



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

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

**Dydd Mercher, 16 Chwefror 2011  
Wednesday, 16 February 2011**

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,  
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.  
In addition, an English translation of Welsh speeches is included.

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

Peter Black	Democratiaid Rhyddfrydol Cymreig Welsh Liberal Democrats
Jeff Cuthbert	Llafur Labour
Alun Davies	Llafur Labour
Irene James	Llafur Labour
Bethan Jenkins	Plaid Cymru The Party of Wales
Sandy Mewies	Llafur Labour
Darren Millar	Ceidwadwyr Cymreig (Cadeirydd y Pwyllgor) Welsh Conservatives (Chair of the Committee)
Jonathan Morgan	Ceidwadwyr Cymreig Welsh Conservatives
Janet Ryder	Plaid Cymru The Party of Wales
Joyce Watson	Llafur (yn dirprwyo ar ran Lorraine Barrett) Labour (substitute for Lorraine Barrett)

**Eraill yn bresennol**  
**Others in attendance**

Paul Dimblebee	Partner Ymgysylltu, Swyddfa Archwilio Cymru Engagement Partner, Wales Audit Office
Simon Edge	Partner Ymgysylltu—Cydymffurfiaeth, Swyddfa Archwilio Cymru Engagement Partner—Compliance, Wales Audit Office
Martin Peters	Rheolwr Cydymffurfio a Swyddog Gwybodaeth, Swyddfa Archwilio Cymru Compliance Manager and Information Officer, Wales Audit Office
Patrick Spillane	Archwilio Mewnol a Rheoli Risg, Swyddfa Archwilio Cymru Internal Audit and Risk Management, Wales Audit Office
Huw Vaughan Thomas	Archwilydd Cyffredinol Cymru Auditor General for Wales

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

Alun Davidson	Clerc Clerk
Joanest Jackson	Cynghorydd Cyfreithiol Legal Adviser
Andrew Minnis	Dirprwy Clerc Deputy Clerk

*Dechreuodd y cyfarfod am 9.30 a.m.*  
*The meeting began at 9.30 a.m.*

## **Ymddiheuriadau a Dirprwyon Apologies and Substitutions**

[1] **Darren Millar:** Good morning, everyone. Welcome to today's meeting of the Public Accounts Committee. I remind everyone that the National Assembly for Wales is a bilingual institution, and you are free to speak in either Welsh or English. Headsets are available for the public for translation and amplification purposes; channel 0 being the amplification channel, with channel 1 providing a translation from Welsh to English. I ask Members and witnesses to switch off their mobile phones, BlackBerrys and pagers, as they can interfere with the broadcasting and other equipment. If the fire alarms go off, please follow the instructions of the ushers.

[2] We have received one apology this morning, from Lorraine Barrett. Joyce Watson is her substitute. Welcome, Joyce. I also note that Bethan may need to leave a little early today and that Janet is on her way.

9.31 a.m.

### **Diwydrwydd Dyladwy yn Swyddfa Archwilio Cymru: Sesiwn Frifffio gan Archwilydd Cyffredinol Cymru Due Diligence in the Wales Audit Office: Briefing from the Auditor General for Wales**

[3] **Darren Millar:** Members will be aware that a paper has been circulated on the subject of this item. Auditor general, would you like to introduce your paper, please?

[4] **Mr Thomas:** First, I would like to introduce those who are with me. You have met Simon Edge before; Simon is the main author of the report, assisted by Patrick Spillane. Martin Peters is currently our expert on the numerous freedom of information requests that have been received. He has all of the necessary information, usually at his fingertips. Please feel free to direct some questions to him as well.

[5] I do not intend to give a lengthy introduction to this paper. Suffice it to say that the need for a review arose from exceptional circumstances involving the personal conduct of someone in a position of significant public trust. It was right and fitting that the interim auditor general commissioned a close look at the professional behaviour of the former auditor general in the light of the circumstances.

[6] As you are well aware, and as I am aware from my many appearances before you regarding these and related matters, the report is not a complete digest of all of the matters relating to the Wales Audit Office. I would like to take the opportunity later on to update you on the progress of the report that I gave on the projects—those that we had not tracked down. I would just like to bring you up to date on that.

[7] On a number of matters in the report, I regret that the team may be unable to provide a full response to questions at this time—this is simply because I do not wish to prejudice an ongoing internal investigation. However, as you will see from my covering letter, on balance, I nevertheless feel that it is appropriate that the Public Accounts Committee considers this report in public. This is because I think that the report will help the people of Wales to understand the nature and extent of any misconduct that may have occurred and the steps that have been taken since my appointment to address those issues and prevent any recurrence. In this context, I would like to draw your attention to paragraph 58 of the report, which I have also highlighted in my covering letter. I have obligations as an employer to seek to ensure that staff variously associated with Mr Colman's actions are not unfairly exposed by reporting on

his actions. This governs our ability to respond to some of your questions. I ask you to bear that in mind.

[8] Turning to the report itself, the overall conclusion is that Mr Colman's input to the audit work of the Wales Audit Office was proper and beneficial. No further matters were found relating to his conduct that it was felt should be referred to the police or which could lead to further action against Mr Colman. However, the report identified matters where he failed in certain of his responsibilities as accounting officer and, in some cases, acted inappropriately in his management of the Wales Audit Office by departing from the Wales Audit Office's management arrangements. The report covers Mr Colman's failure in a number of instances to adhere to established governance and management arrangements, particularly for financial management, the arrangements for handling the severance of the chief operating officer, some staffing issues and also the documentation of decisions. I would stress that, where the report describes instances of Mr Colman's failure to follow due process, Members should not infer that the outcomes of these situations were necessarily inappropriate.

[9] I hope that you will agree that this report represents a sincere and diligent attempt by the Wales Audit Office to establish any matters outstanding from Mr Colman's period in office that required action. Indeed, Mr Colman's reprehensible behaviour in relation to the criminal offences for which he was convicted might not have come to light had staff at the Wales Audit Office not acted as they did.

[10] The Wales Audit Office staff have co-operated fully with this review and I can assure Members that they and I share your determination to root out any lingering weaknesses in culture or practice that could impede us in serving the people of Wales. In this context, I think that it is appropriate for me to say that it is unfortunate that, in a sense, exposing the shortcomings of the past is sometimes portrayed as though the issues were current. This is far from being the case. I am confident that the steps that I have already taken to address the weaknesses of governance and management have placed the Wales Audit Office well on the road to restoring both staff morale and public trust. At this point, I think that it is appropriate that I hand over to Simon Edge to continue the introduction of the report.

[11] **Mr Edge:** It might be helpful if I started with a brief recap of previous events. In October 2010, I provided a briefing on the work in progress, as it was at that stage, of the due diligence review. That briefing contained information that was, to the best of our knowledge and belief at the time, complete and accurate. However, as I stressed at the time, it was subject to the completion of the review and clearance with the interested parties—not least, of course, Mr Colman. Patrick Spillane accompanied me at that briefing to help me to answer any detailed questions, and he is here again today for the same purpose.

[12] In completing the report, we have continued to seek and to follow legal advice on what we can and cannot say and how we can and cannot say it. In particular, as the auditor general has said, that advice limits what we can disclose in three particular main areas: matters relating to or which may affect any ongoing investigation; matters that might unfairly or disproportionately identify individuals—we must remember that this report is about the behaviour of Mr Colman; and matters that have not been included as part of the clearance process. We have undertaken clearance and we have made amendments or referenced consultees' comments where we felt that it was appropriate to do so. However, even with those caveats, the issues in the final report are consistent with the earlier briefing.

[13] As the auditor general has said, in conducting our review, we have sought to answer the question of whether Mr Colman, while holding the office of the Auditor General for Wales, engage in any misconduct—and there, we were talking about matters other than those that have already been determined by the courts—that prevented him from performing his

functions properly or that brought his office into disrepute. It is important that we have a definition of 'misconduct' and we have defined it as being behaviour that is inconsistent with the reasonable expectations regarding the conduct of a senior public servant. We have further analysed that into three sub-classes. First, matters that would result in any further criminal or other action against Mr Colman; secondly, failure to properly discharge his responsibilities; and thirdly, matters of inappropriate or poor judgment.

[14] Our findings are broadly set out in paragraph 22 of the report. They are that Mr Colman's input to and influence on audit reports and national studies was proper. The Wales Audit Office financial audit opinions that were given by, or under, Mr Colman were sound and his input to value for money or performance audits was beneficial. We have not found matters that should be referred to the police or, based on the advice that we have received, matters that should constitute an offence of misconduct in public office. However, we have concluded and found that Mr Colman brought his office into disrepute by failing in his responsibility as the accounting officer for the Wales Audit Office—that is class 2 misconduct—and that Mr Colman acted inappropriately in his management of the Wales Audit Office by departing from the Wales Audit Office's management arrangements. These were matters containing elements of poor and/or inappropriate judgment and would fall into our class 3, as I have previously described. I should acknowledge that Mr Colman, in his comments on the report, strongly contests bringing the office into disrepute.

[15] It is important, in considering these findings and conclusions, that we talk about how it could have happened and why it could have happened. Our analysis is that Mr Colman's failures were due to his management approach, which lacked consistent and open communication with management or adherence to processes. Some insight into Mr Colman's thinking can perhaps be seen in some of his comments, which we have included in the report. I draw your attention to those in paragraphs 16, 41, 61 and 65.

[16] By not providing information, or providing information partially or selectively, Mr Colman did not always allow meaningful contributions to the decisions that he was making. He appears to have focused on his independence as the regulator of public sector audit in Wales and not to have had a sufficient appreciation of his accountability in his role as the accounting officer for the Wales Audit Office. Once again, I should acknowledge that Mr Colman denies this.

[17] We have made recommendations to the new auditor general; he has accepted all of the recommendations and they are being acted upon. The recommendations that we have made address the root causes of the problems identified rather than the individual instances. However, I have no doubt that further work will be undertaken to improve individual controls and their application within the Wales Audit Office. At that point, I think that it is right that I pause and take any questions that you may have.

[18] **Darren Millar:** Thank you very much indeed for those opening remarks, auditor general, and thank you, Simon, for compiling the report. It made for astonishing reading and it was certainly an eye-opener for other members of the committee in terms of the information contained within it. While I appreciate that you, on taking legal advice, have been unable to share further information that supplements this report, particularly in relation to other members of staff in the Wales Audit Office, Members will want to put a number of questions to you.

[19] I will ask the first question. The report makes it quite clear, between paragraphs 47 and 50, where it talks about the departure of the chief operating officer, that the auditor general sought to conceal the details of the severance package that was awarded to the former chief operating officer. It seems to suggest that he was calculating in doing that, and yet the advice that you have received suggests that there has been no misconduct in public office. I

find that quite a strange suggestion. I am no lawyer, but it appears to me that if someone is trying to conceal information like that and to have accounts prepared in a way that conceals that information, that is a pretty extraordinary judgment to make, is it not?

[20] **Mr Edge:** I can certainly see the anomaly. It really depends on the advice that Mr Colman was taking at the time, the thoughts that were going through his mind in making the decisions that he made, and whether or not he could mount a defence of having taken and acted upon advice. He may have acted in a way that was within the bounds of reasonableness, or he may not. Certainly, in the comments that we received from an external source, which can be found at the bottom of paragraph 49, Mr Colman has allegedly attributed his concerns to the reputation of the Wales Audit Office and the privacy of the chief operating officer. It is also fair to say that the matters were reviewed internally by certain members of staff and the external auditor. So, we have been advised that Mr Colman would have a defence in those areas. We are only able to act on the advice that we have received.

9.45 a.m.

[21] **Darren Millar:** It is also pretty extraordinary in terms of some of the responses that Mr Colman has made to the report. This is particularly true of paragraph 16, which was perhaps the most surprising. You can read for yourself his comments on paragraph 15, which talks about the legislation and the role and responsibilities of the auditor general and the governance arrangements, and his responsibilities as accounting officer. He states that their sole basis is to support the Auditor General for Wales in ways that are convenient to him. It appears that he did not feel responsible to anyone and was a bit of a law unto himself.

[22] **Mr Edge:** I will not challenge your words, Chair; that is in keeping with the conclusions that we have come up with regarding the imbalance between independence and accountability.

[23] **Darren Millar:** Okay, that is extraordinary. A few Members want to come in at this point.

[24] **Bethan Jenkins:** I just wanted to echo what the Chair said with regard to paragraph 49. I find it very difficult to get to grips with the fact that it clearly implies that Mr Colman wanted to hide the fact that the chief operating officer would be given a severance payment. It seems that there was every intention to map out that cover up. I do not know what the committee can do with regard to seeking guidance on this. However, it seems to me that members of the public watching this today would find it difficult to believe that he would seek to do that and that he would potentially take media advice on that. I would not want to imply that he was acting inappropriately, but a lay person would see that as being a totally inappropriate way for someone to conduct themselves in such an office.

[25] My second point relates to paragraph 58. I appreciate what you have said about staffing, but you say that the arrangements for staff leaving the Wales Audit Office were an issue for Mr Colman. Does that refer to a single member of staff, or does that apply to more than one member of staff? That is, have you identified, since the situation relating to the chief operating officer, other instances where the former auditor general had misgivings about the processes by which staff left the Wales Audit Office?

[26] Finally, are you certain that your recommendations for change are robust enough, given the severity of these events? Of course, we would not want to tarnish your reputation, because this is about Jeremy Colman, but are you happy with the changes and the new arrangements, and can you be sure that this will never happen again?

[27] **Mr Edge:** In relation to paragraph 49, it is interesting that Mr Colman chose to go

outside the organisation rather than to ask the head of communications to provide the sort of advice that he was seeking. In his written comments to us on the report, Mr Colman stressed that he did not feel that it was appropriate for subordinates of the former chief operating officer to be involved in decisions around his departure or the terms of that departure. As you will see from comments that we have made later in the report, we do not agree with that conclusion. However, it is very interesting that he chose to go outside the organisation and did not inform anyone in the organisation about what he was doing.

[28] In relation to paragraph 58, as was stated in the National Audit Office report on the accounts of the Wales Audit Office, a number of staff left the organisation prior to Mr Snow, and the accounting treatment that was applied in their case was consistent to that applied to Mr Snow. The issues discussed in paragraph 58 are isolated. We have not found widespread instances of inappropriate intervention. It is worth mentioning that, according to the people we have spoken to who were responding to those interventions, some of which were external parties, such as consultants and contractors to the Wales Audit Office, Mr Colman was making the sort of challenges and queries to processes and procedures that the chief executive would be expected to make.

[29] Where we think he acted unwisely and with poor judgment was in relation to not documenting that or making sure then that his interventions went through the processes that had been established for handling such comments. This is particularly true in relation to two of the instances that we have referred to. When Mr Colman left office, the interim auditor general and executive committee were able to terminate the arrangements that the auditor general had attempted to put in place, so there was nothing to suggest that the outcomes arising from the interventions referred to in paragraph 58 were, in the final analysis, inappropriate; it was the way in which he went about it.

[30] **Mr Thomas:** I will respond to the question regarding the current and future situation. As the committee is aware, I felt, very early on, that there were issues regarding the governance of the Wales Audit Office that needed to be addressed. That is why, in a sense, we are bringing in new governance committees. One of the key elements of this is to ensure that, at no point, should an auditor general be able to intervene to fix by himself or herself any point of someone's salary and terms. That is why a governance committee will be dealing with the remuneration of all staff, particularly issues relating to termination and so on. That allows the necessary checks and balances to apply.

[31] One of the other areas of weakness is the internal documentation and record keeping of the Wales Audit Office. Once again, I will be using the expertise of some of the members of the new governance committee in terms of resources in order to help to see that through. So, it is a strengthening of the external voice in the governance of the Wales Audit Office that acts as a reassurance for the people of Wales.

[32] From very early on in the process, I have stressed that I have two responsibilities. I also have the responsibility of being the accounting officer and you rightly hold me to account for the way in which I spend money from the public purse. There is a question about maintaining the checks and balances for both.

[33] **Darren Millar:** I think that it is worth reminding Members that the Budget Responsibility and National Audit Bill is progressing through the UK Parliament and that may give us the opportunity to develop an Assembly Measure—or an Act post-March, if there is a 'yes' vote—to deal with governance arrangements in a different way and to tighten them and improve them in the future as far as the role of the auditor general as chief accounting officer is concerned.

[34] I would like to go back to the issue of staff payments that Bethan raised. You



suggested that you could not identify members of staff, quite rightly, in paragraph 58; without identifying them, is it possible to give us an idea of the number of staff who may have been receiving enhanced allowance payments and special responsibility payments, or who received larger than usual severance packages upon departure from the WAO?

[35] **Mr Edge:** The number of cases referred to in the National Audit Office report has that particular matter on record. In relation to the other matters, it is difficult for me to be precise without allowing people, either through information that is within the report or otherwise available, to be identified. Would you be satisfied if I said that it was a very small number of people and that we are aware that, in that very small number of cases, the actions of the interim auditor general and the executive committee prevented the actions that Mr Colman had set in train from coming into effect?

[36] **Darren Millar:** Okay; that is an interesting response. When you say ‘a very small number’, it could still mean huge sums of money, could it not? The motivation behind that is what we are really trying to get at here. I appreciate that you cannot disclose details such as names, and that you do not have all of the information available to determine Mr Colman’s motive, but it is something that we would like to get to the bottom of, if possible. Could you take further advice on providing a more detailed note to us on this issue, because it is something that it is in the public interest for us to try to determine?

[37] **Jonathan Morgan:** I would like to start by thanking the auditor general and the Wales Audit Office team for this report. Some of the detail is quite astonishing and those reading this report for the first time will be quite surprised at its content. Having chaired this committee, I am not completely surprised by your findings, but I am grateful to you for the open way in which you have concluded this report and the detail that is provided within it. There are some questions around the detail that we would wish to explore, and I can understand some of the sensitivities that you face, as an organisation, in being able to outline some of that detail.

[38] I have three specific points to raise. In paragraph 40, where you explore the way in which Mr Colman disregarded agreed and adopted management arrangements, you say in relation to the audit and risk management committee that

[39] ‘he did not provide information, or was partial and selective in communicating information, and thereby did not always allow them to meaningfully contribute to decision making, where their roles and the Wales Audit Office’s governance arrangements apparently gave them a locus to do so’.

[40] The use of the word ‘apparently’ suggests to me that there was a level of uncertainty about the role of the ARMC. Did the ARMC, at any point, present a challenge or has anything been documented to suggest that it raised with Mr Colman its role as a governance organisation within the Wales Audit Office? The use of the word ‘apparently’ suggests a level of doubt regarding its remit and whether it understood its remit when he set up that committee. Are you confident, therefore, that the recommendations that you have made in this report will address that and ensure that there is clarity regarding who is responsible for what within the governance arrangements of the Wales Audit Office?

[41] My second point relates to paragraph 49—we have already touched on this subject—and the departure of the chief operating officer. From what you have said, Mr Colman went to an external media adviser, whoever that was, and he was advised that he would need to recognise that the amount of the compensation would become a matter of public interest once it was published. This is the bit that really surprised me and, as Members have raised this, it is important to explore this point. Mr Colman is said to have replied that that was not necessarily going to be the case as the amount was not going to appear in the accounts in a

way that would connect it with the chief operating officer's departure. At that point, from what you have written, the fact that he stated that it was not going to appear suggests that he had already made a deliberate decision that that information would not form part of the accounts and therefore could not be uncovered by the publication of the accounts.

[42] Going back to what the National Audit Office said in its report and what we have taken in evidence, it seems to me that he deliberately chose to pursue a route that would therefore exclude those details and not comply with the requirements of the financial reporting manual. However, you have said, Simon, that you have not really uncovered matters that would be regarded as misconduct, but perhaps matters that could be judged by the public as bringing the office into disrepute. I would regard that as a very serious matter and one of misconduct, because the accounting officer and the chief operating officer of the organisation came to a decision and the accounting officer—the auditor general—determined that that would not form part of the accounts and therefore would be deliberately hidden. I regard that as being a matter of misconduct. Within the realms of the law and the way in which regulations are set out, it may not be misconduct, but I would regard that as being exceptionally serious.

[43] My final point relates to the staffing issues—mostly those in paragraph 57 and not those in paragraph 58. You say in paragraph 57 that

[44] 'we have also found instances where Mr Colman appears, without documented explanation, to have gone outside of Wales Audit Office processes in handling staffing issues in a non-transparent and potentially inadvisable way'.

10.00 a.m.

[45] Can you expand on that? I appreciate the difficulty and sensitivity around specific details regarding individual members of staff and I accept your response. However, your use of the phrase 'potentially inadvisable way' suggests to me that there is an element of risk, and that what he was doing was potentially risky. Therefore, could you expand on that point without putting yourself in a position where you end up disclosing information that is difficult to disclose? My final point on the recommendations is that they say that the auditor general should keep under review the governance arrangements, particularly how the auditor general's role is discharged as auditor general and as accounting officer. Over a period of time, the committee will need to give a steer as to whether it is advisable for one individual to hold both those positions. I believe that that does need to be considered in the future. I am not saying that I have come to a firm view as to whether it is possible for an auditor general to also be an accounting officer, that is, in effect, the chief executive of the organisation. However, over time, as you are reviewing it, you may want to consider whether it is possible for both those substantial responsibilities to be discharged by one individual.

[46] **Darren Millar:** On that last point, the next committee, in the fourth Assembly, will have some work to do on the development of a proposed Measure that could consider that particular issue. I do not feel that it would be appropriate to ask the auditor general to comment on the last point that you made. Simon and auditor general, would you respond to the other points that Jonathan made?

[47] **Mr Edge:** Yes, and I will take them in the order in which they were asked. In relation to paragraph 40 and the word 'apparently', the audit and risk management committee does have proper terms of reference, which are quite wide ranging and comprehensive. The term 'apparently' in relation to the ARMC and the other matters of WAO governance is really a qualification. It is pretty clear to us, but apparently it was not to Mr Colman, or Mr Colman had a slightly different interpretation as to how these matters related. Perhaps the comment at paragraph 16 on the controls that were convenient to him sheds some light on his

interpretation of that. When drafting the report, we had to be very careful not to put words in Mr Colman's mouth. At the time that we were drafting the report, we did not know whether he would comment on the draft that was sent to him. He did, and did so quite comprehensively. He does take considerable issue with some of the conclusions that we have drawn and the way in which we have phrased it. I am trying to be fair to him, by making sure that we do not speak for him. I believe that he has been invited to the committee and his interpretation of those arrangements is probably something that the committee would want to hear from him, to see whether it was apparently clear to him. The recommendations are robust and, with an auditor general who does not see his independence as outweighing his accounting officer responsibilities, they are robust and will be effective.

[48] In relation to paragraph 49, the information that we have, again, is on the basis of the comments that we have received from the external party. On this paragraph, Mr Colman said that he recalled having the conversation, although not necessarily all the details in it. With regard to whether the amounts in relation to the chief operating officer's package would appear in the accounts, the word 'appear' is slightly ambiguous, in that he may have meant that they would appear in the accounts but not in a way that would identify them as being in relation to the chief operating officer. So, the money would be there, but the clues as to what it related to would not be. As the internal audit report and the reports of the National Audit Office have concluded, that was inappropriate. As I said, the advice that we received on the whole report is that Mr Colman would have various means of defence available to him, which would mean that an action for misuse of public office would be unlikely to succeed because, apparently, there is a very high bar that someone would have to jump over to get into that level of offence, because it has to be wilful, knowing and acting without advice. I am told that he would have a defence.

[49] **Darren Millar:** The fact that he would have a defence does not mean that a court would not find him guilty of that offence if charged though, does it?

[50] **Mr Edge:** Sorry, I should have said that he would have a defence that would be liable to be upheld.

[51] **Darren Millar:** That is the opinion of the lawyer. You have taken advice on that.

[52] **Mr Edge:** Yes.

[53] **Jonathan Morgan:** I think that we need to be clear on this point because it is fundamental. There was someone discharging responsibilities as an auditor general and accounting officer for the Wales Audit Office, and a decision could be taken about the way in which financial liabilities appeared in the accounts and how those liabilities were lined up with where they fell—in this case, whether you could attribute these costs to Mr Snow's departure. From what you have just said, Colman's view suggests that they could be put in there, but not specifically lined up to Mr Snow's departure, but that is still, to my mind, an attempt on his part to conceal information and, as I understand it, it would not be within the spirit or the letter of the financial reporting manual and the variety of regulations that apply to the preparation of accounts. I find it absolutely astonishing that that is not regarded as misconduct or bringing the office into disrepute, or whatever the term might be. We all know that the office of auditor general is one that is held in high regard and that demands very high standards, as we see from our current auditor general. For someone not to apply those standards I find truly astonishing. I think that this is something that we ought to be exploring further.

[54] **Darren Millar:** Irrespective of the advice that has been given to the Wales Audit Office in the production of this report, the committee may take the view that this needs to be referred to another body, perhaps the Crown Prosecution Service, for further investigation.

That is a decision that the committee might like to take later on. I think that there was a further point on some of the governance arrangements.

[55] **Mr Edge:** There is one more point on paragraph 57, but just to come back on those points, we have concluded that there was an intention to conceal or to have a lack of transparency, which might be a better way to phrase it. We have concluded that it was misconduct in the sense that it was a failure to uphold responsibilities as accounting officer. The only point upon which we have any debate is whether it could be prosecuted successfully. As I have said, the advice that we have had is that it would not be.

[56] On paragraph 57 and what we mean by ‘inadvisable’, paragraph 57 relates to paragraphs 58 and 59 and the inadvisability is with regard to the fact that if a chief executive is going to intervene in the process, that person should ensure that they have properly documented what they are doing and why they are doing it and should follow the proper channels. The inadvisability relates to the fact that if you do not do those things, all of the sorts of questions that are being asked become available for asking. Why did you do what you did? Why did you not document it? What was the hidden motive? We cannot answer all of those questions because we do not have the documentation; we do not have the transparency to see what Mr Colman was doing and thinking at the time.

[57] **Mr Thomas:** I realise that you suggested that I did not answer the last question on the position of auditor general and accounting officer. I would argue that those positions can be held by one person; however, I think that the weakness is that the governance arrangements of the office are currently for me to determine. That may be something that the committee may wish to address, particularly in light of the new powers. I think that there is a need for you to consider some other model—perhaps that applied to the National Audit Office—so that you can have confidence that checks and balances do not hinge on the thoughts and actions of one individual.

[58] **Jeff Cuthbert:** I wish to say that I am mindful that I have not had sight of Jeremy Colman’s detailed responses to your questions. I have read the summaries and I do not doubt their accuracy in any way. I have to say that, based on what I have read and heard, I very much support Jonathan’s comments regarding the package for the former chief operating officer. I also heard what you said about the counsel’s advice on that matter.

[59] I think that I can link my particular point into recommendation 6, where you discuss documentation and record-keeping policy. It is clearly something that is very sensible and should be there. I link it to paragraphs 60 and 61. I have referred to this matter before; it is about the training and development of staff, and the lack of records. Whether it is specified in rules or not, it seems that, at the very least, the attitude of Jeremy Colman was extremely unprofessional. Considerable sums of money may be spent on the training and development of staff, quite rightly, but if that is not recorded and if the evaluation is not undertaken, it is a waste of time and who knows what has been gained as a result of that expenditure. I trust that that will be one of the issues addressed under recommendation 6 for the future. As the new auditor general, Huw, you will have a very good grasp of the training and development needs of staff and how they are being met.

[60] The other point that I want to make relates to paragraph 22 and the points that Simon made with regard to the three bullet points after the words, ‘Our answer to the question is’. I refer to the final point about Mr Colman acting,

[61] ‘inappropriately in his management of the Wales Audit Office by departing from management arrangements’.

[62] I have listened to you carefully, and if I read paragraphs 32 and 33 about proper

governance arrangements, it seems that many of the arrangements were actually determined by him, and that he did not follow his own policies. You state that,

[63] ‘In his comments Mr Colman strongly contests that “...these matters brought the office into disrepute”.’

[64] To what extent could he argue that it was his interpretation that he was following the rules properly, as he may have set many of them, and should that become an issue? Again, do you have the legal advice on that matter? What scope for interpretation did he have and does he rely on that in terms of his rejection of your assertion that it brought the office into disrepute?

[65] **Mr Edge:** That is a very complicated question. It requires me to do some interpreting of the comments that I have received from Mr Colman. It is quite right that he did institute some of these controls and governance arrangements. At paragraph 15, we list the arrangements that existed: from ‘relevant legislation’ and down, those are external matters; from ‘Audit and Risk Management Committee’ and down, those are internal arrangements and they were set up by Mr Colman. I think that the comment that he has made at paragraph 16 is probably the closest that I will be able to get to an answer to your question. Mr Colman draws a distinction between external framework controls, which he presumably felt that he was bound by, and the internal ones, as he says,

[66] ‘whose sole basis is to support the AGW in ways convenient to him’.

[67] Presumably, if it was inconvenient for Mr Colman in relation to the matters that he was discussing with the external adviser around the disclosure of the chief operating officer’s package, and if that was going to be inconvenient because of the publicity or whatever would be caused as a result of it, Mr Colman felt that he had, based on his judgement, the ability to do what he then went on to do.

[68] **Darren Millar:** It is appalling, is it not? It is quite right that it is the only conclusion that you can draw from the comments that Mr Colman has made. I remind Members that we have had further information on the travel and subsistence costs associated with the training costs that we looked at for the former chief operating officer and the former auditor general. These have obviously been circulated. They suggest that, in one year, between 2007 and 2008, £18,814.43, excluding value added tax, was spent by the auditor general on training for himself, which is a pretty extraordinary sum of money in anyone’s judgment.

10.15 a.m.

[69] Unfortunately, given that no arrangements were in place to justify this expenditure and given that the decisions have been made and that this money has been spent, it is difficult for us to do anything about what has already happened. However, I am confident, given the responses of the auditor general about the new arrangements that will be in place in the future, that these circumstances, in terms of the lack of documentation or of any evidence at all of the effectiveness of the training or the need for training to be undertaken by any member of staff, will not arise again. Members will also be aware that pretty extraordinary sums were identified in the travel and subsistence costs of the former chief operating officer, including an extraordinary taxi fare to a conference on ‘more for less—keeping down costs in the public sector’, which seemed pretty lavish.

[70] **Jeff Cuthbert:** I want to make a point, which I think that I have made before. I would not want anyone listening to this discussion to think that we are seeking to curtail training and development expenditure. We want to encourage it, but it must be properly justified and the auditor general must be satisfied about its appropriateness.

[71] **Darren Millar:** Given the response of the auditor general to those matters in previous committee meetings, and he may wish to respond now, we can be pretty confident that that information will be available and that the robust documentation that we need will be included in the future. Do you want to respond, Huw?

[72] **Mr Thomas:** I simply want to add another qualification to Jeff Cuthbert's. In addition to being appropriate, it also needs to be proportionate. That is an important test.

[73] **Alun Davies:** This is pretty disturbing reading. I thank the auditor general and his staff for providing us with this documentation and for the work that has been done to expose what has been going on at the WAO and the actions of Mr Colman over previous years. The paragraph that I found most disturbing was paragraph 54, in which you set out Mr Colman's actions in relation to the departure of the chief operating officer, stating that he

[74] 'instigated actions designed to minimise the visibility of the COO's package. In doing so he misled Partners, staff, and the Audit and Risk Management Committee. He disregarded adopted governance arrangements, and failed in his Accounting Officer responsibilities.'

[75] Those are not individual actions; they amount to a pattern of deceit and a pattern of actions whereby he actively sought to conceal information from the public and his colleagues and embark on a course of action that he knew was outside of what was expected of him. Together, they amount to a cover-up. He took actions that he knew would not be defensible. He knew that because he had taken external media advice, and it would be interesting to know a bit more about that. This is a pattern of behaviour that I do not think can be dismissed simply as a management style, because it involves decisions over a period of time and actions that go beyond a somewhat eccentric management style. I think that that would brush some of this under the carpet. There is a requirement for additional action here. That is absolutely clear. The pattern of behaviour that has been exposed by this report is simply too serious to allow us to accept this report and move forward. I accept that governance arrangements need to be put in place to ensure that this does not happen again, and I am confident that that is taking place. When, I hope, we have additional powers, we will be able to strengthen those governance arrangements in the ways that have already been discussed. However, I do not believe that such a pattern of behaviour can be allowed to rest here. This committee and the Wales Audit Office need to explore need to explore ways in which we can take further action over these matters.

[76] **Mr Thomas:** All I can say is that I specifically required that we sought legal advice and counsel advice. The comments in the report about action reflect the advice that we have received.

[77] **Mr Edge:** I am not here to act as an apologist for Mr Colman in any way—I am trying to be as balanced and as neutral as possible. However, I should probably draw your attention to the shaded box on page 3 of the report, which deals with the clearance process that we went through. In the penultimate sentence, Mr Colman contends that the whole of his behaviour is not typified by the incidents referred to in the report. I just thought that I ought to mention that.

[78] **Alun Davies:** I appreciate that Mr Colman disagrees with the findings of this report in totality, and we accept that. It would be useful to explore further his views on some of the matters. However, I find the evidence that has been provided to be very compelling. Without having the ability to examine and test some of Mr Colman's assertions in his defence, I have to say that, given the pattern of behaviour that has been described here, taken as a whole, it goes further than has been characterised in the report. It demands further action from this committee.

[79] **Sandy Mewies:** Someone said at the beginning of the meeting that they hoped that this would draw a line under the matter. I do not think that it does. The auditor general has indicated that internal investigations are still going on. I understand why you would want to protect the identities of people—that is normal in any human resources issue anyway; personnel issues are not generally discussed in public—but that leaves this committee in difficulties, because I think that we need to know what the results of those investigations are. You may not be able to put forward names to us, but I think that we are entitled to be informed of any issues that are identified as arising and whether they require legal remedy. If a decision is taken not to have legal remedy, we should be informed of the legal advice that you have been given to follow that course. I do not think that you can keep it within your own office. That is what has happened in the past, and I do not think that you can keep any results within your own office. I took it from your letter that you do not intend to do so, and I would like to be assured that we will know about anything that comes up in future.

[80] We are hearing this evidence in public, and that is why we are dancing around some of the issues; it is a two-edged sword, and I understand that. Mr Colman has every right to put his view forward, and it should be represented here, but I would like to take Mr Colman out of the picture completely. You have identified issues, they are being investigated, and that is all fine. However, a question keeps coming up in my mind about the ethos of the auditor general's office in the past. We have checks and balances, such as the audit and risk management committee that had been put into place, being ignored. Paragraph 40 talks about the way in which internal checks were completely ignored. This is causing me quite a bit of concern. Paragraph 49 talks about things being held together.

[81] With regard to the other matters arising, which we have not really discussed, such as poor communication with senior management, there is an acceptance that note-taking and sharing information did not happen—it was all in someone's head, by the looks of it—and parts of meetings were closed to audit office staff. Mr Colman is quoted in the report as stating that:

[82] 'It is not poor communication for me to communicate what I judge it relevant to communicate. In my view it was poor use of resources to generate notes of all meetings.'

[83] We then go on to partner relationships; I assume that you mean accountancy partners in some cases, but you are also looking at the way that clients have operated. You talk, in this report, about when Mr Colman created an impasse, and say that, in external client discussions, problems were caused. Generally speaking, you are dealing with organisations that have chief executives or people working at that level—you can correct me if I am wrong here—and people working at that level should be pretty confident in what they do.

[84] Then we have paragraph 67, about staff relationships, which states that staff were making allegations that cannot be proved because the e-mails cannot be found. However, if you look back at things, you can see perhaps why that has happened. What concerns me is why people did not feel that they had someone to go to—someone who was not the auditor general—to raise these issues. We have not talked about this at all, but I find it very concerning that staff were making allegations, or, at the very least, expressing concerns. There is evidence that partners and clients had also expressed concerns. What happened? Did they have to button-up because there was no-one to go to? How will your recommendations rectify that situation? I might be completely wrong, but I find the section on other matters arising just as concerning, in relation to the ethos, as the actual incidents on which you have as much evidence as you will ever get. It is the ethos that concerns me.

[85] Why could people not express concerns? Was it because there was no-one to express them to or because they were worried about the consequences of doing so? What are you

putting in place to ensure that these problems will not arise in future? You said something that was interesting, Martin: you said that the recommendations would work, given that you now have an auditor general who is completely transparent. What would happen if you did not? We know now that we have an auditor general of complete integrity in place, but what if we did not?

[86] **Mr Thomas:** There were a range of points there. I will start by assuring you, as I did in my letter, that, if issues of substance emerge from the internal investigation, then they will be brought to the committee's attention. I also wish to reassure you that this stage of the internal investigation is being handled by a former senior partner of an international accounting firm. So, I am using an external person to carry out this stage of the investigation.

[87] **Sandy Mewies:** If decisions are taken, will we get to know why they are taken?

[88] **Mr Thomas:** You know that a distinction must apply if there are issues of a personal or disciplinary nature. There are limitations on what I, as an employer, can share. However, if there are issues of substance, you can rest assured that I will share them with you.

[89] The National Audit Office report also referred to the issue of the culture within the organisation. You are right to say that, given the way in which the office of the Auditor General for Wales has been set up, it depends on one person, which is a point that has already been raised by Jonathan. That is rightly so in relation to independence, but not so in terms of the accounting officer responsibilities and, indeed, in the way that that person conducts themselves. There needs to be that kind of check and balance.

10.30 a.m.

[90] That is why I suggest to the committee that some of the recommendations that it may wish to make should relate to the way that governance is applied, as opposed to leaving it to the auditor general. Otherwise, you are entirely dependent on the nature of an individual for the culture of the organisation, its ethos and the way it operates. As to the issue of why it did not, I have to refer you to Simon.

[91] **Mr Edge:** It is a matter of ethos or culture, and, in fact, in discussing this report, various people with private sector backgrounds who have looked at these matters have said words to the effect of, 'What is your problem? Lots of chief executives act in an imperious manner. I have worked for a lot of people who acted in that way'. Those are the kind of comments that we have received. Nevertheless, we felt that we should include this material, because it is important and it relates to culture. You all know the way in which Mr Colman behaved, and the way that he presented himself and the office to the committee and to the wider world. He did have his idiosyncrasies, and his ways of doing things. In relation to communication with senior management, it was said to him on many occasions that notes of meetings would be helpful, and being accompanied to meetings would enable staff to understand what was said and the context in which it was said. He would smile and say 'no'.

[92] **Sandy Mewies:** I am sorry, but it is not as simple as that, is it? You deal with organisations that have chief executive officers or leaders working at very high levels, and if they express concerns, whom did they express them to—to him?

[93] **Mr Edge:** Yes, to him—

[94] **Sandy Mewies:** Was there nowhere else for them to go?

[95] **Mr Edge:** There is a route, and that is to report matters to the Chair of this committee and the chair of the audit and risk management committee en route.



[96] **Sandy Mewies:** I am glad that you have made that point, because in future it has to be made clear to people that, if they are not getting what they want from the auditor general's office, they can come to this committee.

[97] **Darren Millar:** They have that opportunity.

[98] **Sandy Mewies:** They have to be made aware of that opportunity.

[99] **Mr Edge:** The issue around that is the degree of the issues that we are talking about. Not inviting people to meetings, and not being completely open with other partners—and here we are talking about the senior management structure within the office—these are the sorts of things that I am sure Mr Colman would describe as his personal ways of working, and minor irritants to the staff around him.

[100] **Sandy Mewies:** I think that it is important to take Mr Colman out of this discussion.

[101] **Darren Millar:** I think that it is impossible to take Mr Colman out of this discussion, because the whole report revolves around his actions and decisions, and the way that he conducted himself in office. I think that it is impossible to divorce the two.

[102] **Sandy Mewies:** I do not. For the future, I think that it is important that this is looked at in the round.

[103] **Darren Millar:** You are making a very important point to do with where staff can go if they have a grievance with their employer, if their employer behaves in this way in the future. It is a fair point.

[104] **Sandy Mewies:** No, you are putting words in my mouth. I am not just talking about staff. There are other people mentioned in this, and other matters arising. I am surprised that they did not feel that they had an alternative route to travel down.

[105] **Darren Millar:** Is that in terms of other organisations?

[106] **Sandy Mewies:** We are talking about partners and clients in this particular part of the report.

[107] **Mr Thomas:** You have to recognise that this is different to an organisation that has had a series of chief executives, and so on, where the culture has become established and has moved from one to the next. We are talking about the person who was the original and founding Auditor General for Wales at the creation of the Wales Audit Office, and the style of the organisation owes a lot to the way in which it was set up, and so on. Changes now need to be made, and that is what the report identifies; indeed, changes in the culture need to be made. You cannot isolate the nature of that individual from the culture and describe them in separate terms. They were, in a sense, feeding off each other.

[108] **Joyce Watson:** I want to pursue what Sandy was saying, because that is exactly where I am coming from. There are serious allegations in your report about the way in which Mr Colman handled various things, and they have all been aired here this morning. Some serious words are used in the report to outline his behaviour, although he does not agree with them. We know all of that. I want to go along with Sandy, and I am sure that what Sandy is trying to say is what I will say. It cannot be the case, if we are moving forward, to simply say, 'We will not address that issue because it was a quirk of his nature'. You can call it what you like; it does not really matter, but if you put it firmly down to the individual, my fear is that you miss the future implications of it. That is not good enough for me. If people were

dissatisfied—and Sandy said it, and I will say it again—there should have been an identified route for those people to raise that dissatisfaction long before we got to the instances of behaviour that have, frankly, cost huge amounts of money, although I know that there is an argument that it could have cost even more money, and have been handled in such a way that public confidence—and we are talking about public confidence in this office—has been damaged and will take a long time to repair. So, my concern is that, while we accept that this individual in this time and space behaved in this way, we really have to get underneath the question of how on earth we allowed that to happen. That is what Sandy is trying to say, and, recognising all of that, we move forward. It is not good enough, and it will never be good enough for me, to hear that that was a quirk of that individual, because there could be another quirky individual around the corner, and another and another. Will we then be told that that was a quirk of that individual—who, by the way, repudiates everything that you have said? As those systems were not in place, we cannot prove or disprove the point in any case. Moving forward, those are the real questions that we have to ask, as far as I am concerned.

[109] **Mr Thomas:** There are whistleblowing mechanisms in the office. As the office is currently constituted, the auditor general has a degree of ability to set up his own governance arrangements. The issue is whether that is appropriate for going ahead. When the committee draws its conclusions, I hope that it does so not just by finding for the past but for the future. The last recommendation states that I should reflect on what we have uncovered of the past, and consider the lessons to take going forward, not just for my post but perhaps for others, and particularly corporations sole that have been set up. Those are important conclusions that we need to arrive at.

[110] **Jonathan Morgan:** I want to respond to the matter that the auditor general referred to with regard to governance arrangements. As the office is presently constituted, whatever governance arrangements the auditor general puts in place, when Huw's term of office expires, much further down the line, any auditor general could come in and completely alter those arrangements. Therefore, it is wise for us to look at how we codify or put into legislation more formal arrangements to make it difficult for future auditors general to merely scrap arrangements. It is hoped that the new arrangements will work exceptionally well, and I have confidence that we are going to see a step change. I think that it is wise that we look at that when we have the opportunity to do so.

[111] We also need to be clear about what our role is. We are not the human resources department of the Wales Audit Office. We need robust procedures in place—and the auditor general has already outlined some of this—that deal with HR matters and individual grievances. A lot of grievances came to light because of the way in which the former auditor general had dealt with people. That is down to management and personal relationships. Naturally, you need those robust procedures in place. The chair of the audit risk management committee at present reports to the Chair of this committee annually. It may be worth considering the nature of that reporting and the nature of the information provided and what that relationship should be in future.

[112] With regard to Joyce's point about the damage to the organisation and its standing, there is every prospect and opportunity for the organisation to be in a much stronger position because of this work. As I have said before, I see it partly as our role to be seen standing shoulder to shoulder with the Wales Audit Office and its staff because of the excellent work that they do. The point about the professionalism, the value-for-money studies and the auditing work is repeated in the report. I think that, in a very public way, we ought to be saying that we not only value their work but support their endeavours in correcting all of this. I think that that is an important message that this committee ought to send out in addition to dealing with whatever other issues we want to respond to with regard to Mr Colman.

[113] Finally, Chair, speaking personally, I would like to see this committee summon Mr

Colman to appear before us. I understand that we do not have the powers to do so, and I am saddened by the fact.

[114] **Darren Millar:** I think that we will discuss that last point in private session at some point in future, because I have information to share on that. You made some important points there, Jonathan. Clearly, once the Budget Responsibility and National Audit Bill has made its way through Parliament, there will be an opportunity for us to consider proposals for an Assembly Measure—or an Assembly Act, if further powers devolved to the Assembly as a result of the referendum in March. That will give us the opportunity to make the auditor general, as accounting officer, appear before the committee on a more regular basis to give account for the operation within the Wales Audit Office. That is something that I think the committee or a future committee, perhaps with different members after the election, will want to consider in future.

[115] It appears to me that the view of the committee is that this matter should be referred to the Crown Prosecution Service with regard to the misconduct issue. That seemed to be the suggestion coming forward from Alun, and I did not hear it contested. There are clearly issues of misconduct in public office, but the advice given to the Wales Audit Office is that that is not something that should be considered.

[116] **Jonathan Morgan:** Chair, although I have grave misgivings with regard to what Colman did as auditor general and accounting officer, I think that we have to be clear as to what offence he might have committed in criminal law if the matter is to be referred to the Crown Prosecution Service. We cannot just refer matters because he acted in a way that was inappropriate or that led to a level of misconduct in public office. I agree that his actions were more than inappropriate; as I said earlier, I regard them as misconduct. However, whether they constitute a criminal offence is fundamentally different.

[117] **Darren Millar:** Yes, but, as a committee, we cannot determine whether he has committed a criminal offence, can we? However, there is a body of evidence in this report, in other reports and in information available to the Wales Audit Office that the CPS may wish to draw upon.

[118] **Alun Davies:** Darren, I do not think that I did say that.

[119] **Darren Millar:** Okay, but you asked for further—

[120] **Alun Davies:** The point that I made was that, certainly, we cannot simply accept the report and move on. We have to look at taking further action as a consequence of the report. If, as a consequence of our consideration of the options before us, it becomes clear that a criminal prosecution is likely to succeed, that would clearly be a course of action. I do not think that it would be a matter for this committee to take that decision; it would be for others to do so, and for us to accept that decision or not. My concern—

10.45 a.m.

[121] **Darren Millar:** To be clear, I am not suggesting that this committee should seek criminal prosecution, or that there has been criminal activity. I am simply saying that it appears that we are unclear about our own satisfaction as to whether there has been misconduct at a level that would require some criminal prosecution.

[122] **Joyce Watson:** There are some things in life that I do not like, one of those being people inferring that they know what I am thinking. In this case, you clearly do not know what I am thinking. Based on what I have read, I would not want a referral to the Crown Prosecution Service. I wish to make that clear and to put that on the Record. If there is a

will—I have not picked up on it, but you seem to have done so—by this committee to look at whether that is a possibility, it is an entirely different question. You can remove the thoughts that you have expressed on my behalf about wanting to refer this to the CPS, and the next time that you want to know my thoughts, ask me for them first. Thank you.

[123] **Darren Millar:** You have made your views quite clear, Joyce. You have not been present for all of the discussions on this particular matter, but you have been here today. That is quite right.

[124] **Alun Davies:** I simply suggest that, as a committee, we thank the auditor general and his staff for bringing this report to our attention, and thank them for the very open and candid way in which they have responded to our enquiries this morning. I would then propose that we look further and consider the options that we have before us for dealing with the matters raised in this report, and take a decision based on a wider review of the options available to the committee.

[125] **Darren Millar:** That is fine. I wish to ask one further question of the auditor general before we move on—

[126] **Sandy Mewies:** Are we closing down the meeting now?

[127] **Darren Millar:** No. I will bring you in, Sandy. I just wanted to explore one other issue, which we have not touched upon at all during the course of our discussions today, which I think is important. Have you, auditor general, referred any matters to the professional bodies with which the former auditor general was registered, or those with which any existing members of staff within the Wales Audit Office are registered, for consideration?

[128] **Mr Thomas:** I have not done so at present. I cannot rule out that that may be an option open to me once I have received the results of the internal investigation.

[129] **Darren Millar:** It seems that this piece of evidence, in addition to the other evidence that the committee has received over a period of time, suggests that there may have been shortcomings by other members of staff who were involved in drawing up the accounts. There is also the issue of the appointment of auditors, which we will address later, and the reasons for their resignation. Peter wanted to speak.

[130] **Peter Black:** I support Jonathan in saying that, although there are clear issues of conduct and gross misconduct on the part of Jeremy Colman, the advice in this report indicates that that does not amount to a criminal offence, and, unless there is legal advice to indicate to us that a criminal offence has been perpetrated, I do not see that there is justification for us to go to the CPS. I would also support Alun Davies on the way in which we should move forward. For me, the clear route is that we should look in detail, as a committee, at the appropriate governance arrangements for the Wales Audit Office, in anticipation of us having power in the future to introduce a Measure. We should be looking at the preparatory work for that. It seems to me that that is the appropriate way to take this forward.

[131] **Sandy Mewies:** Clearly, there was not consensus, which has been clearly demonstrated. The auditor general has said that any further investigations will be brought before this committee, if necessary. If counsel's advice is necessary—you do not have to name anyone—it can be given to us on the issues. Like Jonathan, I feel that the office is moving forward, but that does not mean that I was not concerned by what happened in the past, which needs to be remedied quickly. That is as much as I want to say now.

[132] **Darren Millar:** If Members are content, we will ask the clerk to prepare a paper with

some options for moving this forward. We will also ask, in anticipation of powers in the Budget Responsibility and National Audit Bill being made available to the Assembly, for some groundwork to be done on improving the governance arrangements, particularly in relation to the auditor general being the responsible accounting officer for the Wales Audit Office, the relationship between this committee and the Wales Audit Office, the way in which the auditor general is responsible for his or her governance arrangements and the possibility of that being split off. We will consider the other matters as part of the options that the clerk will bring forward in his paper. If Members are content with that course of action, we will move on. I see that you are.

10.51 a.m.

**Buddsoddiad Cyfalaf mewn Ysgolion: Cyngor gan Archwilydd Cyffredinol  
Cymru**  
**Capital Investment in Schools: Advice from the Auditor General for Wales**

[133] **Darren Millar:** We have had a response from the Welsh Assembly Government on the report of the Wales Audit Office. I welcome Paul Dimblebee to the table. He is the engagement partner for performance audit. Members will remember that the report on capital investment in schools was published on 14 July last year. The committee took some evidence from the accounting officer on 21 October and published a report in December last year. The Government has responded and the auditor general has given some further thoughts on this matter in his response to the Government's official response. Huw, do you want to talk us through it?

[134] **Mr Thomas:** May I invite Paul Dimblebee to take us through that?

[135] **Darren Millar:** Of course.

[136] **Mr Dimblebee:** The Assembly Government sent its response to the committee's recommendations on 27 January, and in that it states that it accepts all seven of the committee's recommendations. It also includes a timescale for when they will be implemented. The implementation of the recommendations starts from December last year, but will continue over a period of 12 months, covering all of 2011. Key actions included in the Assembly Government's response refer to the fact that the 22 local authorities submitted their strategic outline programmes by the due date of December 2010. The Assembly Government is now in the process of analysing those strategic outline programmes and envisages that it will complete that exercise by the end of this July.

[137] A lot of the committee's recommendations depend on the outcome of that analysis. To give you an example, the committee's third recommendation requires the Assembly Government to establish the cost of bringing schools in each authority up to the agreed fit-for-purpose standard. The Assembly Government plans to do this by July 2011, based on its assessment of the strategic outline programmes. However, it is unclear, at the moment, whether the detailed standard underpinning the high-level definition of fitness for purpose will be ready until December 2011. So, it is unclear whether its analysis of the strategic outline programmes will provide a sufficiently robust basis for analysing the cost of the programme in total.

[138] So, even though we can say to you today that the Assembly Government has stated that it has accepted all of the committee's recommendations, it is not always clear from the response whether the proposed actions, when implemented, will be adequate to address all of those recommendations. The Assembly Government has proposed to report back to the committee after it has completed its analysis of the strategic outline programmes in July and

the core of our advice is that we should do some analysis of that and its response and make an assessment of the extent to which we feel that it is satisfactory in addressing the committee's recommendations, and then provide further advice to the next committee at that stage.

[139] **Darren Millar:** That seems quite sensible. Alun, did you want to come in?

[140] **Alun Davies:** I agree with that. In accepting the recommendations of the report, the Government almost seems to offer a narrative of those recommendations in each of its responses, which is a curious way of doing things. Any committee established by the new Assembly after May should regard this as a priority and, I hope, would review the actions proposed to be taken by Government at that time. So, I accept the recommendation of the auditor general.

[141] **Peter Black:** I would support that too. I just wanted to comment that I find it astonishing, in the light of what we have before us, that, between 2003 and 2007, the Assembly Government had an objective of making all schools fit for purpose by 2010, and that it has had no such objective since then. However, it is clear that the evidence for that objective was never available to it. The evidence is very important, and we need to get it in place as soon as possible.

[142] **Darren Millar:** As you rightly point out, there is an anomaly that the detailed standards for bringing schools up to a fit-for-purpose standard will not be available until December 2011, yet the Government is trying to estimate the costs in July of the same year. It seems pretty extraordinary, because I assume that it will have to commission further work to look at updating that information even after significant resources have been put in to get the work done for July. Is there any explanation as to why the Government has not been consistent or logical in its approach?

[143] **Mr Dimblebee:** All that we have to go on is the Assembly Government's response. We have looked at what you have looked at, and we have pointed out those anomalies. More clarity will hopefully be available when the Government has done its own analysis, which will enable it to be more specific in its response to the committee's recommendations, although not all of them, as you said, because some of them are timescaled not to be delivered until December 2011. At this stage, we have no further analysis, but we would hope to bring that analysis to the committee the next time.

[144] **Darren Millar:** Does anyone else wish to come on in on this? I see not. I suggest that we are content to follow-up the recommended action. Thank you.

10.57 a.m.

### **Cynnig Trefniadol Procedural Motion**

[145] **Darren Millar:** I move that

*the committee resolves to exclude the public from the remainder of the meeting, in accordance with Standing Order No. 10.37.*

[146] I see that the committee is in agreement.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10.57 p.m.*  
*The public part of the meeting ended at 10.57 p.m.*