concern, ironically, I have an SF here—I will not show anyone what it is—and I understand that Legal Services have a concern about it and that Arwel may be speaking to

me later today about it. What will happen is that we will fight Legal Services quite hard within the department, but we will not put anything through about which Legal Services has said, 'Under no circumstances should you do that.' So, that is now part of the process and procedure and it would be ramped up to me. If I was being incorrect about it, it would go to Gill and I am convinced that that would happen in today's circumstances; it did not happen then.

[114] **Dame Gillian Morgan:** I am quite certain that the systems and processes would pick up the majority of things. It is very difficult where you have a group of people who get into group thinking. That is really hard, but with the systems and processes, if someone was going against legal advice, it would be on my desk and I would be looking at it on a regular basis. The other thing I think is important is that we have been much clearer about delegation documents and what people can do. That includes mandatory training and there are two bits of mandatory training that everybody is now expected to do if they are holding a budget. One is the Chartered Institute of Public Finance and Accountancy, National School of Government; I have done it and I have my little certificate. We also have governance training, which tries to express the issues around the management of public money, which people often forget. There is a guidance document that looks at this in a much more fun way. It talks about trolls and sea monsters, and it is a very effective training method because it talks about the practical things that go wrong. Nobody intended to be here today, but all the things that they did led us to this position.

[115] **Lindsay Whittle:** I am sorry, Chair, but I do not think that the question was fully answered. We understand now that, when Assembly Members write in, there is a procedure, but we are told that the Assembly Member in 2007 raised this with Ministers and with the First Minister. Did they contact you?

[116] **Dame Gillian Morgan:** No.

[117] **Darren Millar:** Okay. I am conscious of the time. We will probably not get all of the evidence that we need today, as usual. Jenny, and then over to Aled.

[118] **Jenny Rathbone:** I just want to clarify that, up to and including June 2009, it was perfectly possible for £1.3 million of state aid to be provided to an organisation without a Minister having to agree it.

[119] **Dame Gillian Morgan:** It was not state aid; that was the definition, but it was quite possible for an individual to buy the building and the land for that sort of cost. There are two bits to this. That was caught up. In parallel, there were a number of things that we were doing as the Welsh Government about this organisation where our systems and processes worked perfectly well. This was an organisation that, at its best, had about £1,700 in the bank, but far less than that on many occasions. It applied to the Welsh European Funding Office and to other bits of the organisation for grants, and was turned down, because due diligence said that it was an organisation that had neither the track record nor the financial backing. So, what you have, in parallel, is a set of systems that were working fine and picking up the concerns and saying, 'We cannot give public money for recurrent money to this organisation'. However, there was a little bit around the property and land that did not have the same sort of grip and control, which is what James has now talked about in terms of changing people's ability to make that sort of decision about the one-off investment of buying a piece of land.

[120] **Jenny Rathbone:** What I am saying is that a lease was entered into that included a very significant slice of public subsidy, given the valuation of the land, without the Minister having to sign anything.

[121] **Dame Gillian Morgan:** At the time, that was possible and it could happen in north

Wales. The peer review process has now taken those decisions away from the local level and we have built in scrutiny. What happened here was that nobody stopped to think and look at it. As soon as you stopped and stepped back to look at it—my favourite expression is that if you lay in the bath reading it coolly—you would have looked at it and said that it did not feel right. Nobody did that. The systems and processes now would stop that, but it is important to say that the other things that we had when we were looking at grants worked very effectively. We said, ‘This is not an organisation that it is safe to give public money to’. The question that you should then ask me is: why did you not share the learning? The answer is that, when WEFO rejected that, the decision had been made and the lease had already been signed without a proper valuation, so it was too late in the day to put the two pieces of information together.

[122] **Darren Millar:** May I just ask about the new peer review process that you have introduced, which sounds very reasonable and acceptable? If someone at Amanda Brewer’s grade made these sorts of decisions again, who would peer review that decision?

[123] **Mr Price:** It is a group of people, not just one person. It is a group of people that is headed up by the current head of property. That goes up through the system to the director of delivery. It might be referred to me, or it might not, and it will then go to the Minister, who goes through every single one.

[124] **Darren Millar:** So, what sort of trigger requires it to go to you or the Minister?

[125] **Mr Price:** It will go to the Minister regardless of anything else; that just happens. That is a part of the process. You could say that that is going too far, but I have taken all delegations away from everybody, which actually includes me as well. So, unless I do all the paperwork properly, which I do not think is that onerous, until something goes through to the Minister and is initialled, we will not do anything. I am sorry; I have forgotten your specific question.

[126] **Darren Millar:** You have mentioned the property leadership team; it would be useful if you could provide us with the names of members or officers.

10.45 a.m.

[127] **Mr Price:** I will add it to the other note.

[128] **Dame Gillian Morgan:** The important thing about it is that it is not from one part of Wales, because if you are working in communities, you get excited by community projects. At the heart of this, people wanted to do something good for Llangollen and, driven by that, they forgot about some of the other systems and processes. That is really important, at the end of the day.

[129] **Darren Millar:** I will bring in Aled with a brief question and then I will come to Julie.

[130] **Aled Roberts:** I want to return to when the local Assembly Members’ concerns were being raised first of all. To whom did the Minister and the First Minister refer those concerns? Did you or any of the directors general have any direct contact with local Assembly Members regarding their concerns?

[131] **Dame Gillian Morgan:** My first contact with an Assembly Member was after I had taken the decision to send in auditors and to stop decisions being taken about it. So, it was after my decision, which was based on looking at the paper, that this was an unsafe decision. That was my first contact. I had seen a copy of a letter that had been sent from the First

Minister, about four or five months before, but I did nothing based on that because it basically said, 'This is okay' and there was nothing in that that I felt that I needed to take on. It was later on that it came to my attention in a way that looked to me as if this was not sound. So, I had no involvement until after I had taken that decision.

[132] **Aled Roberts:** What about any of the directors?

[133] **Dame Gillian Morgan:** Do you remember, Arwel? Most of the involvement, which would have been with one director general, again, was after we triggered the compliance review and then the audit. So, at that point, we had conversations with one particular Assembly Member in north Wales, but that was after it had got into our minds as being really serious and we became not happy at all with what was going on.

[134] **Jenny Rathbone:** We are still not clear about the letter that went from Karen Sinclair to the relevant Minister and the First Minister. Where was that referred? Which official was asked to look into it?

[135] **Mr Price:** I do not know.

[136] **Dame Gillian Morgan:** We know that, ultimately, the letter and the information that were given were written and agreed in north Wales. It would have been by a combination of officials, but we know that that it was where it was agreed and signed off.

[137] **Darren Millar:** You should be able to determine from the references on these letters who specifically—

[138] **Mr Price:** We can find that out.

[139] **Dame Gillian Morgan:** We will look.

[140] **Darren Millar:** That would be useful. May I check something? You have suggested that you triggered a review of the decision before speaking to the Assembly Member. What triggered your making the decision to have this whole thing looked at in more detail?

[141] **Dame Gillian Morgan:** Concerns had been raised in the Department for the Economy and Transport, and it had commissioned a compliance review. The findings of the compliance review, which the WAO lays out clearly for us, said, 'Oops, this is not something sound' and Gareth Hall came to see me to say, 'We have a problem here; this is not a safe decision'. I wanted it looked at independent of anybody in that part of the organisation, which is why I commissioned Arwel to do it. So, it was raised with me because of concerns at DG level in that part of the organisation. Once we got to that point, the system worked fine; it was up to that point that I cannot justify.

[142] **Julie Morgan:** How fairly do you think that Powys Fadog was treated by the Welsh Government in view of the fact that support was given to it by the Welsh Government at a certain stage? How do you feel about how Powys Fadog has come out of this?

[143] **Dame Gillian Morgan:** Although the lease was signed and we should not have signed it, we honoured it and the lease conditions. It had up until June 2011 to generate the money. Its problem was that it was dependent on 100% funding coming from the public purse and it had already been rejected by two different bits of the Welsh Government. It knew that it had been rejected by those two bits of the Welsh Government. So, I believe that, with an unsafe decision, it was treated perfectly fairly. It had until June 2011 to generate the money and was unable to deliver any of the lease requirements. It looked at, and we discussed with it, this alternative of having an association with the housing association. However, when we

came to look at the proposals—and the WAO report is clear about that—that was an even worse deal for us than the deal that we were currently in. Therefore, our best bet was to honour the lease contract, which we did, and it was unable to collect the resource that it needed.

[144] **Julie Morgan:** Okay. Thank you.

[145] **Darren Millar:** There was, obviously, a decision to go ahead with this lease, but it was later deemed that this initiative—the project as a whole, as it were—did not fit policy priorities. Therefore, had policy priorities changed?

[146] **Dame Gillian Morgan:** Yes. If you remember, this was sitting around the time of the economic renewal programme, which was led by the Deputy First Minister at the time. That was a fundamentally different attitude to how we spent money; it mentioned sectors and the economic gain that we could get, and the sort of much looser investment in regeneration for the sake of regeneration was no longer part of the priority. Furthermore, at the time, people were looking at significantly reducing budgets, as you know; that is the reality—people have to be much more critical about where we put the money. The priority was to make jobs in the six areas that were part of the ERP.

[147] **Darren Millar:** So you are saying that, in terms of political priorities, the Ministers at that time were no longer with the project, as it were, and did not support the project.

[148] **Dame Gillian Morgan:** I do not believe that Ministers, at any time, either supported or did not support this; Ministers are completely blameless in this. This is about the failing of the civil service machine to give Ministers the information they need. Therefore, I do not believe that Ministers were either in favour or not in favour—they were taking the advice that they were given, and it is our advice that was biased and not appropriate for Ministers to rely on. Therefore, I believe that Ministers are quite blameless in all this.

[149] **Darren Millar:** But Ministers set the policy priorities.

[150] **Dame Gillian Morgan:** They set the policy priorities, which we then apply. The ERP was subject to a wide consultation, as you know, to try to look at how we use the declining amount of resources to get the biggest bang for Wales. The trouble for this project is that those priorities changed. However, when WEFO assessed it, the priorities had not changed; WEFO assessed it and refused to give it money because of simple due diligence. Therefore, you have the change in priorities, which made the longer term solution difficult, but, at the end of the day, this organisation did not have a track record, it did not have the management, which it recognised itself, nor did it have the ability to generate money, and it should have been ruled out of court for those reasons, not for any of the other things.

[151] **Mr Price:** The policy review that was done was done on the site as well; it was not done on the project. The question was: was the site fit for purpose within the new economic renewal policy? Personally, I do not believe that the project was fit for purpose in the policy environment that was operating before the ERP either.

[152] **Darren Millar:** Okay. Mohammad Asghar has the next questions.

[153] **Mohammad Asghar:** Thank you. I am listening carefully to this session. You have already gracefully accepted that rules were broken and that legal advice was sometimes not taken. You have just mentioned civil servants' advice to the Minister. At the same time, I believe that Assembly Members also showed concern about this whole scenario. Therefore, the ministerial code of conduct is there—with colleagues and civil servants. It means that there is a very thin balance there, so they have to go the right way rather than going to the

civil servants. You agree that rules were broken, but the fact is that there is something between civil servants and ministerial colleagues, in that concerns were totally ditched. Therefore, why did that happen and where does the buck stop? You have just mentioned, James, that there have been collective mistakes rather than mistakes made by one person. We need to know where the buck stops, and that person should come here to give us their evidence.

[154] **Dame Gillian Morgan:** That is simple—the buck stops with me. This was unacceptable behaviour, and we reached an unacceptable set of decisions, which is indefensible. As principal accounting officer, I felt those things, which is why I stopped the project and why we have reformed much of the governance that we have been doing. Therefore it is clear—the buck stops with me.

[155] **Aled Roberts:** Did Ministers ever question the fact that it was the regional offices, regarding whom the concerns had been expressed, that were being asked to comment on the concerns? Did Ministers not stand back and say, ‘Actually, I want an objective assessment here from the civil service, not people who were involved in the project from the outset’?

[156] **Dame Gillian Morgan:** Ministers have the right to assume that the civil service shows a number of things: integrity, honesty, objectivity and impartiality. That is part of what the civil service code requires. Therefore, Ministers should assume and had the right to assume—because if we do not assume that people are behaving with these key things, then you get into very difficult relations—that there was integrity, honesty, objectivity and impartiality, but there was not.

[157] **Aled Roberts:** From my experience in local government—and the same could be said of local government officers, that there is the same expectation—you would never go to the same people who you had expressed concerns about for advice regarding the situation.

[158] **Dame Gillian Morgan:** No, it is not the same as local government.

[159] **Aled Roberts:** I know that it is not the same—

[160] **Dame Gillian Morgan:** The civil service code is a legally binding code and is a part of the civil values and is now a part of the Constitutional Reform and Governance Act 2010.

[161] **Aled Roberts:** However, there have been examples of rogue civil servants.

[162] **Dame Gillian Morgan:** Indeed.

[163] **Aled Roberts:** So, is it not natural to expect that someone who has not been tainted previously with a project would be asked for advice regarding the—

[164] **Dame Gillian Morgan:** We come back to the fact that there are very few rogue civil servants. There are very large numbers of correspondents and it is appropriate that people ask advice from the people who know about the business. The system should have alerted Ministers to this being something. Ministers would not have known that there were multiple letters coming in across the place. We, as civil servants, let Ministers down. We have to be very clear about this. This is a failure of civil servants and we should have expected better of our systems and processes. It is not one civil servant, but the processes that we had.

[165] **Darren Millar:** You said that Ministers would not have known; I regularly correspond with Ministers, but if there is a serious concern that I have to raise, I might speak to them privately as well. You may not be able to answer this question, but did such private conversations take place?

[166] **Dame Gillian Morgan:** I cannot answer that.

[167] **Darren Millar:** Okay. Thank you.

[168] **Jenny Rathbone:** Were the Ministers not aware that the queries that they were raising because of the Assembly Member's correspondence were just going back to the people in north Wales who were generating this project? They said that there was a problem, or that an Assembly Member had raised a problem, but was the Minister not aware that they were just being referred back to the north Wales team?

[169] **Dame Gillian Morgan:** You have quoted to me already that Ministers were given absolute assurance, which was signed off by more than one civil servant. Ministers have to trust the advice that is given to them. If the advice is unsound, it is very difficult for a Minister under such circumstances. That is why it is a systems and process issue for the civil service to deal with, rather than Ministers.

[170] **Darren Millar:** Okay, I am afraid that the clock has beaten us. We have many more questions that we would have liked to have asked you this morning. We will enter into some correspondence with you, Dame Gillian, but thank you for your attendance today, and thank you, James, David and Arwel. We will return to this after the summer recess. The meeting is now closed.

*Daeth y cyfarfod i ben am 10.58 a.m.
The meeting ended at 10.58 a.m.*