

Cofnod y Trafodion The Record of Proceedings

[Y Pwyllgor Cyfrifon Cyhoeddus](#)

[The Public Accounts Committee](#)

08/12/2015

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o'r Cyfarfod
Motion under Standing Order 17.42 to Resolve to Exclude the Public
from the Meeting

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi 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 |
| Alun Ffred Jones | Plaid Cymru (yn dirprwyo ar ran Jocelyn Davies) The Party of Wales (substitute for Jocelyn Davies) |
| Sandy Mewies | Llafur Labour |
| Darren Millar | Ceidwadwyr Cymreig (Cadeirydd y Pwyllgor) Welsh Conservatives (Committee Chair) |
| Julie Morgan | Llafur Labour |
| Jenny Rathbone | Llafur Labour |
| Aled Roberts | Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats |

Eraill yn bresennol
Others in attendance

| | |
|--------------------|---|
| Owen Evans | Dirprwy Ysgrifennydd Parhaol, Grŵp Addysg a Gwasanaethau Cyhoeddus, Llywodraeth Cymru Deputy Permanent Secretary, Education and Public Services Group, Welsh Government |
| John Howells | Cyfarwyddwr, Tai ac Adfywio, Llywodraeth Cymru Director, Housing and Regeneration, Welsh Government |
| Alastair McQuaid | Swyddfa Archwilio Cymru Wales Audit Office |
| Christopher Munday | Dirprwy Gyfarwyddwr, Atebion Busnes, Llywodraeth Cymru Deputy Director, Business Solutions, Welsh Government |
| James Price | Dirprwy Ysgrifennydd Parhaol, Grŵp yr Economi, Sgiliau ac Adnoddau Naturiol, Llywodraeth Cymru Deputy Permanent Secretary, Economy, Skills and Natural Resources Group, Welsh Government |

Huw Vaughan Thomas Archwilydd Cyffredinol Cymru
Auditor General for Wales
Mike Usher Swyddfa Archwilio Cymru
Wales Audit Office

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

Fay Buckle Clerc
Clerc
Claire Griffiths Dirprwy Glerc
Deputy Clerk

*Dechreuodd rhan gyhoeddus y cyfarfod am 09:15.
The public part of the meeting began at 09:15.*

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

[1] **Darren Millar:** Good morning, everybody. Welcome to today's meeting of the Public Accounts Committee. We are now going into public session. Just to welcome formally members of the committee to the meeting and make the usual housekeeping notices, reminding everybody, Members and witnesses, that the National Assembly for Wales is a bilingual institution and that Members and witnesses should feel free to use English or Welsh as they see fit during the course of our proceedings. There are, of course, headsets available for translation purposes and these can also be used for amplification for those who require it. If I could just encourage everyone to switch off your mobile phones or put them on 'silent' as they can, of course, interfere with the broadcasting equipment. In the event of a fire alarm, we should follow the directions from the ushers. We'll take all declarations of interest as they arise on the agenda, but I will carry forward all those declarations that have been made in respect of the Regeneration Investment Fund for Wales inquiry to date onto the record for this meeting.

09:16

**Papurau i'w Nodi
Papers to Note**

[2] **Darren Millar:** Item 3, papers to note: we have the minutes of our

meeting held on 1 December. I take it that those are noted.

Cronfa Buddsoddi Cymru mewn Adfywio: Sesiwn Dystiolaeth 7 Regeneration Investment Fund for Wales: Evidence Session 7

[3] **Darren Millar:** If there are no objections then we'll move straight into item 4 on our agenda, continuing with our inquiry into the Regeneration Investment Fund for Wales. This is our seventh evidence session and I'm very pleased to be able to welcome Owen Evans, deputy permanent secretary, education and public services group, Welsh Government—welcome to you; James Price, deputy permanent secretary, economy, skills and natural resources group in the Welsh Government—welcome to you, James; John Howells, director of housing and regeneration at the Welsh Government—welcome; and Christopher Munday, deputy director, business solutions, at the Welsh Government. Good morning to you all.

[4] We appreciate very much the additional paper that was provided by you, Mr Evans, to support our inquiry, answering some of the questions that have arisen during the other evidence sessions that we have had. Obviously, we've received a large volume of evidence now from many of the different players, shall we say, in respect of RIFW. But, you might imagine that we've still got many questions that we want to ask and lots of issues that we want to clarify. So, perhaps I can start with this: we've heard that a decision was taken by the Welsh Government to endow RIFW, if you like, with these land assets, as opposed to providing any sort of cash finance in order that they could have the resources that they needed to invest in the regeneration projects across Wales that the Welsh Ministers wanted to see some investment in. Did you not consider—did the Welsh Government not consider—alternative means of funding? One of the suggestions that has come forward, for example, is that these land assets could have been gifted to local authorities in order that they could then use them in whatever way they saw fit to bolster their capital resources, so that they could make investments themselves. Was that not something that was actively considered at the time? What records are there?

[5] **Mr Evans:** Thank you, Chair. I think that it's fairly well accepted now that this is a fairly innovative scheme in its approach, both in what it was trying to achieve but also in the way that it was funded. At the time, things were different, although some things are still fairly common, in that cash is fairly scarce within the Welsh Government. Although I believe it's not minuted at the time, I think officials probably—looking back with the benefit

of hindsight—would say that if you were to do—as has previously been suggested, actually, within this committee—the type of route where we would have gifted, effectively, the land to the local authorities, in my experience of doing such activities, that would have taken quite a considerable amount of time. If you're having 22 lines of negotiation with various local authorities, making sure that all of them would have complied and been willing to operate on that basis, I think, may have taken time. I think that may have been one of the reasons why the Welsh Government, at the time, didn't consider that as a viable option. I'm not sure if any colleagues would like to add on that—.

[6] **Mr Munday:** Can I just add that I think we were concerned that RIFW should be able to operate across all parts of Wales, irrespective of whether they were in assisted areas or otherwise? I think the suggestion that they might have been gifted to individual local authorities would have spread the money unevenly and not necessarily in the areas of need. It would have left some authorities, perhaps, without even funding at all.

[7] **Darren Millar:** The suggestion though, of course, is to reduce their capital grant to the value of the land, if you see what I mean, so that you can still have a central pool of resources, in cash, that could quickly be available to different regeneration projects, wherever they might be in Wales.

[8] **Mr Evans:** We said at the time, I think, that it was an interesting idea. However, I suspect that if we were to decline—

[9] **Darren Millar:** But it's all speculation, isn't it, Mr Evans? You've got no evidence that this was ever considered, have you?

[10] **Mr Evans:** I haven't got any evidence that it was considered. I'm working from experience, though, and looking at what I'd have done from being in the position at the time. I've had a lot of experience of working with local authorities in doing all-Wales projects, and some have been very successful and local authorities have been very, very mature and responsible in the way they act. The Welsh Local Government Association has also been very supportive of many of the initiatives that Welsh Government has done. However, if, for example, we were to say, 'We're going to reduce your capital allowance because of this new Welsh Government programme', that actually does cut back on some of the democratic processes that local government themselves might want to pursue.

[11] **Darren Millar:** Or it gives them the potential of making some money from those assets and therefore sharing in the proceeds of any profit that might be available as a result. Mike Hedges, I'm going to bring you in.

[12] **Mike Hedges:** Can I just follow on from that? You had these parcels of land; you had an evaluation of them on your book value, which was what you were trying to achieve. If you'd offered local authorities them, for example, if you'd offered Lisvane to Cardiff at its book value in lieu of part of the capital grant to Cardiff, Cardiff would then have taken that money into their capital from reserves and they could have balanced the books by the valuation of the land they had. That, to me, would have seemed a very simple way of going about it. I think most local authorities would have been very interested in some of this land, which was far more valuable than you thought it was at the time. I think local authorities would have known how valuable it was, which seemed to have bypassed the civil servants in the Welsh Government. So, why didn't you look at that as a potential option?

[13] **Mr Evans:** I think one of the purposes of actually gifting the land to RIFW to begin with was actually to give RIFW the opportunity to make best book value, but given the constraints they had at the time to invest in regeneration. I think if we'd just given the land out at book value to local authorities, you may actually have had a situation where RIFW itself may have had less money, long term, for regeneration purposes. We've got to remember that the overall purpose of RIFW at the time was, firstly, to release the assets to begin regeneration and to recoup money and reinvest, but also, longer term of course, to bring in, hopefully, private sector funding and things. So, the entrepreneurial nature of RIFW as a concept, I'm not sure it would have worked on the same basis if we'd just gifted land at book value and not given RIFW the opportunity to make money beyond that. It's complex and it's an idea that perhaps we should have looked at.

[14] **Mike Hedges:** I just can't get my head around it. Maybe you can explain it in a way I might actually understand. You've got this land, you've given it to RIFW because they need £20 million or whatever, and you've given it Lisvane that was worth £20 million, but what I was finding was an alternative source of getting that £20 million that you wanted for it, rather than going through a process that, let's be fair, in retrospect, you must find was not very successful—well, it was for the person who bought it off RIFW, but it wasn't very successful for either the Welsh Government or, more importantly, for the Welsh taxpayer.

[15] **Mr Evans:** I think the land gifted to RIFW—. At the time, yes, they would have known what the market value was for the King Sturge report. However, they were under the understanding that they were to obtain maximum value for it within the concept of their operation. We did put professional advisers in place. They were there to advise the RIFW board on maximising the value from that land.

[16] **Mike Hedges:** Do you think that happened?

[17] **Mr Evans:** It comes to the core, I suppose, of what we're discussing here. It's almost impossible to say whether that happened or not. I think we've come to the point, and this is one of the first questions we received: 'Can we prove sale at under value?' The fact that there wasn't a contemporaneous valuation of the land, I think, was a weakness. However, looking back—and, remember, this is a matter of its time—it's difficult for us to say, with the evidence that was presented to the RIFW board, that they took the wrong decision. That's very difficult to say. Looking at the market at the time, it's also difficult to say whether there was greater value they could have achieved. There was a lengthy negotiation process that they went through with South Wales Land. Did they choose the best they could? That's a call—it's a marginal call.

[18] **Mike Hedges:** But do you know how much profit South Wales Land have made on it so far, without Lisvane?

[19] **Mr Evans:** Sorry?

[20] **Mike Hedges:** Do you know how much profit South Wales Land have made on it so far, without Lisvane being sold?

[21] **Mr Evans:** We have a rough idea. The biggest contention for us at the moment, of course, is securing the best public value out of the overage from Monmouth. However, we are looking very carefully at what happens at Lisvane.

[22] **Darren Millar:** I think one of the problems, though, Mr Evans, is that overage could have been applied to more sites—for example, Rhoose—could it not? In fact, that was one of the suggestions that has been made, and, of course, the Rhoose site was sold by RIFW for under £3 million, and has recently been sold for almost £12.5 million, with no overage on that site whatsoever. Do you think that that represents a good-value deal for the

taxpayer?

[23] **Mr Evans:** I think there's two things to consider—

[24] **Darren Millar:** The lack of overage there—do you think that that was a good deal for the taxpayer, on that site?

[25] **Mr Evans:** I think that, when the deal was done, effectively, with South Wales Land—. This isn't a criticism of the RIFW board itself; I think, in the context of the information and the advice they received, it's difficult to disagree with their decision. However, whether there should have been overage on other properties is a moot point, based—trying to think of what was happening at the time. We've had representations from the district valuer, we have had representations from some of the other valuers' reports as well, about whether overage should have been charged on a greater number of properties. And this is one of the areas that we're currently looking at: whether the advice that was actually given to the RIFW board was strong enough on things like overage.

[26] **Darren Millar:** This was a very risky strategy, wasn't it? I mean, you were giving £20 million-worth, which was the book value—not the market value, the book value—of those assets, to the RIFW board. The RIFW board was charged, not with necessarily getting the best value for money from those assets—its primary purpose was to invest in regeneration projects, okay. So, the team of people that had been assembled around that board table were perhaps a different mix of people than you would have if you're wanting to do investment. So, this was a risky strategy. Did it not, at any point, in the Welsh Government's mind, collectively—? Did the thought not pass through, 'Well, perhaps this isn't the best way of securing the best value for these assets to the taxpayer'?

[27] **Mr Evans:** I think, looking at some of the evidence that James has provided already, that the time was very different. You know, we were only about a year and a half or two years away from Lehman Brothers collapsing, and Northern Rock going. You heard the evidence from Mr Davies last week that the banks were shut. We had to get some assets and some investment back into the Welsh economy at the time. And I think—. Sometimes, the Government is criticised for taking risks. Sometimes, I think we do need to take risks. Whether we mitigated and handled that correctly, of course, is another matter.

[28] In getting the assets out to RIFW, the professional support that was assembled around RIFW was incentivised to get best value. The RIFW board itself was well aware that, within the confines of the concept of the regeneration vehicle, they were there also to get best value. So, I think there was evidence that incentives were put in place, and clarity of message was in place—that they were to obtain the best value they could for those assets, within the confines, as you say, of something that had to be reinvested into regeneration.

[29] **Darren Millar:** Aled Roberts.

[30] **Aled Roberts:** Rwy'n meddwl bod angen i chi edrych drwy dystiolaeth aelodau bwrdd RIFW, achos nid wyf yn meddwl eu bod nhw'n derbyn eu bod nhw wedi cael unrhyw fath o gyfarwyddyd ynglŷn â gwerth am arian, a dweud y gwir, na chael uchafswm o ran yr arian neu'r tir yr oeddent yn ei werthu.

Aled Roberts: I think that you need to look through the evidence of the RIFW board members, because I don't think that they accept that they have had any kind of direction in terms of value for money, to tell you the truth, or getting the maximum value in terms of the money or the land they were selling.

[31] Rwy'n derbyn beth rydych yn ei ddweud ynglŷn â beirniadaeth o'r Llywodraeth os nad ydych chi'n cymryd risg. Ond fwy nag unwaith y bore yma rydych chi wedi cyfeirio at y ffaith ei bod hi'n anodd beirniadu RIFW, ar y sail eu bod nhw wedi gwneud penderfyniadau ar sail yr wybodaeth a'r cyngor a roddwyd iddynt ar y pryd.

I accept what you said about criticism of the Government if you don't take risks. But more than once this morning you've referred to the fact that it's difficult to criticise RIFW, on the basis that they had made decisions on the basis of the information and the advice given to them at the time.

[32] Rwy'n meddwl beth mae yna nifer ohonom ni yn ei ffeindio yn anodd ydy: lle mae'r dystiolaeth honno? O achos mae'n anodd credu bod yna gyfarfodydd rhwng gweision sifil, ac ati, lle rydym ni'n sôn am ddelio â miliynau o bunnau, ac eto nid oes yna gofnodion o'r cyfarfodydd yna. Rwy'n cyfeirio at

I think that what a lot of us find difficult is: where is that evidence? Because it's difficult to believe that there were meetings between civil servants, and so on, where we're talking about dealing with millions of pounds, and yet there are no minutes of those meetings. I refer to your most recent letter. Do you think it's

eich llythyr mwyaf diweddar chi. A ydych chi'n meddwl ei bod hi'n dderbyniol, hyd yn oed dair blynedd yn ôl, bod yna gyfarfodydd a bod yna benderfyniadau yn cael eu gwneud heb unrhyw fath o gofnod, felly, os oedd rhywbeth yn mynd o'i le ac os oedd y risg yn annerbyniol, nad oes modd i ni, fel Aelodau Cynulliad, edrych ar sail y risg a gymerwyd?

09:30

[33] **Mr Evans:** Rwy'n meddwl fod y ffaith fod cofnodion dilys heb gael eu creu yn ystod y cyfarfodydd bwrdd yn enwedig yn rhywbeth na fuaswn yn ei gefnogi o gwbl. Rwy'n credu y dylai cofnodion cryf fod wedi cael eu gwneud ar rywbeth o sylfaen, yn enwedig, o ystyried, fel wyt yn ei ddweud, fod miliynau wrth gefn hyn.

acceptable, even three years ago, that there were meetings and that decisions were being made without any kind of record, so, if something did go wrong and if the risk was unacceptable, there's no way for us, as Assembly Members, to look at the basis of the risk that was taken?

Mr. Evans: I think that the fact that valid minutes weren't created during the board meetings particularly is something that I would not support it at all. I believe robust minutes should have been kept on something so fundamental, particularly, as you said, when millions were involved here.

[34] **Aled Roberts:** Beth am gyfarfodydd mewnol y Llywodraeth?

Aled Roberts: What about internal Government meetings?

[35] **Mr Evans:** Rwy'n credu fod y rhan fwyaf o gyfarfodydd rwyf yn delio â nhw yn awr yn edrych yn drwyadl iawn ar y cofnodion yr ydym yn eu cymryd ac ar y feirniadaeth rŷm ni'n ei wneud ar y penderfyniadau. Rwy'n meddwl, ar y pryd, fe gymerwyd y penderfyniadau amboutu'r risg a oedd yn y fantol o ran gwneud rhywbeth fel hyn, a'i bod wedi cael ei hystyried, ond rwy'n gallu gweld efallai y byddai'n well pe buasem wedi cofnodi mwy amboutu'r feddylfryd a oedd o fewn y Llywodraeth ar y pryd. Ond, wrth

Mr Evans: I believe that the majority of meetings that I'm involved with now look very closely at the minutes and at the judgments we take on the decisions. I think, at the time, that the decisions were taken about the risk that was at stake in terms of doing something like this, and that it was considered, but I can see that perhaps it would have been better if we had minuted more about the thinking in the Government at the time. But, of course, that was then—things have changed, I would say, since then. I don't know whether

gwrs, roedd hwn ar y pryd—mae John—. pethau wedi newid, buaswn i'n dweud, ers hynny. Nid wyf yn gwybod a ydy John—.

[36] **Mr Howells:** I fod yn deg i aelodau'r bwrdd ar y pryd, rwy'n meddwl ei fod yn bwysig i edrych ar y broses o friffio'r cwmnïau a oedd yn gyfrifol am roi cyngor technegol i'r bwrdd, a'r dyletswyddau cytundebol a oedd yn disgyn ar ysgwyddau'r cyrff hynny ac mi oedd yn briodol, rwy'n meddwl, i'r bwrdd ddisgwyl cael cyngor proffesiynol cyflawn oddi wrth y cwmnïau a oedd yn gwasanaethu RIFW. Felly, mae angen edrych ar y briffio a wnaeth ddigwydd gyda'r cwmnïau hynny o safbwynt y ddyletswydd i sicrhau bod gwerth am arian yn cael ei sicrhau trwy werthiant y tir.

[37] **Aled Roberts:** Mae gen i fwy o ddiddordeb, a dweud y gwir, mewn cyfarfodydd o fewn Llywodraeth Cymru, o achos os ydym ni i gymryd unrhyw fath o farn ynglŷn â'r ffordd yr oedd y Llywodraeth yn ei gweithredu, dylai fod cofnodion ar gael i gadarnhau'r farn yna un ffordd neu'r llall.

[38] Cyfeiriaf at lythyr Mr Evans, dyddiedig 23 Tachwedd, sydd yn dweud nad oes gennych gofnod o gyfarfod efo WEFO ar 1 Chwefror 2011, ac, er bod yna gofnod wedi'i gymryd, achos mai cyfarfod ffurfiol oedd, ar 2 Orffennaf 2012, nad yw'r Llywodraeth yn gallu ffeindio'r

John—.

Mr Howells: To be fair to board members at the time, I think it's important to look at the process of briefing the companies that were responsible for providing technical advice to the board, and the contractual duties that fell on the shoulders of those bodies and it was appropriate, I think, for the board to expect to have professional comprehensive advice from the companies serving RIFW. Therefore, we need to look at the briefing that happened with those companies in terms of the duties to ensure that there was value for money secured through the sale of the land.

Aled Roberts: To be honest, I have more interest in the meetings within the Welsh Government, because if we are to have any kind of view about the way that the Government was operating, there should be records available to support that view one way or the other.

I refer to Mr Evans's letter, dated 23 November, which says that you have no records of a meeting with WEFO on 1 February 2011, and, although a minute of the meeting was taken, because it was a formal meeting, on 2 July 2012, the Government can't find that record at present. So, the

cofnod hynny ar hyn o bryd. Felly, mae prosesau mewnol y Llywodraeth yn edrych braidd yn llac, os ydym yn edrych o'r tu allan, ac nad oes yna fodd, o achos nad oes cofnod ar gael, i ni wneud unrhyw fath o benderfyniad ynglŷn â'r modd y cafodd y cyfarfod ei drafod a hefyd y penderfyniad a wnaethpwyd yn y cyfarfod yna.

[39] **Mr Evans:** Rwy'n credu yr oedd diffygion ar y pryd. Fel rydym yn gwybod, daeth Awdurdod Datblygu Cymru i mewn i'r Llywodraeth yn ôl yn 2006 ac nid wyf yn credu, ar y pryd—. Roedd y prosesau y buasai'r ADC wedi'u defnyddio ers degawd yn dra wahanol i'r math o brosesau y byddai Llywodraeth Cymru yn eu mabwysiadu. Rwy'n credu fe gymerodd sawl blwyddyn i wneud y ffordd yr oedd yr ADC yn gweithredu yn fwy priodol i'r math o systemau y buasai Llywodraeth Cymru yn eu defnyddio.

[40] Mae'n rhaid i ni gyfaddef fod hynny wedi cymryd mwy o amser na buasem wedi'i licio, ond, erbyn nawr, rwy'n credu, drwy lot o'r gwaith y mae James wedi bod yn ei wneud, bod ein prosesau ni llawer fwy tebyg i'r math o beth y byddech yn ei ddisgwyl o'r Llywodraeth. Rwy'n credu fod pethau'n dra wahanol yn awr, ond, yn ôl yn 2010 a 2009, roedd llai o gofnodion ac roedd y systemau yr oedd Awdurdod Datblygu Cymru wedi dod i mewn â nhw i'r Llywodraeth yn dra wahanol—

internal processes of the Government appear to be a bit slack, if you're looking at it from the outside, and there's no way, because there are no records, for us to make any kind of judgment about the way that the meeting was discussed and the decision that was taken there.

Mr Evans: I think there were deficiencies at the time. As we know, the Welsh Development Agency came into the Government in 2006 and I don't think that, at the time—. The processes that the WDA would have used for a decade were very different from the kind of processes that the Welsh Government adopted. I think it took several years to make the way in which the WDA operated more appropriate to the type of systems that the Welsh Government would use.

We have to admit that it took longer than we would have liked, but, by now, I believe, through a lot of the work that James has been doing, that our processes are much more similar to what you'd expect from the Government. I think that things are very different now, but, back in 2010 and 2009, there were fewer records and the systems that the Welsh Development Agency brought in to the Government were very different—those had not been transformed.

roedd y rheini heb cael eu trawsnewid.

[41] **Aled Roberts:** A ydych chi'n derbyn erbyn hyn hefyd nad jest mater o brosesau'r awdurdod datblygu ydoedd, ond, lle'r oedd cyfrifoldeb yn symud o un adran o fewn y Llywodraeth i'r llall, nad oedd eich prosesau'n ddigon cadarn bryd hynny chwaith?

Aled Roberts: Do you also accept by now that it was not a matter of the WDA's processes, but that, where responsibility was moving from one Government department to another, your processes were not robust enough at that point either?

[42] **Mr Evans:** Buaswn i'n cyfaddef hynny, buaswn. Rwyf i wedi edrych drwy'r dystiolaeth sydd ar gael i gyd, ac rwyf i wedi edrych ar y gwendidau, ac rydym ni wedi bod yn eithaf agored, rwy'n credu, amboutu'r gwendidau yn y gorffennol. Mi oedd diffygion yn y ffordd o gyfeirio gwaith o un adran at y llall. Erbyn hyn, wrth gwrs, mae gennym ni'r *Principal Accounting Officer note 007*. Mae hynny wedi gwneud yn llawer, llawer mwy ffurfiol y fath o bethau sy'n rhaid digwydd wrth i brosiectau a rhaglenni drawsnewid o un adran at y llall.

Mr Evans: I would admit that, yes. I've looked through all of the evidence that's available, and I've looked at the weaknesses, and we've been quite open, I think, about those weaknesses in the past. There were deficiencies in terms of referring work from one department to another. By now, of course, we have the Principal Accounting Officer note 007. That has made it much more formal, in terms of what things have to happen as projects and programmes are transferred from one department to another.

[43] **Aled Roberts:** A gaf i jest sôn am un mater arall?

Aled Roberts: May I just raise one other issue?

[44] **Darren Millar:** Before you move on, just on this area of record keeping, I know Sandy wanted to come in on this, didn't you, Sandy?

[45] **Sandy Mewies:** Yes. Aled did explore a bit further what I was going to ask, but in your responses, particularly to question 7, you suggested that in informal meetings it wasn't happening—the records weren't happening properly. I'd make the point that, if I have an informal meeting, I still make notes myself, and there is a note of any meeting that I go into; I'm sure most organisations do that. Then, you said that now you felt it was better, but you

didn't say how you know it's better. This is a process. It seems that the process must've been—. You're talking about the WDA transferring in 2005, and a gap, then, of some years until 2008–09. You could think, from what you've said, that not only were the WDA processes not up to standard but neither were Welsh Government's. Because I would've thought that if a new organisation—if an organisation was being absorbed, that it would be a priority, really, to see that the processes used were fitted in with the whole organisation. So, if it didn't happen then, how are you sure that's happened now? It looks very much as though what people were relying on were e-mails. You get a lot of e-mails, and it looks very—. E-mails disappear, don't they? There are notes—. There's one meeting that you said that there's no record that can be found. So, how can you be sure that the lessons have been learned and how is that being evaluated? I know Mr Price has done some work on that.

[46] The other thing, I suppose, I'd like to ask at the end of this inquiry is: this was innovative—yes, it was—but did it work? Do you think it worked? Would you do it again? Do you think that any of the objectives that RIFW was set up for have been achieved?

[47] **Darren Millar:** Record keeping, if you could, first.

[48] **Mr Evans:** Fine. Just on the record keeping, I'll bring James in in a second, because James has done a lot of the work, actually, to standardise some of this stuff. I think we have to be frank: when the Welsh Development Agency came into Government, their processes were very, very different to what a civil servant would recognise. In preparing advice for Ministers, a civil servant would go through a fairly routine process of drawing up policy advice with colleagues. Those meetings would normally be minuted, and, when the advice goes up, at every stage, to Ministers, either to keep them informed or for decisions, there was a submission folder, or—. There was documentation all the way through, that would've been signed off at the Cabinet level by one of the Ministers. That was not the case for the WDA coming into the Welsh Government. A lot of the decisions didn't go for ministerial authority; a number of them were based on business plans rather than that type of process. I think one of the big things that's happened, that happened around the turn of 2010—around there—was a considerable formalisation of the processes undertaken by the WDA. Perhaps James might want to pick up on that.

[49] **Mr Price:** Yes. Thanks, Owen. So, I think these are all very fair

questions. In 2006, when the WDA was brought into the Welsh Government, I think it's important to remember that the language that was being used at the time was a 'merger', and it was about the 'best of both'. The WDA came in with, in essence, full delegations and ran on a business-plan process, whereby you would have—I don't know—100 or 200 projects every year. A project lead or a project director would bid into the budget to run a business plan and then would have very wide delegations beneath that, provided they delivered the outputs within the business plan. That process really continued for four or five years—maybe a bit longer than that—after the merger. That wasn't seen as anything wrong; that was seen as the best of both, and this was seen as a way of doing business quicker.

[50] Things have definitely changed. We did a review of governance within the then Department for the Economy and Transport in around 2010—the back end of 2010, actually. Then, from the beginning of 2011 onwards, we began to introduce what you would see as normal civil service procedures whereby, for instance, then submission folders were introduced. If you went back to 2009, you would have found it very difficult to find submission folders. Everything was on delegations. I think beyond that, though, if you look from the Welsh Government perspective, processes and procedures have also changed. So, I think that the Welsh Government has learned, through the machinery of Government changes, that itself needs to have better processes and procedures because the Welsh Government, obviously, has come from a position where things didn't change very often to a position now where we've got many more projects, many more powers, and things are moving from portfolio to portfolio. I think it's still difficult, however, for people on the ground to decide what is and what is not a formal part of the record, which is what we're talking about now. There is much better guidance than there was before. For me, I would want to see anything recorded, and reasons recorded for anything that implied a decision. So, no decisions should be taken without a record of the decision and a reason for the decision, as a minimum.

[51] **Darren Millar:** So, just to clarify this, you're keeping information on the dates that you're having meetings now and not scrubbing the diary after 12 months. Or are you still scrubbing your diaries after 12 months so that you don't know who you've met?

[52] **Mr Evans:** I'll need to check that. I know that e-mails—. We have a new archive—

[53] **Darren Millar:** Well, it's pretty fundamental, isn't it? Your diary retention facilities delete records after 12 months. These are pretty important things, aren't they? Records of when you meet, who you meet, for what purpose.

[54] **Mr Evans:** But in fairness, the records of any meetings that would have been had are now archived. So, we have a central vault where any meetings that would lead to a decision being made are archived. So, we've done quite a bit of training for staff around the type of information that is recorded. The issue that we had was that there was so much information being stored that the systems were starting to creak. So, we need to be very much more disciplined, I suppose, about what information is recorded and how it is stored. It would actually make retrieval easier as well, rather than having to trawl through e-mails.

[55] **Darren Millar:** Isn't it better by default just to keep records of all meetings that are held, and the dates that those meetings were held on?

[56] **Mr Evans:** Well, the records of the meetings would be held because the meeting notes would have been held.

[57] **Darren Millar:** Are you saying that that aren't notes of all the meetings because some are regarded as informal meetings? Is that what you're saying?

[58] **Mr Evans:** If there was a meeting where matters were discussed that would lead to the decision being made, they would be recorded. So, for example, the majority of meetings that would be discussing a certain project would now be recorded. I think the biggest weakness really stems from the top in some respects. If you take what's happened now with the recent changes in portfolios, compared to what happened probably five years ago—. We've just had a major reorganisation at the Welsh Government senior hierarchy. In transferring the various portfolios around, we had the benefit of new guidance. We have the benefit of a fairly robust corporate governance system within the Welsh Government. In the transfer, for example, of skills, which is an area that was transferred from myself to James, it was discussed at corporate governance. The risks concurrent with that portfolio were recorded. They were handed over in a formal note to James, as the new accounting officer for that area. James and I met with our respective finance needs to go through the risks. That type of thing didn't happen five years ago.

[59] **Darren Millar:** Mr Munday, you were from the WDA, were you not?

[60] **Mr Munday:** Yes, I was.

[61] **Darren Millar:** And you didn't notice this change in culture being pressed upon you from day one?

[62] **Mr Munday:** I can say that—

[63] **Darren Millar:** Do you find that it took five years before you realised that you were civil servants?

[64] **Mr Munday:** For at least the first two years of the process, we stayed at exactly the same desks that we sat at before, in exactly the same building. That simple lack of physical environment change didn't actually move people to think that there was a culture change. What I can say is that, for many of my former WDA colleagues, once the culture change began to be developed and the processes changed, many of them found that too difficult.

09:45

[65] There are very, very few people from the WDA who held any sort of seniority who are left within Welsh Government, because they found the new culture and environment too difficult or too alien.

[66] **Darren Millar:** This is obviously quite a significant shift—the decision that was made to change the way the former WDA employees operated—so, presumably, you've got records of that meeting given that a decision was made to change that culture.

[67] **Mr Price:** Can I come in on that one? I think what I'd like to do on this point—Owen and I can take this away and discuss with the Permanent Secretary the point you're making about records retention. It is a live point—we've been discussing it at board not that long ago, actually—and maybe we could provide a note back to you on that. But in terms of your specific question, I very much doubt that there will be a record of the meeting when that decision was taken. However, there will most certainly be a record of the review that took place that led to that happening and there will also be minutes of the senior management team meeting where that was ratified and we started to do it.

[68] **Darren Millar:** And you'll have copies of instructions, no doubt, that you've sent down the chain to the members of staff who were making those decisions.

[69] **Mr Price:** Yes, and those will have changed over time, because different Ministers, even within Welsh Government rules and procedures, will have different ways of working, so you'll have different levels of delegations for different business areas, depending on the confidence, basically, that people have in different areas of work.

[70] **Mr Evans:** I think, if I can add to that, before I come to the benefits, which was the second part of the question—I've been involved in takeovers; I've been involved in mergers in the past, and they've all worked in different ways. I think if we were to be honest, the assimilation, if you like, of the Welsh Development Agency into the Welsh Government's culture and behaviours took longer than we would've expected. It was left alone to function for a while and weaknesses were picked up. I think with the work of James and colleagues over the past few years, a number of those idiosyncrasies have been ironed out.

[71] Just on the benefits of RIFW and whether we would do it again, which is a fairly fundamental question, I think some things did work. You know, I've been to Neath, I've seen some of the regeneration that's happening there through the one project that got off the ground through RIFW. Would I do it again? I'd contemplate doing it again, but I'd do it in a very different way. There is a question about handing the land in and the capacity of the board, but not capability. I think, you know, through the open process that we had in recruiting people like Mr Anning and Mr Geen, there was sufficient expertise there in capability terms, but in concerns that the audit office has raised, there is a question about the capacity, particularly when conflicts of interest started coming to light. Also, the fact that they were keen to move on to the regeneration phase, which is quite natural, I think.

[72] So, I think there are some aspects, obviously that we've already mentioned—we could've done more on the capacity; we should've understood that probably better, although it wasn't raised at the time. Our oversight was weak in some respects, however, does that fundamentally change the decisions that were made there? I'm not sure, but that's to reflect every programme we've ever done. Nothing's been quite perfect and we always reflect on that. What I do want, I suppose, for the future, is that we still need to be an organisation that takes risk; we just need to be very, very

careful in understanding that risk and running through it.

[73] **Darren Millar:** Okay. Any other points on the record keeping? Jenny. I'll come back to you, Aled.

[74] **Jenny Rathbone:** You say that you've got no record of the meeting with the Welsh European Funding Office on 1 February 2011, but have you asked WEFO if they've got a record of this meeting?

[75] **Mr Evans:** I think we have.

[76] **Mr Howells:** Yes.

[77] **Jenny Rathbone:** You have. And—

[78] **Mr Howells:** This response reflects our engagement with WEFO. We've not been able to find a record.

[79] **Jenny Rathbone:** So, neither of you have kept records—neither party; neither the Welsh Government nor WEFO.

[80] **Mr Howells:** WEFO has very comprehensive records—

[81] **Jenny Rathbone:** They do indeed, so that's why—

[82] **Mr Howells:** —but we can't find a record of this meeting.

[83] **Jenny Rathbone:** Why not? I mean, given that they do always keep records of every single meeting.

[84] **Mr Howells:** We've not been able to reconcile why. We're not sure whether there might've been some confusion about the date, but we've not been able to find records of a meeting on—

[85] **Jenny Rathbone:** On that particular date. So it might've taken place a day before or a day after. Has anybody looked at that possibility, because we're more interested in the subject matter than the exact date?

[86] **Mr Howells:** This is as much as we could find.

[87] **Jenny Rathbone:** Okay. The reason why we're interested in this is

because we want to know how much WEFO clarified was needed in order to go ahead with the JESSICA project, which was the prime reason for setting up RIFW.

[88] **Mr Evans:** It was. I mean, there are questions about how much cash and asset we should have transferred into RIFW. It's a fairly open question, I think, and a good question. The feeling, at the time, was that if we'd have put the bare minimum of asset into RIFW, that would probably have constrained the project to working within the structural fund areas at the time. I think there was a general understanding—and this went up to the final submissions—that this was to be an all-Wales programme, and, in producing a programme to work at an all-Wales level, there would need to be a greater asset involved in match funding the WEFO contribution than just that element—the £6 million.

[89] **Jenny Rathbone:** Just remind us all: how much money was it that that was needed to go into the JESSICA project?

[90] **Mr Evans:** The JESSICA contribution was £25 million, from memory. The contribution that we had to put in was £15 million, from memory—

[91] **Jenny Rathbone:** That's right, and you already had £9.4 million cash—

[92] **Mr Evans:** We had £9 million cash, and so we had to put—just to match the JESSICA, which was the structural fund areas, £6 million, or more or less. We put additional, because we wanted to make it an all-Wales project.

[93] **Jenny Rathbone:** But, you were putting it in at a time when, as you say, the banks were closed and it was at the bottom of the property market. So, you were doing a fire sale of land assets in order to generate, you know—. But, there doesn't seem to have been a proper analysis of the appropriateness of that decision, because the RIFW board members, who were nominees from the Government, have said that they knew nothing about property disposal.

[94] **Mr Price:** If I can just come in on that point, I don't know whether this will be helpful or not, but it's just a wider policy perspective on land and what the Welsh Government, and what government, actually, uses land for. Ever since the Land Authority for Wales was wound up, and even in WDA times, land has never been used—we use the term 'asset', but it's never been

used as a way of making money for the public sector. In fact, the guidance that we have, and, certainly, the processes within Government and the challenges within the civil service, prevent you from doing that. So, typically speaking, unless there's a market failure, the Government would not hold on to an asset to maximise the value of asset to sell the asset. Government would hold on to an asset for a policy purpose, which might be to bring forward development, or it might be to allow construction of a road or some other infrastructure piece, but we do not, ever, since the days of the land authority, hold on to land to maximise the value of the land. Now, I'm not saying that people shouldn't have got a better price, you know; that's outwith the policy point I'm making.

[95] I think, but I haven't got a note to this effect, the view at the time must have been that the policy was to get money into the economy and to regenerate schemes, and there wasn't that much cash in Government at the time, and, hence, it used the asset for policy purposes, not to maximise the value of the asset.

[96] **Darren Millar:** Mr Price, you're rambling a little bit. Can we just get to the point? Jenny Rathbone is asking about this £6 million shortfall. You only needed to realise £6 million—or RIFW needed to realise £6 million in order to match fund the European cash. Mr Munday, you knew that that's all the cash that needed to be realised—

[97] **Mr Evans:** I think I already answered that—

[98] **Darren Millar:** Well, you've referred to the Wales-wide issues, of course you have.

[99] **Mr Evans:** That's the answer. We wanted this to be an all-Wales programme. If we'd have put the minimum, which is the £6 million, in, that would have restricted the project to structural fund areas.

[100] **Darren Millar:** We're talking about the disposal timescales now. There was clearly an impression—the RIFW board told us this—that they had to get the cash in as quickly as possible. The information that we've had from other sources suggests that, actually, they only needed to get £6 million worth of cash through the door in order to make any progress. Mr Munday, you were sat at many of these early board meetings. Why didn't you communicate that to the board?

[101] **Mr Munday:** Because it was communicated to the manager very clearly in his appointment and in the procurement process that—. The manager had a full copy of the WEFO funding agreement, which said that they had until December 2013 to provide the full match funding. So, there was a significant period of time for the fund manager to deliver the sales within the business plan that the board was being asked to approve. It was set up so that the board's role was to approve the business plan and asset disposal plan, and for the manager to manage the delivery—that is, the sale process—within that approved plan. Where I think this departed from what was intended was that, within literally days of the board approving the asset disposal plan, the manager—that is to say, the asset manager and the fund manager—came up with a plan to dispose of the property, not in accordance with the approved asset management plan or asset realisation plan, but to sell it as a portfolio. Looking back, the correct process for the manager would have been not to ask the board to approve the sale of the portfolio, but to approve the variation to the asset realisation plan.

[102] Going back to your point about the £6 million, it was considered both by officials and in the reports to Ministers that this was an all-Wales fund and from the very beginning could operate in the non-assisted areas beyond the WEFO funding.

[103] **Mr Evans:** I think—

[104] **Darren Millar:** Very briefly, Mr Evans, because other Members want to come in.

[105] **Mr Evans:** In looking at the understanding of the board, and looking at the understanding of the professional advisers, there was some ambiguity between the two about how quickly the assets were to be realised. I think that's true.

[106] **Darren Millar:** But it could have been clarified by Mr Munday. That was the point I was making. Alun Ffred.

[107] **Alun Ffred Jones:** Beth rydym ni'n ei wneud yn fan hyn ydy edrych a gafwyd gwerth am arian yn y broses yma. Nid wyf yn credu bod neb yn amau'r bwriad na dim byd felly, na chymhellion neb, felly. Yr hyn rwy'n **Alun Ffred Jones:** What we are doing here is looking at whether value for money was achieved in this process. I don't think that anyone doubts the intent or anything of that nature, nor anyone's motivation here. What I find

ei ffeindio'n anodd i'w ddeall ydy'r hyn y mae Mr Munday newydd gyfeirio ato fo. Mi oedd yna gynllun i gael gwared â'r asedau yma fyddai'n dod â'r budd mwyaf i mewn i RIFW, ac mi oedd y cynllun hwnnw wedi cael ei gytuno. Yn fuan ar ôl cytuno, mae yna fwriad arall, sef y cynnig yma i brynu'r portffolio cyfan, sydd yn hollol groes i'r cynllun a oedd wedi cael ei fabwysiadu gan y bwrdd. Mae Amber yn rhywle—rwy'n methu â ffeindio fe rŵan, ond rwyf wedi ei ddarllen—yn nodi bod hwn yn groes i'r cynllun gwreiddiol, ac eto mae'n amlwg bod Amber hefyd o blaid cael gwared â'r portffolio fel *job lot*. Nid wyf cweit yn deall, felly, oherwydd y newid yma mewn pwyslais, a wnaethoch chi, Mr Munday, gyfleu'r newid yma i Weinidog neu i rywun yn uwch na chi yn y gwasanaeth sifil, achos mae'n amlwg ei fod yn newid sylfaenol, a hwn sydd wrth wraidd yr hyn rydym ni'n sôn amdano fo y bore yma: a gafwyd y gwerth a'r budd mwyaf? Mae'r dystiolaeth rydym yn ei chael fwyfwy yn awgrymu nad oedd o ddim. Ond, a ddaru i chi, Mr Munday, gyfleu'r newid pwyslais yma, a'r newid cyfeiriad yma, i rywun uwch eich pen chi?

[108] **Mr Evans:** Os caf i ddod i mewn yn gyntaf, cyn i ni fynd at Chris, wrth edrych yn ôl, ar y pryd, fel y cyfeiriodd Mr Davies ato, roedd y banciau ar gau, roedd tyndra enfawr o fewn yr economi, roedd pwysau ar y Llywodraeth i wneud rhywbeth amboutu fe, a dyna pam y crëwyd

it difficult to understand is what Mr Munday just referred to. There was a plan to dispose of these assets that would maximise the value to RIFW, and that plan was agreed. Quite soon after that agreement, there was another intention, namely this proposal to purchase the whole portfolio, which goes completely against the plan that was adopted by the board. Amber, somewhere—I can't find it at present, but I've read it—notes that this was contrary to the original plan, and yet it is obvious that Amber was also in favour of disposing of the portfolio as a job lot. So, I don't quite understand, therefore, because of this change in emphasis, whether you, Mr Munday, conveyed this change to a Minister or someone more senior than you in the civil service, because it was obviously a fundamental change, and this is at the root of what we are discussing this morning: whether the greatest value for money and benefit was received. The evidence we are receiving is increasingly suggesting that it wasn't. So, Mr Munday, did you convey this change in emphasis to someone who was more senior than you?

Mr Evans: If I could come in first, before we go to Chris, looking back, at the time, as Mr Davies referred to, the banks were closed, there was a huge pressure within the economy, and there was pressure on the Government to do something about it, and that's why RIFW was created.

RIFW. Fe gawson nhw'r *asset realisation plan*, ac fe ddechreuodd cynigion o ryw radd ddod i mewn o wahanol lefydd ac, yn amlwg, gwnaeth y bwrdd a'r *advisers* oedd yn gweithio iddyn nhw weld, efallai, fod yna fantais o fynd trwy ryw fath o *portfolio sale* ar y pryd.

They had the asset realisation plan, and offers of some sort started to come in from different places and, evidently, the board and the advisers working with them saw that there was, perhaps, an advantage in going through some kind of portfolio sale at the time.

[109] **Alun Ffred Jones:** Mae'r stori yna'n un rwy'n gallu deall, ond mae'r cwestiwn sydd gen i yn un i Mr Munday. Roedd newid cyfeiriad wedi digwydd a oedd yn amlwg yn mynd i ddod ag arian sydyn i mewn, ond efallai nad oedd yn dod â'r budd mwyaf. A wnaethoch chi gyfleu hynny i rywun uwch eich pen chi, neu i'r Gweinidog neu'r Dirprwy Weinidog oedd â chyfrifoldeb?

Alun Ffred Jones: That story is one I can understand, but the question that I have is one for Mr Munday. There was a change in direction, which was obviously going to bring money in quickly, but perhaps would not lead to the greatest value. Did you convey this to someone who was at a senior level, or to the Minister or Deputy Minister responsible?

10:00

[110] **Mr Munday:** The portfolio sale proposal amounted to a total financial offer that was exactly the same as the current, or the then current, asset realisation plan. It did not offer a lesser amount. It offered also the board the opportunity to remove what I think the Wales Audit Office described as the distraction from the core activity of the sales processes, and that would allow them to focus solely on the investment. The structure was that it was for the board to decide and approve any changes in the business plan or the asset realisation plan, but as a minimum, the fund manager had to present those plans for re-approval on an annual basis. It was not a decision—. Having set up RIFW, that was a decision for the board, not Ministers.

[111] **Alun Ffred Jones:** Rwy'n deall yr apêl i fwrdd RIFW i gael gwared ar y *job lot* er mwyn cael canolbwyntio ar y broses o adfywio. Ond, y cwestiwn sydd gen i yw: roeddech chi'n sylwebydd, beth bynnag ydy ystyr hynny, ar y bwrdd. Roeddech

Alun Ffred Jones: I understand the appeal for the RIFW board to get rid of the job lot in order to concentrate on the process of regeneration. But, my question is that you were an observer, whatever that may mean, on the board. You were representing

chi'n cynrychioli buddiannau y Llywodraeth, sy'n cynrychioli buddiannau y trethdalwr. Mi oedd hwn yn newid y cynllun a oedd, wrth gwrs, wedi cael ei fabwysiadu er mwyn maximeiddio gwerth yr asedau yma. Felly, y cwestiwn syml yw: a wnaethoch chi gyfleu hyn i rywun uwch eich pen chi o fewn y Gwasanaeth Sifil neu i Weinidog neu Ddirprwy Weinidog?

[112] **Mr Evans:** I fod yn deg, fe grëwyd RIFW fel corff efo'i fwrdd ei hun efo *professional advisers* i roi cyngor iddyn nhw i greu'r *maximum value* mas o'r peth. Ar y pryd, fe gawson nhw gynnig a oedd—

Mr Evans: To be fair, RIFW was set up a body with its own board and with professional advisers to provide advice to them to create the maximum value out of this. At the time, they had an offer—

[113] **Alun Ffred Jones:** Rwy'n deall beth sydd wedi digwydd. Rwy'n gofyn cwestiwn syml: a wnaeth Mr Munday gyfleu hyn i rywun uwch ei ben o, os oedd ganddo fo *line manager?* Ie neu na?

Alun Ffred Jones: I understand what's happened. I'm asking a simple question: did Mr Munday report to someone above him, if he had a line manager? Yes or no?

[114] **Mr Evans:** Yr ateb roeddwn i'n mynd i'w roi—ac rwy'n credu fod Chris wedi dweud hyn yn barod yn ei dystiolaeth—ar y pryd, nid oedd Chris yn meddwl bod hwn yn *offer* gwael, fel petai. Felly, ar y sail hwnnw, wnaeth e ddim cynnig i unrhyw un o fewn y Llywodraeth bod rhyw *alarm bells* i'w codi am y peth.

Mr Evans: The answer I was going to give—and I think Chris has already said this in his evidence—at the time Chris didn't think that this was a poor offer, as it were. So, on that basis, he didn't offer to tell anybody in the Government that this issue should be raised.

[115] **Darren Millar:** The issue here, though—

[116] **Mr Munday:** Can I just—

[117] **Darren Millar:** Just one second. The issue here, though, is it added

additional risk into the process, didn't it, because Welsh Ministers had an understanding that they were passing on these assets, that there would be a disposal of these assets in accordance with a business plan over a period of time, not, as Alun Ffred Jones described, as a single job lot. So, surely, that should have been reported up to Ministers.

[118] **Mr Munday:** I would also point out that the deputy director for strategic regeneration, who was the policy lead on RIFW, was a member of this board at the time that the offer was received. So, we both considered that an offer to buy the assets at a value that exceeded the transfer in value, which was in line with the total amount of the asset realisation plan, which included for the overage on two other sites, and would produce additional money downstream, actually was not increasing risk but was decreasing risk, because it would bring forward the sale into a single transaction.

[119] **Darren Millar:** But, Welsh Ministers wholly owned RIFW and you didn't feel it necessary to inform them of this departure. I'm going to have to move on, I'm afraid, because the clock's going to beat us otherwise. Aled Roberts.

[120] **Aled Roberts:** Rwyf eisiau **Aled Roberts:** I want to refer to the cyfeirio at y cais a roddwyd i'r bid made to the Minister on 10 Gweinidog ar 10 Chwefror 2010— February 2010—a bid which you say, cais rydych chi'n dweud, yn dilyn following a robust process, was proses gadarn, a baratowyd gan y prepared by the head of asset pennaeth gwasanaethau eiddo, ac services, and I think the bid was also rwy'n meddwl bod y cais hefyd wedi supported by the south-east regional cael ei gadarnhau gan gyfarwyddwr director. Despite this fact, the rhanbarthol y de-ddwyrain. Er hynny, original intent was for there to be 25 y bwriad gwreiddiol oedd bod yna 25 sites on the long list, but ultimately o safleoedd ar y rhestr hir ac, yn y 18 assets were transferred to the pen draw, 18 o asedau a gafodd eu fund in March 2010. trosglwyddo i'r gronfa ym mis Mawrth 2010.

[121] Mae'ch llythyr chi hefyd yn Your letter also refers to an example cyfeirio at esiampl yn Wrecsam, lle'r in Wrexham, where the site was oedd y safle yn wreiddiol yn 144 o originally 144 acres, yet only 16 erwau, ac eto dim ond 16 o erwau a acres were transferred to RIFW. I gafodd eu trosglwyddo i RIFW. would expect, bearing in mind that Buaswn i'n disgwyl, wrth gofio bod y the Government had transferred Llywodraeth wedi trosglwyddo'r these 18 sites to RIFW in March 2010,

safleoedd—y 18 safle—i'r gronfa ym mis Mawrth 2010, eich bod chi'n hollol gadarn, os ydy'r broses yma'n gadarn, ynglŷn â beth oedd o fewn eich eiddo chi, ac eto mi oedd Mr Langley Davies wythnos diwethaf yn dweud mai ond 16 o erwau oedd o fewn eich eiddo chi yn Wrecsam a'ch bod wedi ceisio trosglwyddo safle yng Nghasnewydd a oedd ddim hyd yn oed o fewn eich perchnogaeth chi. Sut, felly, os ydy'r broses mor gadarn o fewn Llywodraeth Cymru, pan drosglwyddwyd yr asedau o'r Llywodraeth i RIFW, fod yna ddim proses o weld yn union beth oedd o fewn eich teitl chi? A oedd gwasanaethau cyfreithiol y Llywodraeth wedi ymwneud â *checks*, achos roedd o'n dweud ei bod wedi cymryd blwyddyn yn ychwanegol iddyn nhw gael y safleoedd yma i drefn?

[122] **Mr Evans:** Os caf i, fe wnaf i ateb hwn yn Saesneg, os yw hynny'n iawn.

that you were completely certain, if this was a robust process, about what sites you held, and yet Mr Langley Davies last week told us that only 16 acres were within your possession and that you sought to transfer a site in Newport that wasn't even one that you owned. Therefore, if the process within the Welsh Government is so robust, when the assets were transferred from the Government to RIFW, why was it the case that there was no process of looking at exactly what titles you owned? Did the legal services of the Government undertake any checks, because he said that it took an additional year for them to get these sites in order?

Mr Evans: If I may, I will answer this in English, if that's okay.

[123] There was a considerable amount of time taken in selecting the assets that finally worked through into RIFW, and this is why we went down from 25 to 18, and even the 18 changed on occasions before they were finally transferred. Much of that work was around suitability for sale in balancing some assets that were more likely to be saleable with others that we wanted to put in to make sure that, as a package, it worked. Part of the initial work that was done was not actually looking at the specific title defects, I think as Mr Davies mentioned, but really was in working out what the best portfolio is.

[124] In transferring those assets to RIFW, the first point to mention is—. Actually, I'll come to the individual examples you gave at the end, if that's okay. When the assets were transferred, there was a decision to be made:

‘Did the Welsh Government sort out all the queries as to the title before we transferred them out?’ There are two issues with that: (1) we could have done it or RIFW could have done it. That’s just a timescale issue, and I think there would have been the same timescale. The second point is: in any transaction you make with a vendee, they will raise their own queries about it, so you probably will go through a separate legal process in establishing title for those. Now, in handing those titles over to RIFW, who then engaged Morgan Cole to go through that process of diligence around queries around title, the work that we had done was really to raise what those issues were, and so when the assets were passed over, there were about 22 issues that I think Morgan Cole flagged as being worthy of looking into. Some of them—the majority of them were legal queries, and I’ve looked, actually, through some of the reports that came through on some of the land, and perhaps I’ll ask Chris to—

[125] **Aled Roberts:** But there was one asset you didn’t even own.

[126] **Mr Evans:** I’ll come to that; I did say I’d come to the two assets.

[127] **Aled Roberts:** I thought you were talking about Wrexham.

[128] **Mr Evans:** The Wrexham one was just a matter that, in bringing all of these to RIFW, originally we had discussed 140–odd acres; we decided in the end that it was 15 or 16. Mr Davies had seen the old sheet. So, he’d seen a sheet of information that was prepared at the time, when that had been superseded by a new sheet, so it was a matter that he’d seen the wrong sheet on that.

[129] The matter with Newport is rather more complex, which does happen occasionally, where, because of working practices between us and Newport, there was some ambiguity about who actually owned the land. I wonder if, perhaps, I bring Chris in—

[130] **Aled Roberts:** What I don’t understand is that if you’re so desperate to get this money in, surely you put assets in where there are very few disputes regarding title et cetera. If the processes are as robust within the Government as you’re suggesting, surely that process would’ve actually identified that you might not be able to realise it within 12 months; it took two years, eventually.

[131] **Mr Evans:** I think the issue was that the Welsh Government had

inherited a lot of land from the land commission—the land authority, rather—and the Welsh Development Agency. Casting our minds back to then, registration was not mandatory and, really, was only happening on point of sale. Since then, we have done things—we’ve gone through a first registration scheme. So, for all Welsh Government assets of a commercial nature, we’ve gone through a process of registering that land. With hindsight, it would have been lovely to have done that before we transferred the asset. In coming up with the asset—and perhaps Chris or James will want to talk about this—we were looking at what was the best package of land to put through into RIFW. We could have done more diligence on the registration, but that would have taken up more time, or we could have put it in; it was a judgment call at the time, I think. I don’t know if Chris—

[132] **Darren Millar:** Can you remind us how long it took to—?

[133] **Mr Munday:** Can I help the committee on this point? We started the process of only looking at assets after the Cabinet sub-committee had approved the principle of the structure of using assets to transfer in. That was approximately one year before the transfer took place. So, during that time we started with a comprehensive review, from a value and saleability perspective, of all assets, and I think Wrexham was a very good example, where initially it was thought that the entire holding of 130-plus acres might go into RIFW, but on the advice of advisers, it was concluded that actually that would not be a saleable asset for RIFW, and that the only part of the Wrexham holding that would be realisable within the lifetime of RIFW would be the 16 acres that were transferred. As that long list was refined down to a shortlist, Welsh Government legal services undertook and prepared a title report on each and every property. As a consequence of that, some properties were identified as having issues that needed to be resolved before they could be sold, and they were filtered out of the eventual transfer list.

[134] I was a little bit surprised when Mr Davies, in his evidence to you last week, referred to 90 enquiries, because only 22 enquiries came through to Welsh Government legal services department. Of those 22, many were just simple queries. But, coming to the point that was raised about Newport, I have looked at this very closely to try and understand exactly what the problem was. The piece of land in question was actually one of those that had a registered title, and the registered title plan is very clear about what was in the ownership of Welsh Government and what wasn’t. So, there was no ambiguity in that regard. Where the ambiguity crept in is in what I now have discovered was a human error in the drawing up of the transfer plan.

[135] You heard evidence last week from Mr Davies about other interests he has on that location, where there is contradiction between legal boundaries and physical barriers—I think he referred to a very high hedge. The transfer to RIFW: the plan was drawn along the line of the physical boundary on the site, which is a mound in the ground, whereas it should have been a notional line through a flat piece of land. How that error crept in, I cannot say; I can only assume it was honest human error. So, we always knew exactly what it was we owned, and what exactly it was that we were transferring.

[136] **Darren Millar:** We need to move on. Julie Morgan, about one of the other pieces of land.

[137] **Julie Morgan:** Yes, thank you very much, Chair. I just wanted to ask you about the Lisvane land, which is in my constituency in Cardiff North. Looking back, do you think it was the right thing to have included the Lisvane land in the portfolio for sale?

[138] **Mr Evans:** At the time, I think they probably made about the right decision. I think if we'd have taken Lisvane out at the time, we would have had to have found a suitably saleable package of land to put in there. I think Mr Davies was actually quite helpful last week in really setting home how much risk is in some of this activity. At the time, we didn't know to what extent this—. I mean, we're three years hence and the LDP still hasn't been signed off, although the likelihood—

[139] **Julie Morgan:** We're nearly there.

[140] **Mr Evans:** —is that it will be now. We're nearly there, yes, but we just didn't know, and this land had been in Government ownership for a long time.

[141] **Julie Morgan:** How long had it been in Government ownership?

[142] **Mr Evans:** It was well over 10 years. I can give you an exact figure.

10:15

[143] **Mr Munday:** It's very hard to pin down because it goes back into the time of the Land Authority for Wales. Apocryphally, I'm told by people who were around in that organisation that it may have been 20-plus years ago,

and it'd been repeatedly promoted into local plans and left out. Indeed, at the time it was transferred into RIFW, the advice from King Sturge was that there was no clear indication of whether it would get an LDP allocation in the short, medium or long term, but I think everybody believed that, in the long term, it would, and that's what gave it value in terms of the uplift through the overage.

[144] **Alun Ffred Jones:** The question, therefore, is: why only five years?

[145] **Darren Millar:** The overage term was five years.

[146] **Mr Munday:** I wasn't involved in that negotiation and therefore find it very hard comment on that. That was a negotiation conducted by RIFW.

[147] **Mr Evans:** This is part of the work that we're doing on establishing whether the terms of the overage in particular were sufficient to maximise the value.

[148] **Julie Morgan:** So, you are saying, basically, that there is a query about whether Lisvane being included in the portfolio with that overage that it's got was the right decision.

[149] **Mr Evans:** No. The response at the time was whether we should put the—. I think we have to take separately the decision on whether to put the asset into RIFW. And then there is a separate question about whether the maximum value was actually achieved for the sale of that asset. In placing the asset into RIFW, as I've said, if we hadn't put Lisvane in, we'd have had to put something else in of a similar nature. I think, at the time, there was quite a bit of ambiguity about to what extent—. There was probably less ambiguity about whether it would ever fall within an LDP; the bigger question was when, and when could that asset be realised. I think Mr Davies was quite helpful last week in saying that, in his estimation, it was likely to be closer to 10 years. A developer would have had to sit on that land and do all the activities that developers do in ensuring that it was included within the LDP. The fact that it's been rather shorter than that, or is likely to be rather shorter than that, I think, is obviously to his benefit, but whether that was foreseeable at the time, I'm not sure.

[150] **Julie Morgan:** It just seems a bit of a contradiction that we include Lisvane because of its potential and its potential value, but then perhaps realise less of the value than we should have.

[151] **Mr Evans:** I think at the time it was put in, there was probably an understanding—this is hearsay—from property experts that, at some stage, as you said and as Mr Davies backed up, it probably would form part of some LDP, but with the query of, ‘How long is a piece of string?’ I think, for any developer buying that land, the risk they were taking would have been: ‘How quickly can I realise my asset and actually make money out of this?’ On the flipside, for the RIFW board and its advisers negotiating with any purchaser, it was: ‘How much will the market bear in terms of what overage we can charge on this asset?’ There was obviously quite a lengthy period of negotiation between the two parties. I think Mr Davies mentioned that it was about 12 months. There would have been protracted negotiations back and forth about what the market value of the sale would be and then what the overage provision within that would be. That’s just negotiation.

[152] **Julie Morgan:** You don’t think there was a case for keeping back the Lisvane site until the position became clearer about the LDP, which would not have been that long.

[153] **Mr Evans:** The asset had been in public ownership for a long time, as you said. How long do you keep it on? As James said, we weren’t in the business of actually developing land or keeping land for sale value; we were in it for policy reasons. The land authority, of course, worked on a different premise, but the Welsh Government really, I think, only develops land where there is market failure in doing so.

[154] **Darren Millar:** Jenny Rathbone.

[155] **Jenny Rathbone:** The Welsh Government could hardly have been ignorant of the value of this land. The Welsh Government was part of a consortium of north Cardiff landowners, the purpose of which was to lobby for this agricultural land to be converted into residential land. So, who represented the Welsh Government on that consortium? Were they consulted about this suggestion that Lisvane should be disposed of in this job lot?

[156] **Mr Munday:** If I could take that one, the north Cardiff consortium had been running for a very long period of time and it was a very loose consortium of landowners in the area, interested in promoting the site through the local development plan process over the years. Originally, the Land Authority for Wales had played a key role in convening that group. I heard Mr Davies tell you last week that he’d concluded that it was little more

than a talking shop and was not actually going to deliver any impact in securing the development. In preparing the site for transfer, most of the people who'd historically been with the land authority and knew about this site and had been involved in the north Cardiff consortium, were no longer in the organisation to consult, but the asset managers who were responsible for the site were consulted. They had attended one or two meetings of the north Cardiff consortium and had actually reached the same conclusion as Mr Davies: that it was a potentially ineffective talking shop and that the way, actually, for value to be realised was for an experienced developer or house builder to take over promoting it. By transferring it into RIFW, with all of the expertise available to RIFW, and commercial expertise available to RIFW, we had little doubt that it would be in a position to secure the value if that opportunity arose in the future. At the date we transferred, whilst there was a suggestion from our own planning department that the Cardiff plan was inadequate, it had not at that point in time been rejected by the inspector. So, it was still—. And in the view of King Sturge, it was still uncertain as to how long into the future it would be before the value could be realised.

[157] **Jenny Rathbone:** I've no doubt that Mr Davies and his business associates are excellent at persuading people that they'd be better off disposing of land through their purposes, but the fact is that it was a prime piece of development land that was eventually going to be developed. This is not on a floodplain. This is right in the middle of an expensive piece of real estate.

[158] **Darren Millar:** And, of course, this is why the overage terms are so important, aren't they—

[159] **Mr Munday:** Absolutely right.

[160] **Darren Millar:** —and the length of the overage terms?

[161] **Mr Munday:** I absolutely agree with that.

[162] **Darren Millar:** You've talked about the overage discussions taking about 12 months, Mr Evans, because they were trying to see what the market could bear, but of course there was no market test. This land wasn't marketed. It wasn't put on the open market to see what sort of overage terms could be negotiated, perhaps, with other potential purchasers. You must regret now that all of this land was not put out onto the open market in order to determine what its actual value, with a proper market test, would

have been.

[163] **Mr Evans:** I try and put myself in the place of the board at the time with the advice that they were receiving. I think that they were looking at how to make maximum value within the concept of RIFW and the fact that, yes, they wanted to get ahead and start regenerating areas. As Mr Davies said, they did not have an exclusive agreement to negotiate with those, but they obviously felt, within the adviser community and the board, that the offer that they were being offered was suitable. Now, with the benefit of hindsight, looking back, and knowing what we do about the movement on the LDP, there are a number of variables in there that we don't know if they'd have changed if Welsh Government would have retained that land. On the one side, Mr Davies and his cohort are very expert probably in negotiating with people over the purchase; however, one of their bigger skill sets, of course, is in ensuring that local development plans include the land that they wish and that the democratic process supports that.

[164] **Darren Millar:** But, of course, you can't play loose and fast when it comes to public money, can you, you know? These were significant assets—the jewels in the crown, really, of the assets that were held by the Welsh Government in terms of the land bank, as it were; and you were in a situation where you had expertise and knowledge within Welsh Government about how to handle overage, for example—overage terms that would typically be applied to pieces of land like this, historically, by the land authority and the WDA. Was that advice not given to RIFW, given that it was owning public assets, in order to support their negotiations with the potential purchaser of this very important and valuable land?

[165] **Mr Evans:** I'll bring Chris in in a second, but the advice given by Amber to the board did raise the issue of overage at the time. The dealings that went back and forth were primarily around the market price of the assets, but the thing that we're actually looking around at the moment is to what extent the advice that they received around the overage provisions of those contracts was sufficient.

[166] **Darren Millar:** The point I'm making is—it's not just advice from the investment fund managers; not just Amber's advice. What about those people who were around the board, there to give it support, there to bounce thoughts off—people like Mr Munday, and other people who were appointed to the board by Welsh Government and who were Government employees? What about their role in saying, 'Well, we've got some expertise here that

might help you maximise the value of this land in terms of giving you some guidance on overage clauses', so that everybody knew that, within the short to medium to longer term, this land was going to fall within the LDP and be worth a lot more than its book value today? And yet, the overage term of five years seemed incredibly short in terms of being able to realise any value for the taxpayer as a result of that.

[167] **Mr Evans:** One of the things I think there is a query about is whether five years is sufficient. I grant you that. The other point, about when the deal was done, so to speak, was: were there sufficient red flags that it would have been put back into the Welsh Government for consideration? I'll come to Chris in a second, but just setting the context that Chris at the time was, yes, an observer, but with a very loosely defined observer status, and this is one of the things that we've had to look at since then. We've actually issued new guidance about observer status within these boards, but at the time, Chris, I believe that there was no feeling that what was happening was prejudicial to the long-term benefit of the Welsh Government asset, given the context of what was designed.

[168] **Mr Munday:** What I did see in terms of the board process—and this was both within the board meetings and in documents that were circulated—was a challenge from board members around the terms of overage. At the time I exited because of the transfer in July, at that point in time there'd been a challenge from board members to Lambert Smith Hampton to seek to negotiate further improvements in what was on the table in terms of the overage.

[169] **Darren Millar:** Okay. I'll come to you in a second, Mike.

[170] **Jenny Rathbone:** Can I pick up on that point?

[171] **Darren Millar:** Go on. Very briefly, Jenny.

[172] **Jenny Rathbone:** The challenge was coming from Mr Anning, who was the sole member of the board who had any knowledge of how—

[173] **Mr Munday:** The challenge was indeed coming from Mr Anning.

[174] **Jenny Rathbone:** Meanwhile, the other RIFW board members were not reporting back to Welsh Government, and nor were you, so the Welsh Government was just blithely unaware that they were about to be fleeced.

[175] **Mr Munday:** I find the word a little bit strange. But, no, the—. At that point in time there was a live negotiation going on between the advisers and the purchaser. Mr Anning was expressing his views on the terms, but overall, I did not consider that there was anything untoward to report back, because there was a proposal on the table that included overage on both Lisvane and Monmouth, and was for a total amount of money in excess of the transfer value in, despite the fact that a couple of sites had also been taken out. It had the added advantage, as I said earlier, of removing the distraction of the sales process. It looked, to all intents and purposes, at that point in time, that the deal was offering RIFW good value for money.

[176] **Jenny Rathbone:** But you weren't discussing it with anybody more senior in Welsh Government.

[177] **Mr Munday:** There was nothing for me to discuss.

[178] **Darren Millar:** Just to clarify: you were aware of the overage terms, Mr Munday.

[179] **Mr Munday:** Only as they were being negotiated. I was not aware of the final overage terms because I was not involved—

[180] **Darren Millar:** Were you aware of this five-year term?

[181] **Mr Munday:** What was being negotiated at the time, and I was aware of, was whether 30 per cent was correct rather than—

[182] **Darren Millar:** So, it was percentages rather than length of time.

[183] **Mr Munday:** It was percentages rather than length that I saw.

[184] **Darren Millar:** So, you weren't aware that this was a five-year term that was being proposed. Okay. Alun Ffred.

[185] **Alun Ffred Jones:** Who would you have reported back to, Mr Munday?

10:30

[186] **Mr Munday:** Well, I think it was a very ambiguous period of time, because, as has been pointed out, there were in effect two lead departments

for this activity. The property leadership would have seen its role as having completed once the transfer took place. Had I had any serious concerns at the time—the person, as I said before, who led for regeneration was also a member of the board—I would have raised it with him, in the first instance. But, equally, had I had any serious concerns, I would have known, as a civil servant, that I could have gone to director level, either in ES&T or on the regeneration side.

[187] **Alun Ffred Jones:** Cwestiwn i Mr Howells, fel cadeirydd RIFW bellach: a oes cyfrifon yn cael eu cyhoeddi gan RIFW yn flynyddol? Beth ydy'r costau cyfan, felly, rhwng costau Amber, LSH a chostau cyfreithiol ychwanegol, sydd wedi digwydd dros gyfnod RIFW?

Alun Ffred Jones: This is a question for Mr Howells, as the current chair of RIFW: are accounts published by RIFW annually? What are the total costs, therefore, between Amber's costs, LSH's costs and any additional legal costs that have been incurred over RIFW's existence?

[188] **Mr Howells:** Oes, mae cyfrifon yn cael eu cyhoeddi yn flynyddol.

Mr Howells: Yes, accounts are published annually.

[189] **Alun Ffred Jones:** Yn gyhoeddus, felly?

Alun Ffred Jones: Publicly, therefore?

[190] **Mr Howells:** Yn gyhoeddus. Y gost fwyaf o safbwynt cynnal RIFW ers y cyfnod ar ddiwedd 2012, pan wnaethom ni stopio gweithredu'r gyllideb, yw'r cytundeb gydag Amber, sydd werth rhyw £300,000 y flwyddyn. Mae'r cytundeb gyda Lambert Smith Hampton wedi ei ddileu. Nid wyf i'n cofio pryd yn union, ond os ydw i'n cofio'n iawn, yn ystod 2013 gwnaeth y cytundeb gyda Lambert Smith Hampton gael ei ddileu.

Mr Howells: Yes, publicly. The largest cost in terms of maintaining RIFW since the period at the end of 2012, when we stopped operating the budget, is the contract with Amber, which is worth about £300,000 per annum. The contract with Lambert Smith Hampton has been terminated. I don't remember when exactly, but if I remember rightly, during 2013 the contract with LSH was terminated.

[191] **Alun Ffred Jones:** Diolch.

Alun Ffred Jones: Thank you.

[192] **Darren Millar:** Oscar, you had a brief follow up, and then I'll come to Mike.

[193] **Mohammad Asghar:** Thank you very much indeed, Chair. After listening to the panel here, there are more questions in my mind than answers you have already given. It looks like you have just given some cherry-picking sales to the public land there, and, the thing is, it is land that is owned by the public—you are the custodian of it, and the public hasn't made the money that they deserve for public use. My question to you is: have you got professionals in your department who, actually, are competent to do this sort of job and is continuous professional development involved there now? Is there continuous training for the future, rather than what we—? You just said it earlier—there are a lot of weaknesses and you are learning. So, are you overcoming all those weaknesses now and pinpointing—you know, for this committee—that never again will it happen like this in Wales?

[194] **Mr Evans:** There are two levels to that question. At the highest level, as an organisation, I think there were weaknesses, as I've said, in the oversight and the accountability of our control of RIFW. I'm not sure if that actually made a difference in the end to the sale price, but there were weaknesses. Since then, at a corporate level, we have issued new guidance on several aspects, from board training, through to the way that departments actually handle the transfers of programmes, through to observer status of Welsh Government officials on arm's-length bodies. So, I think we have tightened up quite considerably on what were weaknesses in those areas.

[195] On the expertise of officials specifically, the Welsh Government, as we've mentioned, is not a developer of land, and so I'm not sure to what extent we have expertise in that. But, as far as expertise of both the legal services and our property people are concerned, there are good CPD opportunities, I think, and I know that those people who are employed as specialists, of course, need to maintain their professional accreditation. I don't know, Chris and James, if you want to comment on that.

[196] **Darren Millar:** Very briefly, please, because we're pressed for time.

[197] **Mr Price:** Yes, anyone in the property field or anyone in any specialism will be carrying out their CPD. I think the bigger issue for me that you raised, which we haven't got time to address now, but the committee might want to at another time, is arm's-length bodies per se. It wasn't just the expertise or how we managed the arm's-length body, but what's appropriate to be in an arm's-length body and how you go about balancing risk and reward in different arm's-length bodies. I mean, I am frequently frustrated by different

arm's-length bodies, but it doesn't necessarily mean that what they're doing is wrong, because many of these things are judgment calls. So, I do think there's a bigger, general piece in here about arm's-length bodies, what's appropriate and what isn't, and what degree of control Welsh Government should have over them before they stop being at arm's length.

[198] **Darren Millar:** Okay. Mike Hedges.

[199] **Mike Hedges:** You talk about RIFW being at arm's length, you talk about them having advisers and we're talking about senior members of staff being on the board of RIFW, well, Mr Munday, why do you think you were attending the meetings?

[200] **Mr Munday:** Initially, when RIFW was set up in March until Amber were appointed in December the fund operated through a service level agreement with Welsh Government to provide the actual day-to-day management. So, initially, I saw my role in attending the board meetings as providing that continuity between the first nine months and the ongoing activity, so that there wasn't a hiatus between the two. I think, in the six or so months that I attended such board meetings, I came to recognise that actually there was a wider role than that of an observer. There was no guidance within Welsh Government at the time about what the role of such an observer should be, but I was very clear in my own mind that 'observer' means the dictionary definition 'to see and observe', not 'to actively participate'. And, indeed, in my own note handing it over to the other department, one of my recommendations was that they should appoint somebody as going into an ongoing observer role.

[201] **Mike Hedges:** So, you didn't sit at the table then? You sat away from the table when discussions were taking place. I mean, we've got observers here up in the public gallery: they're observing. You can tell that they're not part of the discussion. We have the people around the table who are part of it, so you sat away from the meeting?

[202] **Mr Munday:** Physically, it was a much smaller group of people in a much smaller room. In sitting and observing at those board meetings, no, it was a much smaller table. I sat at the table but it was not my role to contribute towards the decision making. That was the role of the directors, including the members of staff who were appointed to be the directors of the board for the decision-making purposes.

[203] **Mike Hedges:** So, I take it that you never spoke at any of those meetings?

[204] **Mr Munday:** Once I didn't speak because otherwise there was no point in me being there at all. I was to speak slightly from the continuity perspective. I would not have expressed an opinion, I don't believe, on the transaction, because that was not my purpose.

[205] **Mike Hedges:** Sorry, my understanding of an observer, and you've just used the definition of someone who goes to observe, is that observers are not participants. Once you speak you become a participant, don't you?

[206] **Mr Munday:** I think this is where I suffered from a lack of guidance, candidly. And, I think, the fact that, as James has reported, for all such observer roles that now exist, there is a clear guidance issued both to the observer but also to the board so that the board understand the role of the observer.

[207] **Mike Hedges:** And my final question: who did you ask for guidance on what you should do as an observer?

[208] **Mr Munday:** Well, it was a gradual realisation that there was a broader role here than just the handover. But it was only over a period of six months and during that period of time it became clear that in addition to the board membership there was a role for somebody to sit on that board, but, no, there was no guidance available. I checked with line management and so on and no general guidance was available.

[209] **Darren Millar:** Sorry, can we just clarify this: so, you said that it was unclear to you what the role of an observer was.

[210] **Mr Munday:** Yes.

[211] **Darren Millar:** You checked to see whether there was any guidance, but you were still happy to undertake that role even though there was no guidance and you didn't really know what your role was?

[212] **Mr Munday:** During those six months I saw the role as primarily one of transition and the transition was still continuing at the point of exit because there were a couple of outstanding issues around how the European Commission were going to treat state aid in JESSICA investments and there

was—

[213] **Darren Millar:** Everybody else, of course, on the board saw you as a non-voting member of the board, didn't they? I mean, they said that you represented the Welsh Government and you were the person giving approval for their actions and decisions effectively.

[214] **Mr Munday:** No, I had no power to give approvals and I think—

[215] **Darren Millar:** But that was the impression that they had of you—

[216] **Mr Munday:** Well, I think this is—

[217] **Darren Millar:** —and you didn't seek to clarify that to them in any way.

[218] **Mr Munday:** I think this is where guidance would have helped not only me, but it would have helped the board have clarity in terms of giving them the clarity of the role and what they could reasonably expect of the person attending in that capacity.

[219] **Darren Millar:** Shouldn't you have demanded some clarity, given that you were uncertain yourself as to your role? Shouldn't you have said to your line manager, 'I'm not attending any more of these meetings—I've got my professional reputation to uphold, I'm not attending any more of these meetings unless I'm very clear on what my role is'?

[220] **Mr Munday:** Well, I had clarity around the transition process and that was almost drawing to a close. By the time that—. After the May elections, when there was a change in portfolios, it was very clear that at my exit—I needed to plan the exit fairly quickly, and I exited within a couple of months of the May elections. Therefore, there wasn't a long period of time over which I needed to think about what the ongoing role was. Indeed, in the note I prepared recommending that there should be an observer, I left it to the incoming department to determine what that role might be.

[221] **Mr Evans:** I think the organisation put Chris in an invidious position, where he was at RIFW to begin with to help with the transition, but there was insufficient guidance for him, there was insufficient guidance for the board itself. I think it's one of those classic situations, which is regrettable, where the board were probably clear about what they thought Chris's role was and Chris's interpretation of what his role was different. I think that didn't help

matters at all, which is one of the reasons why we've had to address the understanding of what an observer's role is on the board and the board's understanding of what that is as well.

[222] **Darren Millar:** Well, Mr Munday's just told us he didn't know what his role was. He was unclear as to what his role was, and he sought advice, you say, from your line manager—.

[223] **Mr Munday:** I did not seek advice as to what the role was. I sought to understand whether there was an extant guideline on the issue, which there was not.

[224] **Darren Millar:** Okay. But that's because you were unclear on what your role was.

[225] **Mr Munday:** Well, that's because I wanted to add clarity—not necessarily because I was completely unclear, but I wanted to add further clarity to the role.

[226] **Mr Evans:** In fairness to Chris, I think it was a corporate failure that we hadn't established with sufficient clarity what his role was.

[227] **Darren Millar:** And you've got clear guidance now—

[228] **Mr Evans:** Yes, we have.

[229] **Darren Millar:** —for all Welsh Government external observers of any board or any organisation.

[230] **Mr Evans:** Which I think we've already furnished the committee with.

[231] **Darren Millar:** Yes.

[232] **Mr Price:** Can I just come in very quickly? Just two points: the first one is that I agree with everything that Owen said and the situation was clearly unhelpful, but at the time—and certainly in the WDA—that was not an unusual position to find oneself in.

[233] **Darren Millar:** But it wasn't the WDA, was it?

[234] **Mr Price:** No, but—.

[235] **Darren Millar:** We've established that, Mr Price.

[236] **Mr Price:** Okay. The second issue, and I think this is really important in terms of learning and the wider issue I raised in terms of arm's-length bodies—. So, even with the new guidance that we have and an observer being in a position that is the eyes and ears and reporting back to the Welsh Government, if the observer didn't have the expertise necessary to understand that there was an issue, they wouldn't be able to—they wouldn't see anything to report back.

[237] **Darren Millar:** Yes, I understand.

[238] **Mr Price:** And I think that is a bigger issue, because that doesn't make this type of issue go away, simply having that guidance there. That's why there's a bigger arm's-length body issue.

[239] **Darren Millar:** Okay. The clock has beaten us. One final question: does the Welsh Government believe that a portfolio sale of publicly-owned development assets by private treaty, without proper marketing, without any support of an independent valuation, to an offshore entity was appropriate for a sale of public assets and was likely to result in a good deal for the taxpayer? And if you do, or don't—whether you do or don't—do you think it would be appropriate ever again?

[240] **Mr Evans:** Right. On whether the sale of the portfolio versus individual lots—I think the jury is out on that; that was to be negotiated at the time. As to whether it's appropriate to sell to an offshore vehicle, we are in the legal position where we cannot discriminate. As long as it's a properly constituted legal entity, we cannot discriminate against that body. And so, looking at the individual elements, I think it would be difficult for us to say that what happened wasn't—

[241] **Darren Millar:** By private treaty—

[242] **Mr Evans:** By private treaty—

[243] **Darren Millar:** —without marketing, without a proper valuation.

[244] **Mr Evans:** I think that is where the weaknesses were, and we've been quite straight with this and I think we've agreed quite wholeheartedly—

[245] **Darren Millar:** But what you're telling me is that this could happen again at the moment, Mr Evans.

[246] **Mr Evans:** Ah, no.

[247] **Darren Millar:** Could this ever happen again, in the same circumstances?

[248] **Mr Evans:** No. No. I think—

[249] **Darren Millar:** Given the die being rolled in exactly the same way, would the Welsh Government allow things like this to proceed again in the future?

10:45

[250] **Mr Evans:** No.

[251] **Darren Millar:** You're confident of that.

[252] **Mr Evans:** I think, because of the understanding we've gained through RIFW—. You have to learn from mistakes and we have made mistakes on this. I think the Wales Audit Office report was very helpful and it did highlight where the fundamental weaknesses in establishing whether there was sale at proper value took place. Would we countenance sale without a proper valuation, a contemporaneous valuation? In the normal order of things now, no we wouldn't. The fact that we can't prove whether the sale was under value or not is a concern to us as it's a concern to the auditor general.

[253] I think that, in the future, if these types of situations were to have—through the processes of good accountability, through the process of good governance and through the processes of good observance at such committees, and also learning about how to get best value and demonstrate best value, this wouldn't happen again.

[254] **Darren Millar:** Okay. On that note, this brings us to the end of this particular evidence session, if I can I thank you all for contributing today. You'll be sent a copy of the transcript of today's proceedings. If there are any factual inaccuracies, then feel free to correct those. And any additional information, which you've agreed to forward on, in addition to anything else

that you think might help the inquiry, then please feel free to do that—. Thank you very much indeed.

10:46

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd
o'r Cyfarfod**
**Motion under Standing Order 17.42 to Resolve to Exclude the Public
from the Meeting**

Cynnig:

Motion:

bod y pwyllgor yn penderfynu that the committee resolves to gwahardd y cyhoedd o weddill y exclude the public from the cyfarfod, ac o'r cyfarfodydd ar 12 a remainder of the meeting, and from 19 Ionawr, yn unol â Rheol Sefydlog the meetings on 12 and 19 January, 17.42(vi).

in accordance with Standing Order 17.42(vi).

Cynigiwyd y cynnig.

Motion moved.

[255] **Darren Millar:** I now move a motion under Standing Order 17.42 to resolve to exclude the public from the remainder of our meeting and for our meetings on 12 and 19 January. Does any Member object? I can see that there are no objections, so we will go into private session. Thank you.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 10:46.

The public part of the meeting ended at 10:46.