

**National Assembly for Wales**  
Public Accounts Committee

Forestry Commission Wales: public funding  
of Ffynone and Cilgwyn Woodlands

February 2011



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Public Accounts Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

Tel: 029 2089 8639  
Fax: 029 2089 8021  
email: [Publicaccounts.Comm@wales.gov.uk](mailto:Publicaccounts.Comm@wales.gov.uk)

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## Public Accounts Committee

The Public Accounts Committee ensures that proper and thorough scrutiny is given to Welsh Government expenditure, and that all public bodies in Wales operate to the highest possible standards in the management of their financial affairs. It does this so that the people of Wales can be confident that their money is being spent wisely and well.

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(Chair)**  
Clwyd West  
Welsh Conservative Party



**Lorraine Barrett**  
Cardiff South and Penarth  
Labour



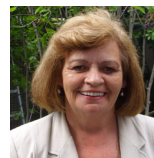
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Welsh Liberal Democrats



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Labour



**Jonathan Morgan**  
Cardiff North  
Welsh Conservative Party



**Janet Ryder**  
North Wales  
Plaid Cymru

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## **The Committee's Recommendations**

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The Committee's recommendations to the Welsh Government are listed below, in the order that they appear in this Report. Please refer to the relevant pages of the report to see the supporting evidence and conclusions:

**We recommend that Forestry Commission Wales develop, publish and implement clear, proportionate criteria for the application of public consultation with regard to applications for grant funding which will help ensure that the needs of local communities are effectively addressed, and their interests protected. (Page 14)**

**We recommend that Forestry Commission Wales develop, publish and implement a clear definition of "community group" to be applied to future programmes and activities which will help to ensure that such groups are broadly reflective of the community in which they are based. (Page 14)**

**We recommend that Forestry Commission Wales provide assurance that appropriate risk management training has been delivered to *all* staff which includes reference to how this will be updated and refreshed as appropriate. (Page 17)**

**We reiterate the Auditor General's second recommendation, and in particular recommend that Forestry Commission Wales demonstrate that an appropriate project management approach is applied which fully addresses the failures identified in our report and the Auditor General's report. (Page 18)**

**We reiterate the Auditor General's recommendation that Forestry Commission Wales should ensure monitoring arrangements for the Cydcoed Scheme are robustly applied, and seek assurance that monitoring of future programme provides evidence of value to the public purse. (Page 19)**

**We recommend that Forestry Commission Wales ensure that forestry experience, or a commitment to develop forestry skills and manage the land accordingly, be made a requirement of any**

**future grant programme for the purchase or management of forestry land. (Page 21)**

**We recommend that Forestry Commission Wales put arrangements in place to check references and experience of grant recipients as part of the standard pre-contract checks for all grant programmes. (Page 21)**

**We recommend that the Accounting Officer provide details of the financial control checks in place at the time to ensure that overpayments would not occur, along with details of whether these checks were carried out in this case, in order to allow us to assess the extent to which the error was genuinely administrative error or a systematic failure. (Page 22)**

**We recommend that the Welsh Government provide assurance that fundamental checks, including verification of grant paid against agreed figures in line with terms and conditions of the grant, are included in the audit methodology of bodies administering grant funding on their behalf. (Page 24)**

**We recommend that Forestry Commission Wales undertake checks to verify that the correct valuation figure was included in the contracts for the remaining eight Cydcoed land purchase grants, and that the subsequent payment or payments were made for the correct amount. (Page 24)**

**We recommend that Forestry Commission Wales review its grant award processes and contracts in the light of, and to ensure compliance with, Annex 5.1 (grants to third parties) and Annex 5.2 (protecting public investments) of Managing Welsh Public Money. (Page 26)**

**We recommend that Forestry Commission Wales work with Calon to secure designation of the greatest possible portion of Ffynone and Cligwyn Woodland under the Countryside and Rights of Way Act 2000 at the earliest possible opportunity. (Page 26)**

**We recommend that Forestry Commission Wales continue to encourage community involvement in the decision making**

surrounding the woodland by all means possible in the hope and expectation that the community reciprocate. (Page 26)

**We recommend that Forestry Commission Wales provide:**

- a clear rationale for the submission of each business plan submitted by Calon for both Cydcoed and Better Woodlands for Wales Programmes outlining why the plans were requested;
- a timeline for submission of each version of the Calon business plan, relative to the submission and approval of their applications to both the Cydcoed and Better Woodlands for Wales Programmes;
- assurance that an appropriate plan of sufficient standard to meet programme requirements was received prior to the approval of the Better Woodlands for Wales Grant.

(Page 28)

**We recommend that Forestry Commission Wales provide assurances that all Forestry Commission Wales business plans, and plans submitted in support of applications for funding, are now prepared in accordance with the requirements of Welsh Government and HM Treasury guidelines.** (Page 28)

**We recommend that the Welsh Government work with Forestry Commission Wales to ensure implementation of the recommendations made to that organisation, both by the Auditor General and this Committee, and provide this Committee in due course with assurance that the recommendations have been or are being delivered.** (Page 29)

**We recommend that the Auditor General test the implementation of the recommendations contained in this report, those contained in the report of the Wales Audit Office report on the public funding of Ffynone and Cilgwyn Woodland, and the preceding reports on the Operation of Forestry Commission Wales prepared by this committee and the Auditor General to ensure they are fully implemented.** (Page 29)

## 1. Introduction.

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1. The (then) Auditor General for Wales (the ‘Auditor General’) laid her report “Forestry Commission Wales: public funding of Ffynone and Cilgwyn Woodlands” before the National Assembly for Wales in August 2010.<sup>1</sup>
2. The Auditor General considered whether the award of £502,000 by Forestry Commission Wales (FCW) from their Cydcoed II Programme (Cydcoed) to Calon yn Tyfu Cyf (Calon) for the purchase of Ffynone and Cilgwyn Woodland was “appropriate, impartial and in accordance with agreed criteria”.<sup>2</sup> She concluded that “the funding to Calon met the high-level grant scheme conditions, but the scheme criteria and procedures for reviewing applications were not sufficiently robust, increasing the risk that this significant public investment may not be safeguarded.”<sup>3</sup>
3. The Auditor General briefed us on the findings of the report on 23 September 2010 and we agreed to call the Accounting Officer to explain the actions taken in relation to the issues identified by the Auditor General’s report.
4. The Accounting Officer, Mr Trefor Owen, appeared before us on 25 November 2010 along with Mr Richard Siddons, Head of Grants and Regulations, FCW. This report is based primarily of evidence provided at that meeting.
5. We have a number of significant concerns regarding the administration of the grant awarded to Calon, which we believe raise wider issues regarding FCW administration of grant programmes. We acknowledge the steps described by the Accounting Officer to address the issues highlighted by the Auditor General. However, we have identified a number of actions which we consider will, alongside the Auditor General’s recommendations, improve future administration and provide assurance as to the proper expenditure of public money by FCW. In order to monitor the implementation of both sets of recommendations we propose that the Public Accounts Committee as constituted in the Fourth Assembly revisit the issue.

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<sup>1</sup> Auditor General for Wales, Forestry Commission Wales: Public Funding of Ffynone and Cilgwyn Woodlands, August 2010

<sup>2</sup> Ibid, p6.

<sup>3</sup> Ibid, p7.

## 2. The Accounting Officer Evidence Session

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### Background.

6. Although FCW is part of Forestry Commission Great Britain, it operates as the *de facto* Welsh Assembly Government department of forestry, and as such is sometimes referred to as a 'virtual division' of the Welsh Government. As part of its remit, FCW provides grants to third party organisations to help in delivering the Welsh Government's forestry objectives set out in *Woodlands for Wales*<sup>4</sup> strategy.

7. FCW delivered Cydcoed between 2003 and 2008. The programme provided up to 100% funding to community groups in the EU Objective 1 region, based on EU Objective 1 funding matched by funding from the Welsh Government Pathways to Prosperity Scheme. The programme was targeted at :

- communities that are recognised by the Welsh Index of Multiple Deprivation as being the most deprived in Wales; and / or
- communities where the population has no access to community green space for relaxation and exercise.

Additionally, the programme focused on three themes:

- creating green woodland space for communities;
- making green woodland space more accessible for communities; and
- encouraging community involvement in sustainable development around woodlands<sup>5</sup>.

8. Fynone and Cilgwyn Woodlands are in North Pembrokeshire. In September 2006 FCW approved an application for Cydcoed funding from Calon, a workers co-operative and company limited by guarantee, for a full grant of £502,000 for the purchase of the woodland which was paid in two instalments in autumn 2006. A subsequent application for an additional £236,177 was approved under the Better Woodlands for Wales grant scheme for improvement works to be completed in line with an approved management plan.

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<sup>4</sup> Welsh Government, *Woodlands for Wales*, 2001. This strategy is the Welsh Government's 50 year vision for trees and woodlands in Wales.

<sup>5</sup> The Research Agency of the Forestry Commission (Great Britain), *An evaluation of Cydcoed: the social and economic benefits of using trees and woodlands for community development in Wales*, November 2008, p18

9. In June 2009 the Petitions Committee at the National Assembly for Wales received the following petition, submitted by Cyngor Cymuned Manordeifi Community Council:

“Cyngor Cymuned Manordeifi Community Council calls upon the National Assembly for Wales to urge the Welsh Government to commission an independent inquiry into the funding of Calon yn Tyfu / Growing Hearts Ltd. by Forestry Commission Wales for the purchase of the Ffynnone and Cilgwyn woodland in North Pembrokeshire under the publicly funded Cydcoed Scheme.”<sup>6</sup>

10. The Petitions Committee referred the petition to the Auditor General, who had also been contacted directly by members of the local community. The Auditor General examined whether the award of funds by FCW to Calon was “appropriate, impartial and in accordance with agreed criteria”.<sup>7</sup> The WAO concluded that while the funding to Calon met high-level grant scheme conditions “the scheme criteria and procedures for reviewing applications were not sufficiently robust, increasing the risk that this significant public investment may not be safeguarded”<sup>8</sup>.

11. The Auditor General made the following recommendations to FCW:

- FCW should work with Calon to explore options for:
  - a) greater community involvement in decision making for the woodland to include community representation on Calon’s board, as non-executive directors; and
  - b) longer-term protection of the asset for the local community and public purse;
- FCW has acknowledged a need for more robust project management of grant schemes using PRINCE2 methodology. Building on this methodology, FCW should ensure that processes are in place to provide assurance that these

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<sup>6</sup> National Assembly for Wales Petitions Committee Website, <http://www.assemblywales.org/gethome/e-petitions-old/admissible-pet/p-03-232.htm>, [Accessed 2 February 2011]

<sup>7</sup> Auditor General for Wales, *Forestry Commission Wales: Public Funding of Ffynnone and Cilgwyn Woodlands*, August 2010, p6.

<sup>8</sup> Ibid. p7

procedures are being applied effectively for all new and existing schemes at the earliest opportunity;

- all FCW staff should be required to complete an Annual Declaration of Interest form which should be reviewed and authorised by a Management Board member to assess implications for future areas of working. Staff should be required to update these during the year when appropriate circumstances arise;
- guidance should be provided to staff on a periodic basis on the requirements for Declarations of Interest and for Gifts and Hospitality to ensure staff remain aware of their responsibilities;
- building on the recommendations raised in the Wales Audit Office's national report, FCW should ensure that all staff are given appropriate risk management training on a periodic basis;
- FCW should ensure monitoring arrangements for the Cydcoed scheme are more robustly applied in the future;
- targets set for future schemes should be robust and challenging to ensure that appropriate value to the public purse is obtained from funds awarded; and
- FCW should ensure that risk ratings for Better Woodlands for Wales applications received pre April 2008 are reviewed and updated within the Better Woodlands for Wales system to ensure the risk ratings are relevant rather than at a default of 'low'.

12. We endorse the Auditor General's recommendations and it is not the purpose of this report to repeat the analysis and conclusions drawn. Although drawing on the Auditor General's report, we have evaluated the evidence provided to us by the Accounting Officer in both his written and oral evidence and made recommendations accordingly, reinforcing those of the Auditor General where appropriate. It should be noted that while the Community Council have welcomed the Auditor General's report they continue to express concern regarding the circumstances of the grant. They have written in these terms to both the Chair of the Petitions Committee and members

of this committee and continue to call for a public inquiry on the matter<sup>9</sup>.

13. In preparing this report we have considered the evidence and sought to make recommendations with regard to two principles:

- ensuring the best possible outcome in the public interest for the future management of Ffynone and Cilgwyn Woodland;
- addressing the weaknesses in FCW procedures highlighted by the evidence.

14. It should be noted that both the Auditor General<sup>10</sup> and this committee under its former title of Audit Committee<sup>11</sup> have previously considered the operation of FCW. The recommendations of those reports still apply and we will refer to the recommendations of those reports where appropriate. When the Auditor General briefed us on 23 September 2010 she and her colleagues referred to the audit work planned to monitor the recommendations of the Auditor General's earlier report.<sup>12</sup> We have since become aware that FCW no longer consider it necessary that this audit activity continue. In the light of the evidence considered in relation to the Auditor Generals present report on the public funding of Ffynone and Cilgwyn Woodlands we consider this to be extremely unfortunate.

**The structure of the Cydcoed Scheme was such that there was a significant risk that the local community would not be adequately represented.**

15. The Accounting officer addressed the reasons why the scheme criteria, while purporting to target communities, were established without a clear definition of 'community group', and in a way which allowed Calon to seek to garner community involvement after the award of the grant:

“The programme was deliberately designed at that time to encourage a very broad range of organisations to engage in community development using woodlands. It was deliberately

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<sup>9</sup> Letter from Manordeifi, Community Council to the Chair of the Petitions Committee, , 17 October 2010.

<sup>10</sup> Auditor General for Wales, *Operation of the Forestry Commission Wales*, 13 November 2008

<sup>11</sup> National Assembly for Wales Audit Committee, *Operations of Forestry Commission Wales*, March 2009

<sup>12</sup> Rop [para 126] 23 September 2010, Public Accounts Committee

aimed at high-capacity groups as well as low-capacity groups, because there was a feeling that the same small number of groups were involved in community forestry at that time and that we were dealing with the same people. The aim of the programme was to broaden the opportunities for groups, particularly those who might not have considered using woodlands in a meaningful way for community development, to engage in the programme. So, the scheme criteria were deliberately set to be very broad and were not restrictive.”<sup>13</sup>

16. The result of this approach was that, like any other applicant to Cydcoed, Calon was able to secure 100% funding for land purchase despite being a private company, on the basis that it is a not-for-profit organisation limited by guarantee and based in the local community. The Accounting Officer indicates that “community involvement and engagement in woodlands has now become much more mainstreamed”. He continued:

“we would now ensure in work with communities that one of the first checks done before any funding was given to community groups is that a group has open membership, for example. So, it would be very easy for anyone in the locality to get engaged and have a real say in decision making within that particular community group. So, one of the lessons that we have taken away is that we need to be smarter in defining the criteria for supporting community groups. By now, having worked with others, we have a much greater understanding of the constitutional arrangements involving community groups.”<sup>14</sup>

17. We note and welcome the commitment to check the membership structure of community groups in future, but consider that the need to investigate constitutional arrangements should have been apparent when Cydcoed was developed. Further, a requirement for an open membership structure would not have obstructed, and may actually have facilitated, the goal of encouraging broad engagement in the programme.

18. Additionally, the scheme criteria permitted a grant applicant to seek sufficient community involvement after award of a grant. Indeed we note the Auditor General's observation that “Calon's application

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<sup>13</sup> Rop [para 6] 25 November 2010, Public Accounts Committee

<sup>14</sup> Ibid para 8

actually highlights an expectation of some local resistance to its plans” and that “the Cydcoed Programme Manager has accepted that the lack of public consultation was a fundamental error”.<sup>15</sup> This acknowledgement is reflected in the Accounting Officer’s evidence:

“Best practice would suggest that you would try to get full public consultation before entering into this sort of exercise. Regrettably, that did not happen on this occasion. It was not a prior requirement, strange as that may seem, because the view was taken in the scheme design that extensive public consultation could build unrealistic expectations, and if the grant was turned down at some point, it would set people back in respect of their confidence in engaging in community work and development.”<sup>16</sup>

19. We welcome the recognition that the scheme did not apply best practice and consider that the requirement for proportionate public consultation should be a prerequisite of any funding provided for the purchase of community assets such as the woodland in question. We also note that efforts have been made to engage with the local community since the grant was awarded to Calon. It is regrettable that these have not proved more successful.<sup>17</sup>

**We recommend that FCW develop, publish and implement clear, proportionate criteria for the application of public consultation with regard to applications for grant funding which will help ensure that the needs of local communities are effectively addressed, and their interests protected.**

**We recommend that FCW develop, publish and implement a clear definition of “community group” to be applied to future programmes and activities which will help to ensure that such groups are broadly representative of the community in which they are based.**

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<sup>15</sup> Auditor General for Wales, *Forestry Commission Wales: Public Funding of Ffynone and Cilgwyn Woodlands*, August 2010, p9

<sup>16</sup> Rop [para 103] 25 November 2010, Public Accounts Committee

<sup>17</sup> Auditor General for Wales, *Forestry Commission Wales: Public Funding of Ffynone and Cilgwyn Woodlands*, August 2010, p9

**Procedures for grant applications, corporate and project risk assessment and ensuring value for money were underdeveloped and poorly applied.**

20. The Auditor General's report identifies a number of failures with regard to the management of the grant application process, particularly in relation to the management of risk, and ensuring value for money notably:

- FCW failed to commission an independent land valuation to confirm the Calon valuation, despite the grant being the largest awarded from the Cydcoed Programme;
- the Management Board sub-group established to review applications for funding of more than £250,000 considered the Calon grant application by email;
- the risks identified by the Management Board sub-group, which included the need to ensure that the public interest in the investment was adequately protected by the grant award contract (discussed below), were not adequately addressed prior to approval of the award;
- the project was allocated an inappropriate risk rating of 'moderate' despite the nature and size of the grant, and the concerns highlighted by the Management Board sub-group;
- target setting and monitoring for the Cydcoed Programme suffered from significant weaknesses; and
- the applicant's forestry experience and planning consents were not considered relevant to the application and there was no requirement in Cydcoed procedures to verify statements made by grant applicants prior to approval.<sup>18</sup>

***Risk Management***

21. In oral evidence the Accounting Officer acknowledged that "a number of the learning points"<sup>19</sup> emerged from the Auditor General's report. In relation to risk management he stated:

"We have broken our risks down to two levels, the first of which is the operational level. Each of my board members is

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<sup>18</sup> Auditor General for Wales, *Forestry Commission Wales: Public Funding of Ffynone and Cilgwyn Woodlands*, August 2010, pp11-16

<sup>19</sup> Rop [para 10] 25 November 2010, Public Accounts Committee

responsible for operational risk registers that are relevant to his or her particular area of work. Sitting above that, there is a corporate risk register, which reflects some of the highest risks in the operational risk registers and anything else that my board or my audit and risk committee feel that we need to consider beyond the operational side of things as well. All projects have a risk register as well and I review each operational risk register with the appropriate board member monthly. The corporate risk register is considered six times a year by my audit and risk committee and management board. So, we certainly have a culture where risk management is firmly embedded in the way in which we think about our business. We also have that capability and the right culture in terms of risk management.”<sup>20</sup>

22. He also identified a long term approach to ensuring value for money which is tied directly to the Welsh Government’s forestry strategy:

“any future projects—and, indeed, some of our current projects—would be designed with value for money in mind. For example, we would relate the outcomes that we seek from a particular programme or a project not only to our corporate plan for the next three years, but also to the Welsh Government’s ‘Woodlands for Wales’ strategy, which covers a 50-year period. So, we have a clear alignment between the outcomes that we are looking for from particular programmes and the overall societal outcomes that we are looking for.”<sup>21</sup>

23. While we welcome the revised approach to risk and project management identified by the Accounting Officer we note that his oral evidence relates to the management of risk by senior staff, while the Auditor General’s recommendation is that all staff are given appropriate risk management training. We note that the written evidence submitted by FCW accepts this recommendation and stated that it would be implemented by 30 November 2010<sup>22</sup>.

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<sup>20</sup> Rop [para 10] 25 November 2010, Public Accounts Committee

<sup>21</sup> Ibid para 11

<sup>22</sup> Forestry Commission Wales, *Written Evidence from Forestry Commission Wales*, Annex 1, Action 5

24. It should be noted that the Auditor General's 2008 report on the operation of FCW also drew attention to the need to improve project and risk management.<sup>23</sup>

**We recommend that FCW provide assurance that appropriate risk management training has been delivered to *all* staff which includes reference to how this will be updated and refreshed as appropriate.**

### ***Project Management***

25. We note the comments made by the Accounting Officer suggesting that significant steps have been taken to improve project management:

“I am certainly very comfortable with the approach that we are now taking to actively and demonstrably manage projects and risk manage them. One of the things that we have brought in, for example, as best practice in terms of our project management, as I said earlier, is that we always insist on having one of the board members as the senior responsible officer....If it was a much more complex project that straddled other departments or a third party, I would expect some of my non-executive officers to play a part in sitting on project boards.”<sup>24</sup>

26. We welcome any steps taken to meet recommendations made by the Auditor General in relation to project management (recommendation 2) and target setting (recommendation 7). We note the project management approach presented in FCW documents provided to us and consider that these represent progress in developing and appropriate project management approach.<sup>25</sup> However, we are unclear as to how the documents provided by FCW address the need for community involvement where appropriate. Further, the FCW guidance provided to illustrate how project management issues have been addressed relates to “the process to be followed when securing approval to seek additional funds,” and while

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<sup>23</sup> Auditor General for Wales, *Operation of the Forestry Commission Wales*, 13 November 2008, pp34-35

<sup>24</sup> Rop [para 121] 25 November 2010, Public Accounts Committee

<sup>25</sup> Forestry Commission Wales Strategic Guidance and Programmes: Level 3 Governance for non-baseline funded projects

we welcome references made to value for money in this process, the document does not reassure us as to how value for money is ensured in project implementation and monitoring.<sup>26</sup> We draw the Accounting Officer's attention to his statements to the effect that "community involvement and engagement has now become much more mainstreamed,"<sup>27</sup> and "on your questions about value for money, any future projects-and indeed, some of our current projects-would be designed with value for money in mind"<sup>28</sup>. We consider that in order for these approaches to be "mainstreamed" and delivered they should be reflected in FCW guidance on management of projects during their lifecycle.

**We reiterate the Auditor General's second recommendation, and in particular recommend that FCW demonstrate that an appropriate project management approach is applied which fully addresses the failures identified in our report and the Auditor General's report.**

### ***Target Setting and Monitoring***

27. In his oral evidence the Accounting Officer acknowledged the failure of target setting in the programme stating that "with over 10 years-worth of hindsight and experience in performance management, we could concur that it is of no surprise that the targets were not particularly hard and were quite difficult to verify in many cases, certainly over a 20-year period."<sup>29</sup>

28. We note the work done to update the Cydcoed monitoring arrangements, including work done to evaluate Cydcoed referred to by the Accounting Officer in oral evidence.<sup>30</sup> However, while we welcome efforts to improve the monitoring of Cydcoed, and recognise that this will be made more difficult since the appropriate work was not undertaken during programme development, we agree with the concerns voiced by the Auditor General that "it is still inconclusive...that that Cydcoed targets to date have been met".<sup>31</sup> We are unable to take assurance from the written and oral evidence

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<sup>26</sup> Forestry Commission Wales, Strategic Guidance and Programmes: Level 3 governance for non-baseline funded projects, p5

<sup>27</sup> Rop [para 8] 25 November 2010, Public Accounts Committee

<sup>28</sup> Ibid para 11

<sup>29</sup> Ibid para 133

<sup>30</sup> Ibid para 134-135

<sup>31</sup> Auditor General for Wales, *Forestry Commission Wales: Public Funding of Ffynone and Cilgwyn Woodlands*, August 2010, p16

provided by the Accounting Officer that the Wales Audit Office recommendation 6, that “FCW should ensure monitoring arrangements for the Cydcoed scheme are more robustly applied in the future”, has been implemented.

29. We have been provided with written evidence stating that the recommendation is “discharged” and that “monitoring of Cydcoed schemes has been updated.”<sup>32</sup> The Accounting Officer also told us:

“We have also become a little more sophisticated on target setting. We recognise that we must measure some of the hard targets, such as whether the money was spent on what we thought that it would be spent on, and we must use social research, not only in our area, but in other areas to see whether we can get a better handle on how woodlands are making a real and qualitative difference to people’s lives.”<sup>33</sup>

30. We also note the inspection documentation outlining technical aspects of inspection, including the method used to select schemes for inspection, and the paperwork on which the inspection findings are recorded.<sup>34</sup> However, such evidence does not demonstrate ***robust monitoring against targets for each project.***

**We reiterate the Auditor General’s recommendation that FCW should ensure monitoring arrangements for the Cydcoed Scheme are robustly applied, and seek assurance that monitoring of future programme provides evidence of value to the public purse.**

### ***The Content of Project Application Forms.***

31. The Auditor General highlights the fact that Cydcoed procedures did not require project officers to verify and substantiate statements made by applicants in their bid submissions.<sup>35</sup> Despite concerns raised by members of the public regarding statements made by Calon, for example in relation to the previous woodland experience. We accept as statements of fact the evidence provided by the Accounting Officer that “the scheme design did not make it an essential requirement for

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<sup>32</sup> Forestry Commission Wales, *Written Evidence from Forestry Commission Wales*, Annex 1, Action 6

<sup>33</sup> Rop [para 135] 25 November 2010, Public Accounts Committee

<sup>34</sup> *Ibid* Annex 3

<sup>35</sup> Auditor General for Wales, *Forestry Commission Wales: Public Funding of Ffynone and Cilgwyn Woodlands*, August 2010, p11

applicants to have forestry knowledge” the logic being that “it would have been difficult for many groups to get involved [in the programme]”<sup>36</sup>. Similarly, in relation to statements made by Calon to the effect that they would reinvest surpluses back into the woodland, we accept the Accounting Officer’s response that:

“the question of reinvesting the proceeds from woodland management was certainly not a material consideration in awarding the grant. So, we have not been able, and we are not required, to examine the details of how it runs its business”.<sup>37</sup>

32. We accept the accuracy of the Accounting Officer’s statements in this regard, and the resulting conclusion that the statements made in the application cannot be enforced, being immaterial to the application’s approval. However, the circumstances are regrettable and we question the Accounting Officer’s further observations in relation to forestry experience:

“commitments by the bidder to seek a “better Woodlands for Wales” management grant for the woodland post purchase provide strong checks and balances to ensure that sustainable forest management would be practised. So, we had the grant for the land purchase and the ‘Better Woodlands for Wales’ grant, which is a mainstream woodland grant for sustainable forest management, and that has a number of significant checks and balances to ensure that woodlands are managed sustainably.”<sup>38</sup>

33. We are not convinced by this statement. In the first instance, we understand that Better Woodlands for Wales replaced the UK wide Woodland Grants Scheme in 2007.<sup>39</sup> The *payment* of the Cydcoed grant to Calon was completed in November 2006. We are therefore unclear how FCW was able to consider that commitments to seek a grant from a woodland management programme which was not yet initiated could provide “strong checks and balances” for an application for a separate and unrelated application to a different grant programme for the purchase of land. We are unclear how such “commitments” could be made or enforced.

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<sup>36</sup> Rop [para 103] 25 November 2010, Public Accounts Committee

<sup>37</sup> Ibid para 24

<sup>38</sup> Ibid para 103

<sup>39</sup> Auditor General for Wales, *Forestry Commission Wales: Public Funding of Ffynone and Cilgwyn Woodlands*, August 2010, p7

34. Further, we fundamentally disagree with the Accounting Officer's analysis and see significant risks in the approach outlined on the basis of two possible scenarios:

- first, even had a successful application for a "Better Woodlands for Wales" management grant *been a condition* of the Cydcoed purchase grant contract, the fact that forestry experience was not relevant to the purchase grant would risk the need to recover the Cydcoed grant at significant effort and potential loss to the public purse if the grant recipients prove unable to manage the forest effectively.
- second, if the "Better Woodlands for Wales" management grant *was not a condition* of the Cydcoed purchase grant contract, and we understand that this was the case, there is a risk that if the subsequent management grant application was unsuccessful the applicants would have received significant public funding to purchase forestry land with limited ongoing obligations to manage that land effectively or reinvest in the property.

Both of the scenarios are unacceptable.

35. We agree with the Auditor General that relevant experience, or in our view at least contractual commitments to develop experience and manage the land accordingly, should have played a part in determining applications received from Calon and other projects.

**We recommend that FCW ensure that forestry experience, or a commitment to develop forestry skills and manage the land accordingly, be made a requirement of any future grant programme for the purchase or management of forestry land.**

**We recommend that FCW put arrangements in place to check references and experience of grant recipients as part of the standard pre-contract checks for all grant programmes.**

**The grant award and management process failed to adequately protect the public investment in Ffynone and Cilgwyn Woodland.**

## ***Financial control and audit of the Cydcoed Programme***

36. During the preparation for their report the Wales Audit Office identified that not only did FCW fail to validate the Calon valuation of the woodland, it in fact made an overpayment of £6000 to the applicants<sup>40</sup>. The Accounting Officer provided the following explanation:

“The people involved [in FCW] were dealing with two figures. There was the valuation figure obtained by the surveyor and the sale value, which was £6,000 higher than the valuation. Somehow, an error took place and we paid out on the higher figure, on the sale value. So, it was obviously an administrative error.”<sup>41</sup>

37. While clearly unacceptable, we recognise that the payment made against the higher sale price, as opposed to the valuation figured agreed for grant award purposes may have resulted from an administrative error. However, when giving evidence the Accounting Officer indicated that FCW had not been able to identify the cause of the error.<sup>42</sup> He undertook to provide us with details of why the error occurred.<sup>43</sup> The Accounting Officer has since notified the committee that the error resulted from:

“a transcription error in the Grant Agreement (contract)...[resulting]...in the sale value, rather than the independent value, being used in the payment schedule. This error was not identified by the Programme Manager during the Grant Agreement authorisation process”<sup>44</sup>

38. We do not consider this response to be a sufficient explanation for the occurrence of the error. In particular **we recommend that the Accounting Officer provide details of the financial control checks in place at the time to ensure that overpayments would not occur, along with details of whether these checks were carried out in this case, in order to allow us to assess the extent to which the error was genuinely administrative error or a systematic failure.**

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<sup>40</sup> Auditor General for Wales, *Forestry Commission Wales: Public Funding of Ffynone and Cilgwyn Woodlands*, August 2010, p12-13

<sup>41</sup> Rop [para 53] 25 November 2010, Public Accounts Committee

<sup>42</sup> Ibid para 59

<sup>43</sup> Ibid para 127

<sup>44</sup> Email from Trefor Owen, Director of Forestry Commission Wales, 21 December 2010

39. Notwithstanding this further information, the fact that this was not identified either during internal financial checks or by any of the audits conducted (the Accounting officer refers to “at least two audits during the period”<sup>45</sup>) is unacceptable. We consider this to be a serious failing and have two concerns:

- that the error could be made at all without being immediately picked up by FCW financial procedures; and
- that the methodologies employed by the Welsh Government, WEFO and FCW to verify financial transactions did not include checks which would identify such a fundamental error.

40. In relation to both points we consider that matching the total grant awarded to the figure agreed, with that figure in turn verified against the appropriate supporting paperwork, such as programme procedures and the relevant valuation, should be a fundamental check conducted by both internal financial controls and audit.

41. While the Wales Audit Office audited EU Structural Funds grant claims for Cydcoed for 2005-06 and 2008-09, we recognise that the terms of this audit was strictly limited to ensuring that expenditure:

- complied with the Welsh European Funding Office (WEFO) offer letter;
- was eligible, as per the offer letter;
- had been defrayed (though WEFO accepted failure to comply with this requirement due to the nature of the Cydcoed scheme)
- excluded VAT.<sup>46</sup>

42. Thus errors of this type could not have been identified within such an audit methodology. We are pleased to state that we have received confirmation that the £6,000 overpayment has now been recovered by FCW. However, we consider it to be essential that the overall framework of financial checks and audits for any grant award programme includes fundamental checks.

**We recommend that the Welsh Government provide assurance that fundamental checks, including verification of grant paid against**

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<sup>45</sup> Rop [para 49] 25 November 2010, Public Accounts Committee

<sup>46</sup> Auditor General for Wales, *Forestry Commission Wales: Public Funding of Ffynone and Cilgwyn Woodlands*, August 2010, p6

**agreed figures in line with terms and conditions of the grant, are included in the audit methodology of bodies administering grant funding on their behalf.**

43. Finally, we are concerned by the Accounting Officer's evidence to the effect that:

“there were nine land purchases in the project, and this was by far the biggest. There is no evidence that we paid out more than the valuation to other schemes. This was an error”.<sup>47</sup>

44. Rather than indicating that there is “no evidence” of over payments, we suggest that the Accounting Officer should demonstrate that FCW did *not* pay out a grant greater than the valuation in any of the other eight schemes.

**We recommend that FCW undertake checks to verify that the correct valuation figure was included in the contracts for the remaining eight Cydcoed land purchase grants, and that the subsequent payment or payments were made for the correct amount.**

***FCW contract with Calon.***

45. We note and concur with the Auditor General's view that the “terms of the contract agreed with Calon were not sufficiently specific to protect the public funding awarded and the community use of the woodland at the end of the project”.<sup>48</sup> This conclusion is based on a number of facts and observations:

- FCW failed to amend the standard contract for approved Cydcoed applications to reflect the requirements of a contract for the purchase of land;
- the contract contains no restriction placed on Calon beyond the 20 year contract period applying to land purchase contracts;
- the contract does not protect the public interest in the acquired property should Calon go into administration; and
- the contract required repayment of grant funds in the event of sale within the 20 year contract period, but does not restrict

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<sup>47</sup> Rop [para 63] 25 November 2010, Public Accounts Committee

<sup>48</sup> Auditor General for Wales, *Forestry Commission Wales: Public Funding of Ffynone and Cilgwyn Woodlands*, August 2010, p12

future sale proceeds so that Calon and its members could profit significantly without a requirement to compensate the public purse.<sup>49</sup>

46. These points were recognised by the Accounting Officer in his oral evidence. In particular, he stated:

“We relied on the articles of association and the fact that we have a 20-year contract to secure the public asset. We realised, when we did some legal checks, that this was not sufficiently robust. So, in the future, if there were similar schemes, we would be looking to ensure that a registered land charge is placed against the land so that, if an individual who had received public funds for land purchase was looking to transfer or sell that asset, it would not be possible or legal without reference to the funding body. That is a lesson that we have taken away from this particular situation.”<sup>50</sup>

Further he acknowledged:

“Technically there is nothing to stop the owner from changing the articles of association. The only safeguard we have is that there is a contract in place with us for the next 20 years. That gives us some opportunity to maintain a relationship with the landowner, giving us the opportunity to exert our influence.”<sup>51</sup>

47. Finally, he addressed the on-going work undertaken with Calon to attempt to address the deficiencies in FCW contract management:

“We have made attempts to renegotiate the contract..... We have not been able to persuade the contract holder to do that. On the other hand, I am pleased with the way in which the contract holder has responded to our advice to reach out to the local community and people with an interest locally to try to get more public involvement in this particular project. I am very happy to say a bit more about that.”<sup>52</sup>

48. We are also pleased to note evidence that Calon have attempted to engage with the community, but note also that these attempts have

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<sup>49</sup> Auditor General for Wales, *Forestry Commission Wales: Public Funding of Ffynone and Cilgwyn Woodlands*, August 2010, p12

<sup>50</sup> Rop [para 20] 25 November 2010, Public Accounts Committee

<sup>51</sup> Rop [para 21] 25 November 2010, Public Accounts Committee

<sup>52</sup> Ibid para 18

had limited success. We also note and welcome the Accounting Officer's reference, albeit after the fact, to the use of land charges in future schemes of a similar nature.<sup>53</sup> However, we consider the lax approach to the protection of public assets and public interest in the investment displayed in Cydcoed administration to be unacceptable and extremely concerning.

**We recommend that FCW review its grant award processes and contracts in the light of, and to ensure compliance with, Annex 5.1 (grants to third parties) and Annex 5.2 (protecting public investments) of Managing Welsh Public Money.<sup>54</sup>**

49. The Accounting Officer refers to the continued influence exerted on Calon through the existing contract. We also note that Calon has made a commitment to dedicate the site under the Countryside and Rights of Way Act 2000 to ensure public access to the land and welcome evidence which suggests that Calon are pursuing dedication of the land. We also note the Accounting Officer's evidence to the effect that regardless of boundary disputes "the small areas of dispute should not stop the vast majority of the land being dedicated at this time, with perhaps a small percentage in dispute being dedicated later".<sup>55</sup> Further he highlights that "if the land is not dedicated, we could regard this as a possible material breach [of contract]".<sup>56</sup>

50. In keeping with the Auditor General's first recommendation and in order to protect the public interest in the asset using the limited means available, **we recommend that FCW work with Calon to secure designation of the greatest possible portion of Ffynone and Cligwyn Woodland under the Countryside and Rights of Way Act 2000 at the earliest possible opportunity.**

**We recommend that FCW continue to encourage community involvement in the decision making surrounding the woodland by all means possible in the hope and expectation that the community reciprocate.**

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<sup>53</sup> Rop [para 20] 25 November 2010, Public Accounts Committee

<sup>54</sup> Welsh Assembly Government, Managing Welsh Public Money, April 2009, pp149-156

<sup>55</sup> Rop [para 30] 25 November 2010, Public Accounts Committee

<sup>56</sup> Ibid para 34

***Calon's business plan.***

51. The Accounting Officer's oral evidence confirms the findings of the Auditor General that while the Cydcoed grant award to Calon required a "business plan", it did not specify the form the plan should take:

"No specific conditions were attached to the submission of a business plan. In other words, the awarding of the grant was not conditional on a business plan meeting a certain standard. As I said earlier, the purpose of the business plan was to help to prepare the ground for the woodland management proposals that would come subsequently."<sup>57</sup>

52. Thus, the bizarre situation arose where a business plan of no defined standard was required for the approval of a grant application to the Cydcoed Programme:

"We did not specify clearly the standards that we were looking for from the business plan. It was not material to meeting the criteria and, therefore, to the awarding of the [Cydcoed] grant. We recognised that it was not good enough to prepare for the woodland management element, but that did not affect the decision to award the grant for the land purchase".<sup>58</sup>

53. We found the evidence from the Accounting Officer regarding the timing of the submission of the various versions of the business plan to be confused. In particular, he suggests that:

"the purpose of the [Cydcoed] business plan to help to prepare the ground for the woodland management proposals that would come subsequently."<sup>59</sup>

54. We remain unclear why the Cydcoed grant application required a business plan given that it appears to relate to subsequent woodland management proposals which were not a condition of the purchase grant. Additionally, since taking evidence from the Accounting Officer, members of the local community have contacted members of the Committee to question the timing of the submission of each version of the business plan described by the witnesses.

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<sup>57</sup> Rop [para 83] 25 November 2010, Public Accounts Committee

<sup>58</sup> Ibid para 87

<sup>59</sup> Ibid para 83

55. In order to clarify the circumstances surrounding the business plans submitted, **we recommend that FCW provide:**

- **a clear rationale for the submission of each plan submitted by Calon for both Cydcoed and Better Woodlands for Wales Programmes outlining why the plans were requested;**
- **a timeline for submission of each version of the Calon business plan, relative to the submission and approval of their applications to both the Cydcoed and Better Woodlands for Wales Programmes;**
- **assurance that an appropriate plan of sufficient standard to meet programme requirements was received prior to the approval of the Better Woodlands for Wales Grant.**

56. We note that when asked whether FCW now follow the five-case model for business planning required by both HM Treasury (Managing Public Money)<sup>60</sup> and Welsh Government (Managing Welsh Public Money)<sup>61</sup> he confirmed that this was the case:

“That is right. We follow best practice today as far as risk management, business planning and business cases are concerned. I am talking about where we were a number of years ago. We have made significant changes and improvements since that period, and particularly so during my short time as the accounting officer in this organisation.”<sup>62</sup>

**We recommend that FCW provide assurances that all FCW business plans, and plans submitted in support of applications for funding, are now prepared in accordance with the requirements of Welsh Government and HM Treasury guidelines.**

### ***Supporting and Monitoring the Implementation of Recommendations.***

57. We are extremely concerned by the extent and systemic nature of the failures highlighted by both the Auditor General’s report, and the evidence provided by FCW. It seems clear that the historic approach

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<sup>60</sup> HM Treasury, *Managing Public Money*, February 2010, p19

<sup>61</sup> Welsh Assembly Government, *Managing Welsh Public Money*, April 2009, p18

<sup>62</sup> Rop [para 97] 25 November 2010, Public Accounts Committee

taken to the administration of public funding in the form of grants can be at best described as cavalier. We consider these failings to be clearly contrary to the guidance provided as to the duties of an Accounting Officer by both the Welsh Government<sup>63</sup> and HM Treasury<sup>64</sup>. We welcome the steps described by the Accounting Officer to address the failures, however we do not take assurance from the evidence provided that the issues identified are fully addressed.

**We recommend that the Welsh Government work with FCW to ensure implementation of the recommendations made to that organisation, both by the Auditor General and this Committee, and provide this Committee in due course with assurance that the recommendations have been or are being delivered.**

**We recommend that the Auditor General test the implementation of the recommendations contained in this report, those contained in the report of the Wales Audit Office report on the public funding of Ffynone and Cilgwyn Woodland, and the preceding reports on the Operation of Forestry Commission Wales prepared by this committee and the Auditor General to ensure they are fully implemented.**

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<sup>63</sup> Welsh Assembly Government, *Managing Welsh Public Money*, April 2009, p18

<sup>64</sup> HM Treasury, *Managing Public Money*, February 2010, p19

### 3. Conclusion

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58. The Accounting Officer has sought to assure us that he is acting to address the concerns raised by the Auditor General, and has accepted the failures associated with the administration of the Cydcoed Programme. While we welcome this acceptance, and many of the remedial actions he describes, the fundamental nature and extent of the failures are of great concern to us.

59. In relation to the community issues surrounding Ffynone and Cilgwyn Woodland, we are also pleased to note evidence that Calon have attempted to engage with the community, but note also that these attempts have had limited success. We consider that the poor construction and administration of the Cydcoed programme has caused significant difficulties for both the local community and Calon themselves.

60. We have noted the continued call by the local Community Council for a public inquiry into the issues surrounding the funding of the woodland purchase. We consider that such an inquiry is unnecessary and would not be in the public interest, particularly given the work undertaken by the Wales Audit Office and this committee. As stated above, we intend to suggest that the Public Accounts Committee as constituted in the Fourth Assembly return to the issue to consider progress on recommendations and observe that further follow-up work by the Auditor General would prove useful.

## Witnesses

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The following witnesses provided oral evidence to the Committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed in full at

<http://www.assemblywales.org/bus-home/bus-committees/bus-committees-other-committees/bus-committees-third-ac-home/bus-committees-third-ac-agendas.htm?act=dis&id=205697&ds=11/2010>

*25 November 2010*

Trefor Owen,	Director, Forestry Commission Wales
Richard Siddons	Head of Grants and Regulations, Forestry Commission Wales

## List of written evidence

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The following people and organisations provided written evidence to the Committee. All written evidence can be viewed in full at

<http://www.assemblywales.org/bus-home/bus-committees/bus-committees-other-committees/bus-committees-third-ac-home/inquiries.htm>

<i>Organisation</i>	<i>Document</i>	<i>Reference</i>
Forestry Commission Wales	Written evidence from Forestry Commission Wales	PAC(3) FCW1
Forestry Wales Commission	Forestry Commission Wales Strategic Guidance and funded projects governance for non-baseline Programmes: Level 3	PAC(3) FCW2
Forestry Commission Wales	Email from Trefor Owen, 21 December 2010 Commission Wales, Director of Forestry	PAC(3) FCW3
Wales Audit Office	Forestry Commission Wales: Cilgwyn Woodlands Public Funding of Ffynone and	PAC(3) FCW4