

Written Response by the Welsh Government to the report of the Public Accounts Committee – Welsh Governments initial funding of the Circuit of Wales project.

June 2018

We welcome the report and offer the following response to the recommendations in the report.

Recommendation 1. We recommend that the Welsh Government strengthen their controls to ensure value for public money in relation to:

- Understanding relationships between funding recipients and their contractors and suppliers;
- Including requirements within funding conditions for recipients to put appropriate controls in place to secure value for money from their contractors and suppliers, and to provide evidence to the Welsh Government of their effective operation, in particular for:
 - Claims involving payments for services on the basis of retainers, to ensure that the services have been provided;
 - Claims for payment involving companies or individuals who are related parties, irrespective of whether or not they can exert direct influence over the claimant or over the conduct of the project being funded.

ACCEPT– The Welsh Government accepts that, in certain specific circumstances, it needs to strengthen its controls to ensure value for public money, recognising that actions must be proportionate to risk and clearly documented. However, assessment of all organisations which could be related in any way to the funding recipient would require excessive resources and would not achieve value for money; the cost of such an exercise would exceed the potential risks.

The Welsh Government implemented changes to the Business Finance grant application process in April 2017, which requires applicants to clarify whether Welsh Government funds are to be paid to related companies for goods and/or services. Additional due diligence has been put in place where related companies are identified. Where appropriate, additional conditions will be included in the funding agreement to ensure value for money is being achieved.

The Welsh Government's standard funding agreement already requires recipients to demonstrate that value for money has been secured from their contractors and suppliers. However, the Welsh Government accepts that the assessment of whether value for money has been achieved needs to be strengthened, especially where retainers have been paid. An exercise will be undertaken to consider this issue in more detail, including the processes that can be put in place to ensure complex projects demonstrate procured activities can evidence value for money. Best practice taken from the procurement requirements implemented by Welsh European

Funding Office (WEFO) will be considered as part of this exercise. Testing that services and/or goods have actually been provided, especially in the case of retainers, will form part of any process implemented. Welsh Government will report back to the Committee once this exercise has been completed.

Implementation: By end March 2019

Recommendation 2. We recommend that the funding of the purchase of FTR is utilised as a case study for internal training purposes by the Welsh Government, given the highly unorthodox decisions made at official level, the accompanying lack of documentation and the apparent failure of officials to seek and obtain the requisite approvals from their respective Minister.

ACCEPT – The funding for the purchase of FTR will be developed into a case study for use at appropriate internal training sessions, including with members of the Senior Civil Service in ESNR Group in early autumn 2018.

Recommendation 3. We recommend that the Welsh Government confirms to the Public Accounts Committee that it has since recovered the £100,000 from the escrow account.

The Welsh Government is pursuing the £100,000 that was in the escrow account. Legal advice has been commissioned to determine whether the £100,000 is still in the escrow account or whether the funding was forfeited when the option on the land expired and ultimately whether the £100,000 can be recovered. The Committee will be updated on the outcome of this advice in due course.

Recommendation 4. We recommend that the Welsh Government ensures that a contractual requirement is included for future payments made to cover eligible expenditure related to escrow accounts in the event of a project failure

ACCEPT - The use of an escrow account can be an effective method of mitigating project risks where transactions are conditional. However, Welsh Government accepts that where an escrow account is utilised as part of a funding package in future, appropriate conditions of funding will be specified to ensure that any associated risks are mitigated. These conditions of funding will include the ability to recover funding from the escrow account in the event of project failure.

Implementation – September 2018

Recommendation 5. We recommend for all projects involving either significant risk or large sums of money that a requirement for applicants to elect for their financial statements to be independently audited is included within the Welsh Government's funding conditions, and that such terms are then rigorously enforced as part of robust ongoing monitoring arrangements

ACCEPT – Welsh Government strives to adopt and apply controls intelligently, flexibly and proportionately to the scale and complexity of the project, in order to mitigate the risks involved. The Welsh Government will strengthen the assessment of risk at a project level and will require and enforce any condition to provide

independently audited accounts where it is appropriate to do so. Where independently audited accounts cannot be provided, additional evidence at the claim stage will be used, for example the need to provide an Independent Accountants' Certificate to demonstrate appropriate defrayal of expenditure.

Welsh Government funds a significant number of projects annually with a high proportion of projects being undertaken by small and medium sized enterprises. For a small or even medium sized entity, the imposition of an audit could be a significant financial burden to their business. In addition, the statutory process for filing audited accounts can take up to nine months so the availability of current audited accounts would be limited.

Recommendation 6. We recommend the Welsh Government strengthen its arrangements to ensure that whenever staff have concerns about instructions from authorising officers to make payments, they are able and confident to raise those concerns with a senior independent manager

ACCEPT – Welsh Government already has robust processes in place for dealing with such concerns. Welsh Government officials must comply with the Civil Service Code (<https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code>).

Where appropriate, concerns can be escalated via the Welsh Government's whistleblowing policy which utilises the independent whistleblowing panel (<https://gov.wales/docs/decisions/2016/government/160824at1sn10602doc1.pdf>).

The existence of the whistleblowing policy, and its proactive use, empowers staff to undertake appropriate action.

The importance of compliance with the Civil Service Code and the escalation route will be further highlighted to Welsh Government staff via a number of communication techniques including articles on the Welsh Government intranet site and appropriate internal training sessions.

This action will be completed by end September 2018, and regularly followed-up thereafter.

Recommendation 7. We recommend that all Cabinet Secretaries, Ministers and all Welsh Government Senior Civil Servants are reminded of the requirements within the Ministerial and Civil Service Codes to ensure the accuracy of all information released

ACCEPT – The importance of ensuring the accuracy of all information released will be communicated to all Welsh Government Senior Civil Servants via appropriate briefings and training sessions.

Cabinet Secretaries and Ministers are regularly reminded of the contents of the Ministerial Code – the latest version was published and issued to them by the First Minister in November 2017.

Recommendation 8. We recommend that the Welsh Government standardises the use of the “internal assurance group” mechanism for all future complex, novel or large-scale investment decisions.

ACCEPT – Welsh Government has already accepted the benefits of the internal assurance group mechanism for this project. It will be standardised for future complex, novel or large-scale investment decisions

Implementation: December 2018

Recommendation 9. We recommend the Welsh Government establish a more sophisticated methodology for evaluating the overall economic impact of projects potentially involving public sector financial support, including robust analysis of the sharing of risks and rewards, and the value for money of loan guarantees and other non-grant funding options

ACCEPT – Our new approach to business cases, incorporating the guidance set out in the revised HM Treasury Green Book and supporting documents, will address these principles.

We are supporting the implementation of our updated approach to business cases through the Better Business Cases Network, which promotes collaboration and sharing best practice in the creation or assessment of business cases across the Welsh public sector and by increasing our capacity for economic analysis through the recruitment of additional economists and working with external partners.

The recently launched Economic Action Plan sets out a new operating model to drive inclusive growth and future proof businesses. Focussed on investment with a social purpose, this new approach has the Economic Contract at its heart, which will help us develop a new and strengthened relationship with businesses to drive inclusive growth and responsible business behaviours from our initial contact.

The application of the revised guidance, a new operating model, together with increased internal challenge, will help provide added assurance on the economic impacts of the Welsh Government’s investments.

Recommendation 10. We recommend that the Welsh Government explore with Her Majesty’s Treasury and the Office of National Statistics whether the published guidance on the risk weighting of projects of this nature can be enhanced to ensure that it is fully relevant within a devolved context.

ACCEPT – The published guidance on risk weighting is set out in Eurostat’s Manual on Government Deficit and Debt (MGDD, 2016) and applies at the EU level. The MGDD is updated periodically. An enhancement of the guidance will be sought in due course in the working group established by Eurostat to undertake the updating of MGDD.

Recommendation 11. We recommend that the Welsh Government work with relevant parties to establish a framework policy for decision-making in relation to large scale projects, which will set out potential sources of advice such as ONS, IPA.

ACCEPT - While decision-making rests with the ONS (and ultimately Eurostat), and a clear framework for its decision-making already exists, it is acknowledged that the Welsh Government's internal processes for the sourcing and provision of classification advice, and the management of classification risk should be clarified. To that end these internal processes will be discussed, agreed and recorded by Directors of Finance by December 2018.

Recommendation 12. We recommend that the Welsh Government adopts a standard practice that meeting notes are agreed for factual accuracy by all relevant parties at the point of drafting.

ACCEPT – Where contemporaneous notes of meetings are to be retained as part of the audit trail for Welsh Government decision-making processes, they will be shared with relevant parties at the point of drafting to confirm factual accuracy. The importance of producing accurate, contemporaneous audit trails will be reinforced in appropriate training sessions for staff.

Recommendation 13. Given the Creditors Voluntary Agreement and the uncertain financial status of the HOVDC, the Committee requires clarification from the Welsh Government on what action it is taking to safeguard its £7.3m debt from HoVDC arising from the Welsh Government loan guarantee.

ACCEPT – The Welsh Government is a secured creditor of HOVDC as a consequence of the debenture held over the company and its direct subsidiaries. The company has been served with notice that they have defaulted on the terms of the Welsh Government funding, thereby preserving our ability to make a formal claim or to take action pursuant to our security. Officials are liaising with executives of Santander plc, who as first charge holder would have to agree to any action taken under the debenture by WG - the reverse also being the case should Santander wish to initiate action.

We understand a number of proposals have emerged in recent months from the private sector to take the project forward. Whilst there has been no request for Welsh Government financial support, one of the potential promoters has indicated that they would wish Welsh Government to enter into an arrangement to release the security, to enable the project to proceed, and in return receive a financial stake in the new business that could repay the debt over time. We are awaiting the outcome of discussions between this new promoter and the Cardiff Capital Region City Deal.

Welsh Government will keep the Committee informed about developments in relation to the debt (subject to requirements of commercial confidentiality).