

Audit Committee Report 04-03

The Cabinet of the National Assembly's response to the Report and Recommendations of the Audit Committee, following the presentation of their report on 3 April 2003

The Assembly Government is grateful for the report. We welcome the findings and offer the following response to the concluding comments and to the 13 recommendations in the report.

Establishment of the National Council

- 1. It is not for us to question the policy decision to launch the National Council against such an ambitious timetable and without a period of shadow running; that matter falls within the remit of the relevant subject committee. However, it is evident to us that, following this decision, insufficient attention was paid by Welsh Assembly Government and National Council officials to the identification, assessment and management of the various risks that arose as a direct consequence. We view this as a serious shortcoming in the conduct of public business in Wales and we recommend that all concerned learn the lessons from this unfortunate case.**

Agreed in part. The Welsh Assembly Government (the Government) does agree that there are lessons to learn within this or any future new ASPB over the identification and minimisation of risk. It is important to recognise, however, that risk management, however effective, cannot eliminate all uncertainty or minimise risk to the point of insignificance. That accepted, the Government considers adequate time was available for the setting up of the Council and at no stage in the process did those involved say that this was not achievable. It does not accept the Committee's conclusion that insufficient attention was paid by its officials to the risks inherent in the ETAP reorganisation.

The risks that were perceived to require the attention of Assembly Government officials and the project management machinery were systematically recorded in the transition project risk register which was regularly reviewed and updated as well as being made public so that anyone with an interest in the project had an opportunity to comment on the risks identified. As part of the risk management process, independent accountants reported on the Training and Enterprise Council's financial positions on a monthly basis in the final six months to provide assurance on financial management in the TECs.

In the light of experience and to strengthen the risk management arrangements within it, the Assembly Government has made it a requirement that the Council arrange quarterly reviews of its business systems by internal audit services to ensure compliance with the control documents issued by the Assembly and those prepared internally by the Council. Such checks will include relevant aspects of project management, contract practices,

procurement procedures, and payment and treasury management. This requirement will supplement a new annual statement of compliance to be prepared and signed by the Council's Accounting Officer for submission to the Assembly's Accounting Officer. A suitable staff training programme within the Council will also support it. Regular Assembly Sponsor Division training, provided by the Civil Service College, has been in place since July 2002.

To ensure that all ASPBs, Assembly Sponsor Divisions and Accounting Officers are aware of the lessons contained in the Audit Committee's Report, it, together with this response, will be distributed widely with a message from the Permanent Secretary about the key issues that must in future be addressed. The documentation will be issued within one working day of the laying of this response before the Assembly.

- 2. We are concerned that the witnesses were apparently unaware of key Cabinet Office guidance on the creation of new public bodies that had been issued to all government departments in March 2000. Whilst we were subsequently assured that the officials directly responsible for managing the creation of the National Council has access to copies of this guidance, we recommend that the Welsh Assembly Government should disseminate this document, together with any Welsh-specific guidance that may be considered necessary, to all staff involved in preparing for any future reorganisations within the public sector in Wales.**

Agreed. A check was undertaken in February 2003 to ensure that all Assembly sponsor divisions have a copy of the Cabinet Office guidance, "**NON-DEPARTMENTAL PUBLIC BODIES: A GUIDE FOR DEPARTMENTS**". The guidance was re-issued to individuals who did not have it readily available, following Audit Committee in January. It is also issued to *any* staff involved in setting up new executive ASPBs.

- 3. We also recommend that the Welsh Assembly Government should ensure that the rationale for any departure from the best practice recommendations contained in the Cabinet Office [guidance?] is robust and clearly documented.**

Agreed. This is built into the Permanent Secretary's message, see final paragraph in response to Recommendation 1. There were no authorised departures from best practice in this case.

- 4. Where organisational changes or major projects are being planned and implemented, we strongly recommend that officials should ensure that a structured process for the identification, assessment and management of the associated risks is employed. The resultant risk registers and risk management plans should be subject to senior management scrutiny and endorsement, and kept under continual review throughout the change process.**

Agreed. The Assembly is working with UK central government departments to implement the recommendations of the Cabinet Office's Strategy Unit report *Risk: Improving Government's Capability to Handle Risk and Uncertainty*. The Assembly has appointed a Risk Improvement Manager who is leading a programme of reviewing and improving risk management practice and supports senior management in ensuring that there is a clear and balanced account of risk judgements and management actions.

5. Once an Assembly Sponsored Public Body is established, the dual functions of the sponsor division are to provide advice and guidance to the body and also to exercise oversight. Through this monitoring role, any issues of concern should be brought promptly to the attention of senior Welsh Assembly Government officials and the Principal Accounting Officer so that corrective action can be taken. We are unconvinced that this latter role was discharged with sufficient rigour during the early months of the National Council's existence. We recommend that the Welsh Assembly Government sponsor divisions exercise tighter oversight and monitoring in future when Assembly Sponsored Public Bodies are involved in significant change, and that more robust mechanisms are put in place to ensure that lessons learnt from the failings of one body are taken on board by other bodies.

Accepted in part. The Welsh Assembly Government and the Permanent Secretary will continue to ensure that substantial lessons learned from experience in one body are taken on board for others. It does not agree that rigorous sponsorship was lacking in this case. The dissemination of the Committee's report and this response (See Recommendation 1) is part of the learning process; as is the regular programme of meetings between the Assembly's Principal Accounting Officer and Accounting Officers of ASPBs.

The Assembly sponsor division has instituted regular meetings with the National Council. Separate monthly meetings are held with the Chief Executive and Finance Director which provide an opportunity to raise any issues with Assembly officials. Separate quarterly meetings have been held with the Operations Directorate, Strategy and Learning Development Directorate, Participation and Communication Directorate and HE Organisational Development Directorate. In addition to ad hoc meetings with the Chief Executive, regular meetings are held with the Regional Directors. A senior representative of the sponsor division has also attended most full Council meetings; and the Assembly Head of Financial Accountability sits on the National Council's Audit and Risk Committee and advises the Council, where appropriate. Quarterly meetings are held with the Chairman, Chief Executive and the Minister.

To improve the monitoring process, the National Council is now required to provide an annual statement of compliance with the control documents issued by the Assembly. This accords with the requirements upon Heads of Divisions within the Assembly Government to produce similar annual statements of compliance with control systems. It has been introduced by the

National Council's sponsor division in the light of the compliance failures that have been found by the audit process.

Financial Management and Control of the National Council

- 6. On the preparation of the accounts, the Committee views as unacceptable the failure of the National Council to meet its statutory deadline for the submission of final signed accounts to the Auditor General by 31 August 2002. We note Mr Martin's assurance that such a breach will not occur in respect of the 2002-03 financial year and we recommend that the National Council should take all necessary measures to ensure that this commitment is honoured.**

Accepted. An Action Plan has been prepared identifying the key tasks to be completed in order to provide a draft set of the 2002-03 financial statements for the National Audit Office staff at the commencement of their audit during weekending 20 June 2003. The plan includes a weekly schedule of the activities to be completed and assigns responsibility for their completion to specific officers. Key risks have been identified and the Interim Director of Finance and Risk monitors the plan on a regular basis to enable delivery of the signed accounts within the deadline.

- 7. We further recommend that the sponsor division puts in place mechanisms to monitor the delivery of this commitment, and that it takes action early on if problems emerge.**

Accepted. The preparation and submission of the National Council's annual accounts is a standing item for discussion at the sponsor division's separate monthly meetings with the Council's Chief Executive and Director of Finance and Risk.

Irregular Procurements

- 8. For the future, we recommend that in cases of disciplinary action all relevant evidence should be made available to the panel before its final judgement is determined. In cases where further material information is subsequently identified, the panel should be formally reconvened, even if only to satisfy itself that no further action is necessary.**

Agreed. The National Council will ensure that all relevant evidence will be made available in any future cases involving a disciplinary panel, including cases where further information is identified, should this prove necessary.

Corrective Action Taken by the National Council

- 9. We consider it imperative that the National Council ensures that no further instances of non-compliance with its Financial Memorandum occur. We were, therefore, very concerned to hear from Mr Martin**

that weaknesses in the National Council's procurement processes still existed at the time of our hearing in January 2003. We strongly recommend that the outstanding improvements to contract management and post-contract evaluation are implemented at the earliest opportunity.

Accepted. The Welsh Assembly Government has noted the Audit Committee's conclusions that the procurement breaches were acts of omission rather than commission; that Council staff had acted in good faith; and that fraud was not suspected. The National Council has developed comprehensive guidance on Contract Management and the availability of this has been brought to the attention of all staff. Commencing in January 2003 a programme of training has been instigated to ensure that all staff are aware of their responsibilities in working for an Assembly Sponsored Public Body. This training has included specific advice and guidance on contract management and has stressed the importance of post-contract evaluation.

The Council recruited a permanent procurement specialist in October 2002. An additional member of administrative staff was recruited to the Council's Procurement Section in April 2003 and a further appointment of a professionally qualified procurement officer is currently being finalised. The Council is also progressing the appointment of a fixed term resource to the section. These additional resources should achieve the desired improvement in all aspects of contract management and will provide a readily available source of advice and guidance. Their effectiveness will be closely monitored.

Use of Confidentiality Clauses by the National Council

- 10. We welcome the Welsh Assembly Government's intention to re-issue instructions to all Assembly Sponsored Public Bodies on the use of confidentiality clauses. We are reassured to learn from the Permanent Secretary that this will include a revision to the Financial Memorandum issued to these bodies, explicitly disallowing such clauses. We recommend that this be done as soon as possible.**
- 11. We reiterate our earlier recommendation that all Assembly Sponsored Public Bodies should pay particular attention to the terms of settlements agreed with departing staff, ensuring that these are appropriate, defensible and achieve good value for money.**
- 12. We acknowledge that the National Council had contractual obligations to Mr Drew, but we are not convinced that good value for money was achieved for the public purse under the terms of his settlement, especially given the early termination of his contract. This is particularly the case as regards, for example, his use of a fully expensed car for the unexpired period of the contract and the payment of business telephone expenses after his employment ceased. We recommend that the Welsh Assembly Government and its sponsored bodies pay particular attention to the inclusion of such elements in all future departure settlements.**

13. We also recommend that legal firms engaged by the Welsh Assembly Government and its sponsored public bodies should also be made aware of best public sector practice as regards the handling of departure settlements.

Recommendations 10 – 13 agreed. The Principal Finance Officer wrote to all ASPB Chief Executives re-inforcing the inappropriateness of confidentiality clauses, on 31 March 2003, CEO 4/03. The Permanent Secretary also raised the matter at a meeting with ASPB Chief Executives on 3 April 2003. The Financial Memorandum amendments will be taken on board as part of the review that is very near completion, and its outcome will be reported to the Committee.

Also the Assembly Compliance Office had previously issued CEO 04/02 & DAO (GEN) 04/02 (severance terms) on 28 February 2002 and the Permanent Secretary had subsequently discussed this with ASPB Accounting Officers at the Chief Executive Officers meeting held in May 2002. All of this documentation has been made available to the Office of the Council General. The Permanent Secretary's message (see Recommendation 1) will advise all ASPBs to provide this guidance to their legal advisers.