

Agenda – Finance Committee

Meeting Venue: Hybrid – Committee
room 4, Senedd and video conference
via Zoom

For further information contact:

Owain Roberts

Committee Clerk

Meeting date: 7 February 2024

0300 200 6388

Meeting time: 10.15

SeneddFinance@senedd.wales

Hybrid

Registration

(09.45–10.00)

Private, pre-meeting

(10.00–10.15)

1 Introductions, apologies and substitutions

(10.15)

2 Papers to note

(10.15)

2.1 PTN 1 –Public Services Ombudsman for Wales response to the Committee's report on the Annual scrutiny Public Services Ombudsman for Wales – 26 January 2024

(Pages 1 – 6)

2.2 PTN 2 – Welsh Government response to the Committee's report on the Financial Implications of the Senedd Cymru (Members and Elections) Bill – 26 January 2024

(Pages 7 – 12)

2.3 PTN 3 – Letter from the Minister for Finance and Local Government: The Non-Domestic Rating (Miscellaneous And Consequential Amendments To Secondary Legislation) (Wales) Regulations 2024 – 17 January 2024

(Pages 13 – 27)



2.4 PTN 4– Letter from Audit Wales: Response to the Finance Committee Annual Scrutiny of the Wales Audit Office – 1 February 2024

(Pages 28 – 38)

2.5 PTN 5– Elections and Elected Bodies (Wales) Bill: Welsh Government response – 1 February 2024

(Pages 39 – 40)

3 Financial Implications of the Residential Outdoor Education (Wales) Bill: Evidence session

(10.15–11:00)

(Pages 41 – 83)

Jeremy Miles MS, Minister for Education and Welsh Language

Emyr Harries, Deputy Director, Education Business & Governance, Welsh Government

Lloyd Hopkin, Deputy Director, Curriculum, Welsh Government.

Attached Documents:

[Residential Outdoor Education \(Wales\) Bill, as introduced](#)
[Explanatory Memorandum](#)

Research Service Brief

FIN(6)–04–24 – Paper 1 – Welsh Government Evidence Paper

FIN(6)–04–24 Paper 2 – Letter from Sam Rowlands MS to the Chair of the Children, Young People and Education Committee, 23 January 2024

Break

(11.00–11.15)

4 Financial Implications of the Local Government Finance (Wales) Bill: Evidence session

(11.15–12.15)

(Pages 84 – 111)

Rebecca Evans MS, Minister for Finance and Local Government

Simon Tew – Bill Manager, Welsh Government

Ben Crudge – Head of Local Tax Policy, Welsh Government

Attached Documents:

[Local Government Finance \(Wales\) Bill](#)

[Explanatory Memorandum](#)

Research Service Brief

- 5 Motion under Standing Order 17.42 (ix) to resolve to exclude the public from the remainder of this meeting**
(12.15)

- 6 Financial implications of Senedd Bills: Consideration of evidence**
(12.15–12.30)



**Ombwdsmon
Ombudsman**
Cymru • Wales

Agenda Item 2.1

Ask for: Michelle Morris

Our ref: MAM/CV



[REDACTED]

Date: 26 January 2024



[REDACTED]

Peredur Owen Griffiths
Chair, Finance Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

By email only
seneddfinance@senedd.wales

Dear Peredur

Thank you for your scrutiny report which was laid on 22 November. In your report you refer to the Committee wishing to have my formal response to the recommendations made. I have the following responses and observations to make:

Recommendation 1. The Committee recommends that the Ombudsman provides further information on the resource implications of dealing with complex cases and how the Ombudsman is ensuring timely resolution of those cases.

As the Committee is aware, we have continued to see further increases in the number of complaints we receive. We are continuing to resolve cases at an early stage whenever possible and to take a proportionate approach when we decide which cases are suitable for detailed investigation. This ensures that we focus our resources on the most serious cases, where our intervention may identify systemic failings and drive improvement in public services.

Our complex cases are those which require detailed investigation. Over 80% of our complaints about public bodies are health cases which require independent clinical advice to inform our decisions on whether service failure may have occurred in the care and treatment provided to the patients. They require significant resource both in terms of staff time investigating detailed clinical records and the cost of securing clinical advice. Also, a large proportion of the code of conduct cases we investigate are complex when, for example, evidence has to be gathered from a number of witnesses or when cases are contested at hearings at the Adjudication Panel for Wales or local standards committees.

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Rydym yn hapus i dderbyn ac
ymateb i ohebiaeth yn y Gymraeg.

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We are happy to accept and respond
to correspondence in Welsh.

Therefore, not only is staff resource required to investigate these cases, but further significant input is required, after we have closed our investigation, to present cases at tribunal and committee hearings.

Throughout this year we have focussed our resources on reducing the number of our older investigation cases. For public body complaints, our decisions to start detailed investigation have, in the main, continued to have been taken by two members of staff dedicated to this task. This has ensured consistency in the application of our proportionality test, focusing the heads of complaint on key issues which are taken forward and reducing the number of independent clinical advisers required per case. This practice has continued to have the effect of reducing our individual Investigator Officer caseloads in our investigation teams, allowing them to progress and close our older cases. During periods when investigator posts have been unfilled, pending successful applicants taking up their posts, we have continued to use bank workers to progress cases and reduce the pressure on our staff, for example by drafting a clinical advice request or a draft report, to assist the case owner.

To progress our older code of conduct cases, we have deployed greater staff resources to our code of conduct team to work collaboratively, providing assistance on the older cases with a focus on progressing and closing cases. This focussed assistance has also meant that the number of detailed investigations which each investigator holds has reduced, providing them with the space to make progress on their cases.

As at 31 March 2023, 88 of our investigation cases were over 12 months old. Our target by 31 March 2024 is to have reduced our over 12 months cases by 50%. Whilst progress on cases can sometimes be hampered as a result of unexpected issues arising, we are currently on track to meet this target.

Recommendation 2. The Committee recommends the Ombudsman provides further information on the use of bank caseworkers, including to what extent they have been used during the year and the costs of doing so.

Bank workers are employed within our staff budget and within our overall staff establishment for the year. We make limited use of bank workers to cover short-term gaps as a result of staff turnover and delays in new staff being able to take up their new posts (e.g. as a result of notice periods). We recruit promptly to caseworker vacancies, and we work to recruit and appoint to maintain a full complement of casework staff.

For the year 2022/23 we engaged 6 bank workers who worked (in total) 0.3 of a post – around 0.4% of our workforce. For the year 2023/24 to date, we have engaged 7 bank workers who have worked (in total) 0.6 of a post – around 0.8% of our workforce.

Bank workers are engaged at rates comparable with our staff at equivalent levels, with adjustments to reflect the fact that they receive holiday pay rather than an entitlement to days off.

The total pay costs of bank workers in 2022/23 were £17k (0.6% of our pay budget) and in 2023/24 the total cost to date is £29k (1.2% of our pay budget).

Bank workers account for a small proportion of our staff costs and numbers, but nonetheless help mitigate the pressures of increasing numbers of complaints and staff turnover.

Recommendation 3. The Committee recommends that the Ombudsman provides an update on planned staff engagement initiatives, particularly in terms of how these support the impact of workload pressures on staff's wellbeing.

Staff wellbeing issues are included in our risk register, with actions to reduce and mitigate risks discussed by Management Team, and the Audit & Risk Assurance Committee, as part of consideration of the risk register.

We will continue staff engagement through one-to-one meetings and team meetings. Our confidential counselling service and our mental health first aiders remain available to staff, and we will continue to offer stress risk assessments to staff.

We have run workshops with managers following all-staff engagement meetings and we have a series of wellbeing events. We will be running staff health-checks during February/March.

The greatest single impact on staff wellbeing has been high individual case holdings, where individual investigators have had an average of 21 ongoing investigations. We have focussed considerable effort on reducing the numbers of investigation cases held by each member of staff, reducing the average number of cases per investigator to 14 (for public service complaints). This progress is positive for staff wellbeing, as well as for the service we are able to provide.

Workload pressures can be compounded by the behaviours of some complainants, particularly through aggressive and abusive telephone calls. We encourage staff to take time away from the 'phones after challenging calls, to report behaviour that does not meet the standards we expect and to debrief with a colleague or their manager after these calls. We provide training on handling difficult conversations and regularly remind staff of the additional support available through Mental Health First Aiders and the counselling service.

We recognise, however, that the pressures on staff are significant and we expect wellbeing concerns to remain a feature of responses to our staff survey towards the end of this (financial) year.

Recommendation 4. The Committee recommends that the Ombudsman clarifies how the case load estimates for future years will be calculated.

Predicting caseloads is challenging, and recent history shows how variable the changes can be year to year. Our estimates and projections have been broadly accurate, though there is variability from year to year.

We will monitor new enquiries and complaints received each month and compare with numbers for the same period in previous years. We will use these figures to project each year, as part of the estimate preparation, the number of enquiries and complaints likely to be received in the remaining months of the year and the following year. Rather than present a single figure, we will present a range within which we expect the numbers of new cases to be.

Recommendation 5. The Committee recommends that the Ombudsman provides an update on the pay award once agreed and its budgetary impact.

The pay award has been settled and staff were paid the pay award in November. The average increase as a result of the April 2023 local government pay award is around 5.4%.

Recommendation 6. Should there be an underspend from the amount budgeted for pay awards, the Committee expects the Ombudsman to:

- return any unused funding to the Welsh Consolidated Fund through the next available supplementary budget motion; and
- remove this underspend from the baseline for the Estimate 2024-25.

Since the April 2023 pay award is significantly lower than anticipated in the supplementary budget submission earlier in the year, the balance is being returned (January 2024) through a supplementary budget submission for 2023/24.

For the 2024/25 financial year, we will return the appropriate amount in a supplementary budget submission in the first quarter of the financial year.

Recommendation 7. The Committee recommends that the Ombudsman provides the final cost details for the re-tendering contract of the case management system.

The costs relating to 2024/25, under the new contract for our case management system, will be £165k. This is in line with the costs included in our Estimate submission.

Recommendation 8. The Committee recommends that the Ombudsman continues to provide updates on its use of accommodation and the budgetary impact of any changes it plans to make to its office space.

We have vacated the first and second floors of our accommodation and are actively seeking new tenants to take these areas on. Whilst there have been a small number of viewings, none has yet become a firm interest. We will keep the Committee informed.

Vacating parts of our accommodation is also likely to result in the payment of dilapidations. Whilst we have made provision for this in our accounts, and we will work to minimise the required payment, a supplementary budget submission would be needed to allow this provision to be used.

We hope to achieve savings, from the reduction in office space, that we can invest to help us meet the demand for our services and in service improvement, particularly investment in information technology which supports our current operating model.

Recommendation 9. The Committee recommends that the Ombudsman provides further information about the outcomes expected from an increase in its data analysis capacity, including how such analysis will inform approaches to case loads.

Subject to formal approval of our 2024/25 budget, we propose to advertise for and appoint a data analyst. We will learn from the experiences of other Ombudsman organisations and from Audit Wales in developing our approach. We expect our initial work to involve:

- reviewing the data we collect and identifying any gaps;
- improving data quality by identifying and addressing inconsistencies; and
- identifying external data sets that could inform our work.

These actions will facilitate valuable data analysis. The specific decisions we will take using our data analysis will depend on the data, of course, but we anticipate that the data will help us to:

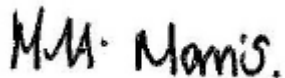
- identify patterns in complaints we receive, particularly in complaints that do not progress to investigation;
- guide our decisions on the subjects of thematic reports on cases we have investigated;
- inform our improvement work with public bodies, identifying common themes across public services and organisation-specific areas for improvement in complaints handling;
- determine appropriate topics for Own Initiative investigations; and

- identify and reach groups who may not know about or be confident that they can approach the Ombudsman with their concerns about public services.

This information will help us to prioritise cases and identify additional areas that we should investigate. It could help us investigate some areas thematically, by grouping cases to investigate together rather than individually. Whilst the data analysis is likely to identify additional areas of work (additional subjects and additional complaints from currently under-represented groups), we expect that the data will help us prioritise cases to maximise the positive impact of our work.

We will report on our data analysis, and on our related work, in future annual reports.

Yours sincerely

A handwritten signature in black ink that reads "M.M. Morris".

Michelle Morris
Public Services Ombudsman

Mick Antoniw AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution



Llywodraeth Cymru
Welsh Government

Peredur Owen Griffiths MS
Chair
Finance Committee

26 January 2024

Dear Peredur,

Senedd Cymru (Members and Elections) Bill

Thank you for the Finance Committee's report in relation to the Senedd Cymru (Members and Elections) Bill published on 19 January 2024. Please see my responses to the set of recommendations within the report in Annex 1.

As the Bill will be considered by a Committee of the Whole Senedd at Stage 2, I anticipate that a significant number of Members will have an interest in it. With this in mind, I am providing a written response to Committee reports in advance of the general principles debate.

I would like to express my thanks to the Committee for scrutinising the Bill and its supporting documentation. I look forward to continuing to work with Members as the Bill progresses through the Senedd process.

I am copying this letter to the Chair of the Reform Bill Committee, the Chair of the Legislation, Justice and Constitution Committee and all Members of the Senedd for information.

Yours sincerely,

A handwritten signature in blue ink, reading 'Mick Antoniw', with a horizontal line underneath the name.

Mick Antoniw AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Annex 1

Recommendation	Response
<p>Recommendation 1. The Committee recommends that, if significant changes are made to the Bill during its passage through the Senedd, the Minister undertakes the necessary modelling of potential costs and that these should be updated in a revised Regulatory Impact Assessment.Page 14</p>	<p>Accept</p>
<p>Recommendation 2. The Committee recommends that the Minister models the anticipated savings as a result of this Bill, to quantify the impact of scrutiny benefits, with specific reference to the improved scrutiny of legislation and budgets in the Senedd, and for this information to be included in a revised Regulatory Impact Assessment.Page 14</p>	<p>Noted</p> <p>I welcome the opportunity to undertake further modelling on the anticipated savings as a result of this Bill, to quantify the impact of scrutiny benefits, with specific reference to the improved scrutiny of legislation and budgets in the Senedd. However, undertaking such an exercise to a robust standard will not be compatible with the timescales associated with the passage of the Bill through the Senedd, which are themselves necessary for the reforms to be delivered in time for the 2026 election.</p> <p>I am also mindful that a number of academic studies have previously examined the challenge of assessing parliamentary impact.</p> <p>Outside the context of this Bill, understanding the impact of scrutiny is more properly a matter for the Senedd, and Senedd committees when it comes to the effectiveness of committee scrutiny.</p> <p>For example, in May 2021 Professor Diana Stirbu commented that: "One of the biggest hurdles in developing a coherent framework for evaluation of committees' work is that not everything can be easily quantifiable and measurable. For instance, the 'deterrent' effect of committees' work has been mentioned by many in our interviews, but this is generally difficult to measure. One can evidence through a qualitative study of</p>

	<p>narratives and perceptions of Government ministers and the bureaucracy supporting them in relation to the indirect effect of committees' work. White emphasises the importance of using both qualitative and quantitative sources to evidence effectiveness of committees."¹ However, in the same report Professor Stirbu identified a number of measures by which the effectiveness of Committees could be determined over the long term.</p> <p>The Welsh Government is willing to engage with any work that Senedd committees, and/or the Chairs' Forum, might wish to undertake to better understand committee impact in future.</p>
<p>Recommendation 3. The Committee recommends that the Senedd Commission continues to present costs relating to Senedd reform as ring-fenced within its annual budget documentation to ensure clarity and transparency.Page 15</p>	<p>Noted This recommendation is for the Senedd Commission. As such, no specific response is provided here.</p>
<p>Recommendation 4. The Committee recommends that the Minister, in consultation with the Senedd Commission, undertakes further modelling of Commission staff costs to include the minimum and maximum pay scales to provide a range of costs, and for this information to be included in a revised Regulatory Impact Assessment..... Page 28</p>	<p>Accept in principle</p> <p>I believe the approach taken in the Regulatory Impact Assessment provides a more accurate representation of likely costs.</p> <p>The Regulatory Impact Assessment provides costs at a point in time and in a consistent way across organisations. Figures providing a range of staff costs could potentially be provided as a standalone annex and discussions are in hand with the Senedd Commission.</p>
<p>Recommendation 5. The Committee recommends that the Minister, in consultation with the Senedd Commission, undertakes modelling work to understand the impact of an increase in committees, beyond the three additional committees estimated in the Regulatory Impact Assessment, on the scrutiny benefits arising from the Bill and that this information should be included in a revised Regulatory Impact Assessment..... Page 28</p>	<p>Noted</p> <p>Ultimately these are operational decisions for a future Senedd/Business Committee to determine the number, role etc of committees. Assumptions were made in order to provide an indication in the Regulatory Impact Assessment of possible costs, but not with the intention to bind a future Senedd.</p> <p>I am content to discuss this matter further with the Senedd Commission.</p>

¹ Professor Diana Stirbu, Power, Influence and Impact of Senedd Committees: Developing a framework for measuring committees' effectiveness, May 2021, <https://senedd.wales/gen-ld14672-e.pdf>; page 70.

<p>Recommendation 6. The Committee recommends that the Minister, in consultation with the Senedd Commission, undertakes a cost-benefit analysis on the number of additional committees that may be required and that this information should be included in a revised Regulatory Impact Assessment. Page 28</p>	<p>Reject</p> <p>Ultimately these are operational decisions for a future Senedd/Business Committee to determine the number, role etc of committees. Assumptions were made in order to provide an indication in the Regulatory Impact Assessment of possible costs, but not with the intention to bind a future Senedd.</p>
<p>Recommendation 7. The Committee recommends that the Minister, in consultation with the Senedd Commission, undertakes a review of the current configuration of Members’ offices in Tŷ Hywel, to include:</p> <ul style="list-style-type: none"> • an assessment and cost-benefit analysis on the use of open-plan working; • and an assessment of the energy use. Page 29 	<p>Noted. This is a matter for the Senedd Commission. As such, no specific response is provided here.</p>
<p>Recommendation 8. In light of the new electoral system which may result in uplifts to Members’ travel, residential accommodation and staff costs, the Committee recommends that the Minister, in consultation with the Senedd Commission, reassesses these costs and provides a range rather than using the average costs of current Members, and for this information to be included in a revised Regulatory Impact Assessment. Page 29</p>	<p>Accept in principle</p> <p>The Welsh Government will discuss the matter further with the Senedd Commission, particularly in terms of any impact on the Regulatory Impact Assessment.</p>
<p>Recommendation 9. The Committee recommends that the Minister, in consultation with the Senedd Commission, updates the cost estimates relating to Members in the Regulatory Impact Assessment:</p> <ul style="list-style-type: none"> • using the financial information from the latest available Determination on Members’ Pay and Allowances; and • includes the additional salary to leaders of a political group (not in the government) for each Member in their group (up to the maximum allowed for in the Determination). Page 29 	<p>Accept in principle</p> <p>Regulatory Impact Assessment provides costs at a point in time and in a consistent way across organisations. If new determination figures to be calculated, we would propose including as standalone annex.</p> <p>The Welsh Government accepts the recommendation to include additional salary for leaders of political group but this should use the 2022-23 Determination for consistency with other figures in the Regulatory Impact Assessment.</p>
<p>Recommendation 10. The Committee recommends that the Minister, in consultation with the Senedd Commission, undertakes further work to</p>	<p>Noted. This is a matter for the Senedd Commission. As such, no specific response is provided here.</p>

<p>assess the impact that different demographics of newly elected Members will have on the Members' Pension Scheme. Page 29</p>	
<p>Recommendation 11. The Committee recommends that the Minister, in consultation with the Senedd Commission, provides further clarity on the schedule of work that will be undertaken on the Senedd and Tŷ Hywel estates, should the Bill not be agreed. Page 29</p>	<p>Noted. This is a matter for the Senedd Commission. As such, no specific response is provided here.</p>
<p>Recommendation 12. The Committee recommends that the Minister provides evidence to confirm the assertion that no additional Welsh Government staff will be required, as a result of an increase in the Senedd's membership.Page 32</p>	<p>Accept</p> <p>The Regulatory Impact Assessment attempts to provide the best estimate of likely costs as a result of the Senedd Cymru (Members and Elections) Bill. However there are some unknown factors which, when subsequent decisions have been taken, could impact on the estimates (either in terms of costs or savings).</p> <p>It is normal practice for the Government to re-prioritise resources to address new priorities and respond to challenges without the need to expand the size of the civil service (for example the Covid-19 pandemic). Current resources provide for the existing responsibilities of the Welsh Government and it is anticipated additional resources would only be needed, for example, if there were to be a change in devolved responsibilities.</p>
<p>Recommendation 13. The Committee recommends that the Minister undertakes further work to assess the impact that a maximum increase in the number of Welsh Ministers will have on the number of Members available to undertake a scrutiny role and the effect this will have on the potential savings referred to by the Minister through improved scrutiny.....Page 32</p>	<p>Accept</p> <p>For all the scenarios set out in the Bill EM/RIA relating to an increase in the number of Welsh Ministers, the proportion of executive to the Senedd reduces.</p> <p>In proportionate terms, the Welsh Government (12 Ministers plus the First Minister and Counsel General) currently constitutes 23.3% of the Senedd's 60 Members. In an enlarged Senedd, a Welsh Government of 17 Ministers, along with the First Minister and Counsel General, would constitute 19.8% of the Senedd's 96 Members.</p> <p>A Welsh Government of 19 Ministers, along with the First Minister and Counsel General, would constitute 21.9% of the Senedd's 96 Members. Therefore the maximum limit on the number of Welsh Ministers provided for in</p>

	<p>section 5 ensures that the increase in the number of Members of the Senedd is greater than that of the executive in any event.</p>
<p>Recommendation 14. The Committee recommends that the Minister undertakes further work to understand the level of volatility in membership from one Senedd to the next and associated cost implications, including the impact on the Members' Pension Scheme, in light of the move to a four-year election cycle.</p>	<p>Accept in principle</p> <p>I am content to give further consideration to this recommendation with a view to providing further analysis. Given the scope of the recommendation, any such work will need to be undertaken in consultation with the Senedd Commission.</p>
<p>Recommendation 15. The Committee recommends that the Minister provides clarity on the potential costs identified to the Welsh Government, Auditor General for Wales and the Future Generations Commission resulting from a four-year election cycle..... Page 38</p>	<p>Accept</p>
<p>Recommendation 16. The Committee recommends that the Minister provides an update on costs once all the relevant boundary changes have been completed, to enable the Committee or a future finance committee to understand the full financial impact of the Bill. Page 38</p>	<p>Accept</p>

Rebecca Evans AS/MS
Y Gweinidog Cyllid a Llywodraeth Leol
Minister for Finance and Local Government



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA-RE-3052-23

Elin Jones MS
Llywydd
Senedd Cymru
Cardiff Bay
CF99 1SN

17 January 2024

Dear Elin,

THE NON-DOMESTIC RATING (MISCELLANEOUS AND CONSEQUENTIAL AMENDMENTS TO SECONDARY LEGISLATION) (WALES) REGULATIONS 2024

In accordance with section 11A(4) of the Statutory Instruments Act 1946, I am notifying you that this statutory instrument will come into force on 19 January, less than 21 days after it has been laid. A copy of the instrument and the Explanatory Memorandum that accompanies it are attached for your information.

This statutory instrument is made under the powers provided by sections 43(4B)(b), 44(9)(b) of, and paragraphs 1, 2(2)(a) and (ga) of Schedule 9 to, the Local Government Finance Act 1988 (“the 1988 Act”), paragraph 8(1) and (4)(b) of Schedule 1 to the Rating (Empty Properties) Act 2007(1), section 236(1) of the Localism Act 2011 and section 17(2) of the Non-Domestic Rating Act 2023 (“the 2023 Act”).

The Non-Domestic Rating Act 2023 (Consequential Amendments to Secondary Legislation) (Wales) Regulations 2023 (“the 2023 Regulations”) amended references to the 1988 Act in secondary legislation, as a consequence of changes introduced by the 2023 Act. Some of these amendments should have been expressed as having effect from financial years beginning on or after 1 April 2024, when relevant provisions in the 2023 Act (although already in force) will take effect. The Legislation, Justice and Constitution Committee raised this and other reporting points in their report on the 2023 Regulations and the Welsh Government confirmed that amending regulations would be made as soon as possible in response.

(1) 2007 c. 9. The power to make an order under paragraph 8(1) of the Rating (Empty Properties) Act 2007 may be exercised to make regulations by virtue of section 39 of the Legislation (Wales) Act 2019 (anaw 4).

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

Pack Page 13

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The 2024 Regulations omit certain provisions in regulations 2 and 4, and regulation 5 of the 2023 Regulations and restates provisions in certain secondary legislation as they applied immediately before regulations 2, 4 and 5 came into force. It also makes amendments to secondary legislation in consequence to the 2023 Act. It is considered necessary to bring this statutory instrument into force as soon as possible, to address the issues raised by the Legislation, Justice and Constitution Committee and ensure the intended policy effect of the relevant secondary legislation is preserved.

I am copying this letter to the Minister for Rural Affairs, North Wales and Trefnydd, Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee, Peredur Owen Griffiths MS, Chair of the Finance Committee, Siwan Davies, Director of Senedd Business, Bethan Davies, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans". The signature is written in a cursive, flowing style.

Rebecca Evans AS/MS

Y Gweinidog Cyllid a Llywodraeth Leol
Minister for Finance and Local Government

Explanatory Memorandum to the Non-Domestic Rating (Miscellaneous and Consequential Amendments to Secondary Legislation) (Wales) Regulations 2024

This Explanatory Memorandum has been prepared by the Non-Domestic Rates Policy and Reform Division and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Non-Domestic Rating (Miscellaneous and Consequential Amendments to Secondary Legislation) (Wales) Regulations 2024.

Rebecca Evans MS
Minister for Finance and Local Government
17 January 2024

EXPLANATORY MEMORANDUM

Description

1. The Non-Domestic Rating Act 2023 (“the 2023 Act”) provides for a range of reforms to the non-domestic rating (“NDR”) system in England and Wales, through amendments to the Local Government Finance Act 1988 (“the 1988 Act”). A legislative consent motion in respect of the provisions which apply to Wales was approved by the Senedd on 12 September 2023.
2. The Non-Domestic Rating Act 2023 (Consequential Amendments to Secondary Legislation) (Wales) Regulations 2023 (“the 2023 Regulations”) provided for necessary consequential amendments to secondary legislation arising from the 2023 Act. The Non-Domestic Rating (Miscellaneous and Consequential Amendments to Secondary Legislation) (Wales) Regulations 2024 (“the 2024 Regulations”) address certain omissions in the 2023 Regulations.

Matters of special interest to the Legislation, Justice and Constitution Committee

3. In accordance with section 11A(4) of the Statutory Instruments Act 1946, the Llywydd has been informed that the 2024 Regulations came into force less than 21 days after the instrument has been laid. The 2024 Regulations came into force the day after they were laid to ensure the omissions in the 2023 Regulations are addressed as quickly as possible.
4. The 2023 Regulations came into force on 27 October 2023. The Legislation, Justice and Constitution Committee’s report of 20 November 2023 ([SL\(6\)402](#)) on the 2023 Regulations raised three technical reporting points, including a request for clarification why certain amendments made by the 2023 Regulations were not expressed as having effect from financial years beginning on or after 1 April 2024. The Welsh Government response to the Committee confirmed that further amending regulations would be brought forward to address the matters raised.
5. Technical points 1 and 2 are addressed by the drafting of regulation 6 of the 2024 Regulations.
6. To address technical point 3 and ensure that the consequential amendments in the secondary legislation take effect from 1 April 2024, it has been necessary to restate the law as it applied immediately prior to 27 October 2023 in one Part of the 2024 Regulations, to come into force as soon as possible, and to then set out the consequential amendments in another Part, which will come into force on 1 April 2024.
7. This is a complex exercise requiring timely completion. In determining whether to amend each affected statutory instrument, the Welsh Government has considered whether not amending certain provisions in the secondary legislation referred to in the 2023 Regulations would have any practical effect in providing for a different outcome with respect to NDR liability, prior to 1 April

2024. Where there is considered to be no material risk of such an effect, the provision is not corrected by the 2024 Regulations and the statute book will read as intended from 1 April 2024, when the relevant sections of the 2023 Act take effect.

8. In accordance with this approach, the 2024 Regulations address the issues arising from the premature coming into force of regulations 2, 4 and 5 of the 2023 Regulations. No changes are made in relation to regulations 3 and 6 of the 2023 Regulations, as the effect of bringing certain consequential changes into force prior to 1 April 2024 does not risk a different outcome than intended with respect to the liability of ratepayers. It has not been necessary to consider changes in relation to regulation 7 of the 2023 Regulations, as it came into force as intended.

Legislative background

9. The 2023 Act gained Royal Assent on 26 October 2023. Sections 1 and 2 of the 2023 Act introduce new Schedules 4ZA and 4ZB to the 1988 Act, respectively, which restate (with amendments) existing provisions in relation to NDR local list liability and reliefs. These provisions came into force on Royal Assent of the 2023 Act, but do not have effect until 1 April 2024.
10. Schedule 4ZA restates provisions for occupied hereditaments on a local rating list that were previously set out in sections 43 and 44 of the 1988 Act. Schedule 4ZB restates provisions for unoccupied hereditaments on a local rating list that were previously set out in sections 45, 45A and 46 of the 1988 Act. Provisions for liability and reliefs are referenced in several places in secondary legislation.
11. The 2023 Regulations came into force on 27 October 2023 and provided for consequential amendments to five sets of Regulations, to update references to provisions in the 1988 Act that had been restated or amended by the 2023 Act. Regulations 2, 4 and 5 of the 2023 Regulations did not expressly state that they took effect from 1 April 2024, in line with when the relevant changes in the 2023 Act also take effect.
12. In addition, the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990 (“the 1990 Regulations”) are amended in consequence to certain provisions in the 1988 Act having been repealed by the Ratings (Empty Properties) Act 2007 (“the 2007 Act”) and the Localism Act 2011 (“the 2011 Act”).
13. The substantive provisions of the 2024 Regulations as listed in the first column of the table below are made under the enabling powers set out in the second column:

Regulation	Enabling powers
2	Conferred on the Secretary of State by paragraphs 1 and 2(2)(a) of Schedule 9 to the 1988 Act and transferred, in relation to Wales, to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999, and subsequently transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.
3	Conferred on the Secretary of State by paragraph 2(ga) of Schedule 9 to the 1988 Act. Transferred, in relation to Wales, to the National Assembly for Wales and subsequently to the Welsh Ministers, as above.
4	Conferred on the National Assembly for Wales by sections 43(4B)(b) and 44(9)(b) of the 1988 Act and transferred to the Welsh Ministers, as above.
5, 6, 8 and 9	Conferred on the Welsh Ministers by section 17(2) of the 2023 Act.
7	Conferred on the Welsh Ministers by section 17(2) of the 2023 Act and paragraph 8(1) and (4)(b) of Schedule 1 to the 2007 Act and section 236(1) of the 2011 Act.

14. Paragraph 8(1) and (4)(b) of Schedule 1 to the 2007 Act gives the Welsh Ministers an order making power to amend, repeal or revoke any enactment to which paragraph 8 applies to such extent as appears necessary or expedient in consequence of the provisions of the 2007 Act. Section 39 of the Legislation (Wales) Act 2019 provides that where the Welsh Ministers have a power or duty to make subordinate legislation in the form of regulations, rules or an order made by statutory instrument, they may exercise the power or duty by making the subordinate legislation in any other of those forms by statutory instrument. The order-making power in paragraph 8(1) in Schedule 1 to the 2007 Act is exercised in the form of regulations, given that the other enabling powers relied upon to make the 2024 Regulations require those provisions to be made in regulations.

15. The 2024 Regulations are subject to the negative procedure.

Purpose and intended effect of the legislation

16. Part 2 of the 2024 Regulations omits certain provisions in regulations 2 and 4, and regulation 5, of the 2023 Regulations and restates references to sections 43, 44, 45, and 45A of the 1988 Act within provisions in the following secondary legislation in relation to Wales as they applied immediately before regulations 2, 4 and 5 came into force:

- The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (“the 1989 Regulations”);
- The Non-Domestic Rating (Demand Notices) (Wales) Regulations 2017 (“the 2017 Regulations”); and

- The Non-Domestic Rating (Small Business Relief) (Wales) Order 2017 (“the 2017 Order”).

17. Part 3 of the 2024 Regulations make consequential amendments to the 1989 Regulations, the 1990 Regulations, the 2017 Regulations and the 2017 Order following the 2023 Act, by substituting references to restated provisions in Schedules 4ZA and 4ZB to the 1988 Act. The 2024 Regulations also provide an opportunity to make outstanding consequential amendment to regulation 3(7) of the 1990 Regulations, by omitting references to sections 45(6) and 47(2)(a) of the 1988 Act which were repealed by the 2007 and 2011 Acts, respectively.

18. Copies of the 2024 Regulations will be issued free of charge to all known recipients of the 2023 Regulations to ensure that users who require a copy are not unnecessarily disadvantaged by having to pay for it. The Welsh Government is not aware of any adverse effects arising from the omissions in the 2023 Regulations. Any such impacts would have been brought to the attention of the Welsh Government by stakeholders, particularly local billing authorities.

Consultation

19. No consultation has been undertaken. The 2024 Regulations are essential and needed to be made urgently, in order to ensure the secondary legislation listed above remains effective and the policy intent is preserved, in relation to Wales.

Regulatory Impact Assessment (RIA)

20. An RIA has not been prepared for the 2024 Regulations. The 2024 Regulations have the effect of preserving the existing policy position by ensuring the secondary legislation they amend remains effective and has no other impacts. This is in line with the policy set out in the Welsh Ministers’ code of practice for carrying out RIAs for subordinate legislation.

This Statutory Instrument has been made in consequence of a defect in S.I. 2023/1154 (W. 199) and is being issued free of charge to all known recipients of that Statutory Instrument.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2024 No. 37 (W. 12)

**RATING AND VALUATION,
WALES**

**The Non-Domestic Rating
(Miscellaneous and Consequential
Amendments to Secondary
Legislation) (Wales) Regulations
2024**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations omit certain provisions in regulations 2 and 4, and regulation 5 of the Non-Domestic Rating Act 2023 (Consequential Amendments to Secondary Legislation) (Wales) Regulations 2023 (“the 2023 Regulations”) and make amendments to various statutory instruments.

Regulations 2, 4 and 5 of the 2023 Regulations make changes to certain secondary legislation in relation to Wales in consequence to the Non-Domestic Rating Act 2023 (“the 2023 Act”). Sections 1 and 2 of the 2023 Act repeal certain provisions in Part 3 of the Local Government Finance Act 1988 (“the 1988 Act”) and re-enact those provisions in new Schedules 4ZA and 4ZB to the 1988 Act.

Regulations 2, 4 and 5 of the 2023 Regulations came into force on 27 October 2023 but did not expressly state that they took effect from 1 April 2024, in line with when the relevant changes in the 2023 Act also take effect.

Part 2 of these Regulations omits certain provisions in regulations 2 and 4, and regulation 5 of the 2023 Regulations and restates provisions of the following statutory instruments in relation to Wales (“the

Secondary Legislation”) as they applied immediately before regulations 2, 4 and 5 came into force:

- the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989;
- the Non-Domestic Rating (Demand Notices) (Wales) Regulations 2017;
- the Non-Domestic Rating (Small Business Relief) (Wales) Order 2017.

Part 3 of these Regulations makes consequential changes to the Secondary Legislation and the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990 (“the 1990 Regulations”) to reflect the re-enacted provisions in Schedules 4ZA and 4ZB to the 1988 Act. In the case of the 1990 Regulations, references to sections 45(6) and 47(2)(a) of the 1988 Act are omitted as these provisions have been repealed by earlier Acts.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this instrument.

This Statutory Instrument has been made in consequence of a defect in S.I. 2023/1154 (W. 199) and is being issued free of charge to all known recipients of that Statutory Instrument.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2024 No. 37 (W. 12)

**RATING AND VALUATION,
WALES**

**The Non-Domestic Rating
(Miscellaneous and Consequential
Amendments to Secondary
Legislation) (Wales) Regulations
2024**

<i>Made</i>	<i>15 January 2024</i>
<i>Laid before Senedd Cymru</i>	<i>17 January 2024</i>
<i>Coming into force</i>	<i>19 January 2024</i>

The Welsh Ministers make the following Regulations in exercise of the powers conferred on the National Assembly for Wales by sections 43(4B)(b) and 44(9)(b) of the Local Government Finance Act 1988(1) (“the 1988 Act”) and conferred on the Secretary of State by paragraphs 1 and 2(2)(a) and (ga) of Schedule 9 to that Act(2) and now vested in

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- (1) 1988 c. 41. See section 146(6) for the definition of “prescribed”. Subsection (4B) was inserted into section 43 by section 61(3) of the Local Government Act 2003 (c. 26) (“the 2003 Act”). Subsection (9) was inserted into section 44 by section 61(5) of the 2003 Act. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
- (2) Paragraph 1 was amended by paragraph 89(2) of Schedule 13 to the Tribunals, Courts and Enforcement Act 2007 (c. 15). Paragraph 2(2)(ga) was inserted by paragraph 44(2) of Schedule 5 to the Local Government and Housing Act 1989 (c. 42).

them(1), and in exercise of the power conferred on them by paragraph 8(1) and (4)(b) of Schedule 1 to the Rating (Empty Properties) Act 2007(2), section 236(1) of the Localism Act 2011(3) and section 17(2) of the Non-Domestic Rating Act 2023(4).

PART 1

Introduction

Title, application and coming into force

1.—(1) The title of these Regulations is the Non-Domestic Rating (Miscellaneous and Consequential Amendments to Secondary Legislation) (Wales) Regulations 2024.

(2) These Regulations apply in relation to Wales.

(3) Parts 1 and 2 come into force on 19 January 2024.

(4) Part 3 comes into force on 1 April 2024.

PART 2

Amendments to secondary legislation coming into force on 19 January 2024

Amendments to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989

2. In regulation 3(1) (interpretation) of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(5), in the definition of “the amount payable”, in sub-paragraph (a), for “paragraphs 1 to 7, and 10 of Schedule 4ZA or paragraphs 1 to 3 of Schedule 4ZB to” substitute “section 43(4) to (6) or 45(4) to (6) of”.

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- (1) The functions of the Secretary of State were transferred, in relation to Wales, to the National Assembly for Wales by virtue of article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the National Assembly for Wales were subsequently transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
- (2) 2007 c. 9. The power to make an order under paragraph 8(1) of the Rating (Empty Properties) Act 2007 may be exercised to make regulations by virtue of section 39 of the Legislation (Wales) Act 2019 (anaw 4).
- (3) 2011 c. 20. See section 236(2)(a)(ii) for the definition of “appropriate authority”.
- (4) 2023 c. 53. See section 17(3) for the definition of “the appropriate national authority”.
- (5) S.I. 1989/1058; relevant amending instruments are S.I. 1991/141, S.I. 1993/616 and S.I. 2023/1154 (W. 199).

Amendments to the Non-Domestic Rating (Demand Notices) (Wales) Regulations 2017

3.—(1) Schedule 1 (matters to be contained in demand notices) to the Non-Domestic Rating (Demand Notices) (Wales) Regulations 2017(1) is amended as follows.

(2) In paragraph 4—

- (a) for “regulations under paragraph 1(2)(b) and 3(9) of Schedule 4ZB to the 1988 Act are” substitute “an order under section 45(4A) of the 1988 Act is”;
- (b) for “regulations as compared with the amount it would be if paragraph 1(1)(b) of Schedule 4ZB to” substitute “order as compared with the amount it would be if section 45(4) of”.

(3) In paragraph 5—

- (a) for “paragraph 2 of Schedule 4ZB to” substitute “section 45A of”;
- (b) for “paragraph 1(1)(b) of Schedule 4ZB to” substitute “section 45(4) of”.

(4) In paragraph 6—

- (a) in sub-paragraph (a), for “paragraph 2(1) or 4(1) of Schedule 4ZA to” substitute “section 43(4A)(b) or (5) of”;
- (b) in sub-paragraph (b), for “paragraph 10(2) of Schedule 4ZA to” substitute “section 44(2) and (2A) of”;
- (c) for “paragraph 1 of Schedule 4ZA, without modification, and (so far as is relevant) paragraph 10(2) of Schedule 4ZA” substitute “section 43(4), without modification, and (so far as is relevant) section 44(2)”.

Amendments to the Non-Domestic Rating (Small Business Relief) (Wales) Order 2017

4.—(1) The Non-Domestic Rating (Small Business Relief) (Wales) Order 2017(2) is amended as follows.

(2) In article 2 (interpretation), in the definition of “excepted hereditament”, in paragraph (c), for “paragraph 2(2)(a) or (b) of Schedule 4ZA to” substitute “paragraph (a) or (b) of section 43(6) of”.

(3) In article 5 (maximum rateable value for rate relief), for “paragraph 4(2)(b)(i) of Schedule 4ZA to” substitute “section 43(4B)(b)(i) of”.

(1) S.I. 2017/113 (W. 39), amended by S.I. 2023/1154 (W. 199); there are other amending instruments but none is relevant.

(2) S.I. 2017/1229 (W. 293), amended by S.I. 2018/1192 (W. 243) and S.I. 2023/1154 (W. 199); there are other amending instruments but none is relevant.

(4) In article 6 (conditions of relief), for “paragraph 4(2)(b)(ii) of Schedule 4ZA to” substitute “section 43(4B)(b)(ii) of”.

(5) In article 10 (amount of E), for “paragraph 10(6) of Schedule 4ZA to” substitute “section 44(9) of”.

**Amendments to the Non-Domestic Rating Act 2023
(Consequential Amendments to Secondary
Legislation) (Wales) Regulations 2023**

5.—(1) The Non-Domestic Rating Act 2023 (Consequential Amendments to Secondary Legislation) (Wales) Regulations 2023(1) are amended as follows.

(2) In regulation 2(2) (amendments to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989), omit sub-paragraph (a).

(3) In regulation 4 (amendments to the Non-Domestic Rating (Demand Notices) (Wales) Regulations 2017)—

(a) omit paragraph (2);

(b) omit paragraph (3);

(c) omit sub-paragraphs (a), (b) and (d) of paragraph (4).

(4) Omit regulation 5 (amendments to the Non-Domestic Rating (Small Business Relief) (Wales) Order 2017).

PART 3

Amendments to secondary legislation coming
into force on 1 April 2024

**Amendment to the Non-Domestic Rating
(Collection and Enforcement) (Local Lists)
Regulations 1989**

6. In regulation 3(1) (interpretation) of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, in the definition of “the amount payable”, in sub-paragraph (a), for “section 43(4) to (6) or 45(4) to (6) of” substitute “any provision of or made under Schedule 4ZA or Schedule 4ZB to”.

**Amendment to the Non-Domestic Rating
(Collection and Enforcement) (Miscellaneous
Provisions) Regulations 1990**

7. In regulation 3(7) (joint owners and occupiers) of the Non-Domestic Rating (Collection and

(1) S.I. 2023/1154 (W. 199).

Enforcement) (Miscellaneous Provisions) Regulations 1990(1), for “section 43(6), 45(6) and 47(2)(a) of” substitute “paragraph 2(2) of Schedule 4ZA to”.

Amendments to the Non-Domestic Rating (Demand Notices) (Wales) Regulations 2017

8.—(1) Schedule 1 (matters to be contained in demand notices) to the Non-Domestic Rating (Demand Notices) (Wales) Regulations 2017 is amended as follows.

(2) In paragraph 4—

- (a) for “an order under section 45(4A) of the 1988 Act is” substitute “regulations under paragraphs 1(2)(b) and 3(9) of Schedule 4ZB to the 1988 Act are”;
- (b) for “order as compared with the amount it would be if section 45(4) of” substitute “regulations as compared with the amount it would be if paragraph 1(1)(b) of Schedule 4ZB to”.

(3) In paragraph 5—

- (a) for “section 45A of” substitute “paragraph 2 of Schedule 4ZB to”;
- (b) for “section 45(4) of” substitute “paragraph 1(1)(b) of Schedule 4ZB to”.

(4) In paragraph 6—

- (a) in sub-paragraph (a), for “section 43(4A)(b) or (5) of” substitute “paragraph 2(1) or 4(1) of Schedule 4ZA to”;
- (b) in sub-paragraph (b), for “section 44(2) and (2A) of” substitute “paragraph 10(2) of Schedule 4ZA to”;
- (c) for “section 43(4), without modification, and (so far as is relevant) section 44(2)” substitute “paragraph 1 of Schedule 4ZA, without modification, and (so far as is relevant) paragraph 10(2) of Schedule 4ZA”.

Amendments to the Non-Domestic Rating (Small Business Relief) (Wales) Order 2017

9.—(1) The Non-Domestic Rating (Small Business Relief) (Wales) Order 2017 is amended as follows.

(2) In article 2 (interpretation), in the definition of “excepted hereditament”, in paragraph (c), for “paragraph (a) or (b) of section 43(6) of” substitute “paragraph 2(2)(a) or (b) of Schedule 4ZA to”.

(1) S.I. 1990/145, to which there are amendments not relevant to these Regulations.

(3) In article 5 (maximum rateable value for rate relief), for “section 43(4B)(b)(i) of” substitute “paragraph 4(2)(b)(i) of Schedule 4ZA to”.

(4) In article 6 (conditions of relief), for “section 43(4B)(b)(ii) of” substitute “paragraph 4(2)(b)(ii) of Schedule 4ZA to”.

(5) In article 10 (amount of E), for “section 44(9) of” substitute “paragraph 10(6) of Schedule 4ZA to”.

Rebecca Evans

Minister for Finance and Local Government, one of
the Welsh Ministers

15 January 2024

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Via email

Reference: KC24001/AC404/caf

Date issued: 1 February 2024

Dear Peredur

Finance Committee Annual Scrutiny of the Wales Audit Office

Further to your report - the [Annual scrutiny of the Wales Audit Office and the Auditor General for Wales](#) - we are writing to set out our responses to the Committee's recommendations, all of which we accept.

Annual Report & Accounts 2022-23

Recommendation 1. The Committee recommends that Audit Wales provides details of how it is evaluating the steps taken to improve performance in relation to employee engagement and employee experience.

We have taken a variety of steps to improve employee engagement and experience, including a monthly communication note from the senior leadership team; a staff newsletter; six-monthly in-person roadshows by the senior leadership team and Board members; and significant investment in a People Manager Development Programme.

Following the results of the 2022 People Survey, the Executive Leadership Team (ELT) committed to increase its visibility and that of the Board. During 2023 two rounds of Leadership Roadshows were completed at each of the AW office sites and a third is planned for Spring 2024 as well as an all-staff event. An evaluation of impact was assessed in September 2023, using the core engagement questions from the People Survey, and improvement was seen.

In addition, in response to staff feedback the ELT now circulates a monthly briefing note to all staff. Considerable work has been undertaken by the Communications team to improve other internal communication arrangements with a full review and refresh of the intranet. This has been received positively with high levels of satisfaction from staff. A large part of the refresh has been to increase visibility of the Board and access to papers. This was a direct request

from staff and supports our ambition to work in an open and transparent manner. As detailed in our response to Recommendation 9, we have invested significantly in the development of people manager skills across the organisation.

The principal way in which we assess the impact of these steps on employee engagement and experience is through our annual Employee Engagement Survey. Until 2022 we used the Civil Service People Survey (CSPS). A shorter, more focused and accessible Employee Engagement Survey was introduced in 2023. It saw its participation rate in 2023 rise to 82% from 70% in the previous year. Using the same questions as in the CSPS, our overall employee engagement index rose to 63% from 60% in 2022.

Recommendation 2. The Committee recommends that Audit Wales provides information on the feedback received from staff on its Cardiff office relocation and how that change was managed.

The relocation of our Cardiff office to Capital Quarter was successful. A staff survey at the end of May was extremely positive regarding the modern, flexible space which supports both business need and staff wellbeing. Staff are regularly using the new office, and occupancy levels indicate that the size and design of the office meets staff needs.

The principal learning from the move was the importance of staff engagement throughout. This was taken forward into the relocation of our office in North Wales, on which feedback has also been extremely positive. The approach will be replicated for any changes to our West Wales office.

Recommendation 3. The Committee recommends that Audit Wales provides details on the outcomes of its staff wellbeing strategy, including when it expects the impact of the strategy to be reflected in the staff survey results.

Our well-being strategy has been in place for 18 months and has recently been reviewed. We have 17 Well-Being champions across Audit Wales who are distributed amongst teams and locations. Initial findings from the review of the strategy show that 75% of those who responded knew who their Well-Being Champion was and their role. We also found that 86% knew about our EAP and how to access it and 88% believed that Audit Wales prioritised their well-being. As detailed in our response to Recommendation 9, positive results in respect of wellbeing are already being seen in responses to our annual Employee Engagement Survey.

Recommendation 4. The Committee recommends that Audit Wales provides details of how it intends to capture stakeholder feedback to ensure meaningful year-on-year comparison. The Committee recommends that Audit Wales provides more information on:

- **how it is reprioritising resources internally to meet its statutory deadlines in the short-term;**
- **what it is doing in the long-term to overcome the strategic risks of missing statutory deadlines that are posed by resourcing and staffing concerns; and**
- **progress in implementing new auditing quality standards and how it is being assessed.**

Prior to 2023, the stakeholder feedback that informs our KPIs was gathered annually through direct engagement between senior Audit Wales staff and those at audited bodies. In 2023, stakeholder research was undertaken, for the first time, by an independent third-party organisation. Unlike the previous approach, this allowed respondents to remain anonymous if they wished, so addressing any concern that some stakeholders might not speak as openly face to face with their auditors. It is our intention to repeat the independently gathered research exercise in 2025. In 2024, we will gather feedback using our previous approach. This will provide us with annual feedback against our KPI questions and directly comparable measures every other year, balanced against cost.

We have re-prioritised resources internally to help us meet statutory deadlines for our accounts audit work in the short term. In some cases, this has meant pushing back deadlines for other audit work. We have also taken action to reduce non-chargeable time where appropriate and to offer staff paid overtime where they have expressed an interest in doing this. Colleagues from both our corporate service and performance audit areas have provided support where possible. We have also carried out work to establish detailed supply and demand data for all of our audit work. The resulting workforce plan will help ensure that we have the right number of people in place and the skills needed to deliver a sustainable public audit service into the medium term. As detailed in our response to Recommendation 6, we have reviewed our trainee schemes, in large part to help address immediate and longer-term resourcing needs.

In terms of our progress in implementing the revised auditing standard 315 for our accounts work, this response should be read in conjunction with our response to Recommendation 20. Following completion of the 2022-23 audits over the next couple of months, we will be undertaking a review of our implementation of the revised standard to establish if there are areas of efficiency in the audit approach going forward. We are also awaiting the outcome of our external quality reviews which will comment on our implementation of the new auditing standard. With regard to our performance audit work, the adoption of INTOSAI standards has been supported by the development of new auditor guidance and associated staff training. Our annual external quality reviews later this year will assess progress with implementation of the new standards. Our [Audit Quality Report 2023, 'Enhancing Trust in Audit'](#), sets out our arrangements and latest initiatives

to respond to the changing audit quality agenda along with information about our quality monitoring results.

Recommendation 5. The Committee recommends that Audit Wales provides details of staff turnover rates and how they compare year-on-year.

This information is available in our Annual Report and Accounts. Rates since 2019-20 are set out below:

- 2019-20 - 9.2%
- 2020-21 - 14.3%
- 2021-22 - 10.1%
- 2022-23 - 10.6%
- 2023-24 to date - 17.7%

These figures include all departures, including those ending fixed-term contracts.

Recommendation 6. The Committee recommends that further information is provided on the review of Audit Wales's trainee scheme and its impact on workforce planning.

The review of our trainee scheme is ongoing; however, we are already implementing some changes to the scheme that have been identified at an early stage. These primarily relate to the scheduling of recruitment activities, professional exam sittings and external secondments. The changes are intended to maximise the number and strength of applicants to the scheme and to provide the best experience for trainees during their contracts. We recently offered permanent roles to many of our final year trainees, prior to their final examinations but conditional on their passing them. This is the first time we have taken this approach, which we hope will mitigate the impact of the aggressive recruitment of newly qualified staff used by other employers.

Further work is ongoing to review our provision of experience to trainees across our financial audit and performance audit work. The aim is to develop cohorts of trainees able to advance their careers within Audit Wales across our range of audit work and build a flexible workforce with the ability to respond swiftly to potential future changes in demand.

Recommendation 7. The Committee recommends that Audit Wales explains why it has returned funds allocated for the National Fraud Initiative to the Welsh Consolidated Fund.

Our Annual Report and Accounts reported an underspend of £102,000 on funding provided for the National Fraud Initiative (NFI) in 2023-24. This was returned to WCF at the end of that year along with other unspent resources. This included £22,000 lower than anticipated charges from the Cabinet Office for our regular NFI work. The other £80,000 was not utilised as we did not receive any interest from

local authorities in taking up additional data matching products in respect of COVID-19 business support funding, and our planned project on GP registration did not proceed as quickly as anticipated. The GP registration project is the focus for our use of the reduced sum of £45k for additional data matching included in our 2023-24 Estimate.

Recommendation 8. The Committee recommends that Audit Wales provides updates on the impact that high levels of staff turnover is having on its ability to meet statutory deadlines for audit work and what it is doing to mitigate these challenges.

The high levels of turnover experienced across Audit Wales have had a significant impact on our ability to meet statutory audit deadlines. During the 2022-23 financial year, turnover of CCAB qualified staff was 23.1% compared to 10.8% in the previous year. In agreement with Welsh Government, for 2022-23 accounts, we are working to slightly later deadlines than was historically the case although we are planning to revert to pre covid timelines over the next couple of years.

Our statutory reporting KPI at the end of December 2023 shows that 92.5% of 2022-23 accounts certified up to that point achieved these revised targets. With a further 18 accounts to be reported upon in the quarter ending 31 March 2024, however, the overall completion rate for the year as a whole is likely to be lower.

Recommendation 9. The Committee recommends that Audit Wales provides updates on:

- **the activities it is undertaking to improve staff wellbeing and how this is reflected in the staff survey;**
- **how it is providing staff with training and continued professional development; and**
- **how its new staff survey compares to the previous approach, which used the Civil Service People Survey.**

Staff wellbeing

- We are providing training to managers on managing well-being with their teams, have introduced well-being check-ins to the sickness absence policy, identified and trained 17 well-being champions who provide regular updates to their teams, communications to staff on well-being events and initiatives, communicating and promoting the Smarter Working policy and preparing for a pilot of compressed hours working. The recent Employee Engagement Survey (Nov 23) found that 89% staff believe that their line manager genuinely cares about their well-being, 87% believe that they are able to arrange time out from work when they need to and 78% believe that they are genuinely supported if they choose to make use of flexible working arrangements.

Training and CPD

- Training and professional development needs are identified through 1-2-1 development discussions with managers as well as mandatory training for all, or groups of Audit Wales staff. Our Audit Development and Guidance team regularly assess and provide training and development on the technical aspects of audit, whilst the HR team support core skills training, manager and leadership development. Over the past year nearly all managers have attended a People Manager Development programme and work is underway, in collaboration with Audit Scotland, to put in place a leadership development programme. Other training is provided through external training providers who support the organisation with the trainee programme and specific training such as coaching, recruitment etc. In addition, the HR team provide bespoke sessions to teams and short 'lunch and learns' on specific topics as well as 1-2-1 specific development and guidance if requested.

Staff survey

- Our new approach to delivering our staff survey incorporates the key employee engagement questions used in the Civil Service People Survey however it is a much more focussed, shorter, sharper and quicker survey to complete. As it is provided on a hosted platform, we have immediate access to the data and can track progress during the running of the survey. This means we can analyse the data more quickly, share the findings immediately the survey is closed and therefore get to action in a much more responsive manner. The platform provides much greater data granularity so that Directors and Heads of Service have their own personalised reports for their teams, enabling much more local and specific actions to be identified and actioned.

Estimate 2024-25

Recommendation 10. The Committee recommends that Audit Wales alters the presentation of future Estimates to make clear the total value of WCF funding and the value of changes to that funding by:

- **detailing both increases and decreases in budget lines separately;**
- **specifying the budget area to which changes relate and reasons for the change; and**
- **making clear the split between the work funded from the WCF and work funded from fees.**

Our Estimate for 2024-25 attempted to respond to previous Committee recommendations on the level of detail required in the document.

We will further review the format of the 2025-26 Estimate, in consultation with the Committee's secretariat, to address these recommendations.

Recommendation 11. The Committee recommends that Audit Wales provides information on the £522,000 for non-cash movements in Exhibit 1 of its supporting information and includes a breakdown of this figure into constituent elements of its Estimate.

The £522,000 reduction in non-cash movements between 2023-24 and 2024-25 is made up as follows:

Depreciation and interest	£4k (Accommodation IFRS16)
Lease rental payments	(£176k) (Accommodation IFRS16)
Movements in working capital	(£350k) (Balance sheet)
Total	(£522k)

Recommendation 12. The Committee recommends that Audit Wales confirms that funding for dilapidations in 2023-24 was a one-off charge and provides further information on the interaction of the year-on-year change in movements in working capital and the overall change in the year-on-year change for total funding to be provided from the WCF, with specific reference to the table “Revenue budget 2024-25” in the appendices to its supporting information.

The £350,000 reduction in the allowance for movements in working capital for 2024-25 is associated with the increase in the allowance for 2023-24 due to the expected utilisation of the provision set aside in prior years for dilapidations on the Cathedral Road office. Whilst this was a ‘one-off’ adjustment specific to those circumstances, there will potentially be future such adjustments in the event that significant provisions need to be utilised. This is as a result of our specific funding regime where cash balances cannot be retained to support provisions and instead have to be returned to WCF at year end.

Recommendation 13. The Committee recommends that Audit Wales includes more information on movements in working capital in future Estimates, including detailing their purpose and to what each movement relates to.

Movements in working capital include year on year changes in the value of debtors, creditors and provisions. It is not possible to estimate these changes at the point that the Estimate is prepared i.e., 17 months in advance of the following year end. In addition to the kind of external contractual obligations typical of any public organisation, Audit Wales routinely receives payments from, and potentially makes reimbursements to, over 850 audited bodies. A significant element of the working capital adjustment will reflect the balance of these debtor/creditor relationships at a single point in time at year-end.

Where significant provisions are due to be released or utilised during the year, such as those in respect of estate dilapidations, it may be possible to estimate this

element but for reasons of commercial sensitivity it may not be advisable to do so. More detailed information on these movements will be included in future Annual Reports and Accounts.

Recommendation 14. The Committee recommends that Audit Wales provides further detail and a breakdown of how specific elements of its capital funding will be spent in 2024-25 and also includes the same level of detail in all future Estimates.

Our capital budget is relatively small (£310,000 in 2024-25). Next year, £110,000 is planned for rolling IT replacement, with most of the remainder earmarked for improvements and maintenance on our physical estate and investment in digital development for our audit and corporate systems. From 2024-25 we have confirmed with the Committee that separate revenue/capital control totals are not applicable for Audit Wales – but we will continue to show the planned breakdown separately in our Estimates.

Recommendation 15. The Committee recommends that further information is provided to explain how cash associated with the rent-free period at its new Cardiff Offices is being utilised in 2024-25, and to provide assurances that there will not be a request for an increase in cash associated with the rent-free period ending.

As set out in the Estimate, we have reduced our cash requirement for 2024-25 to reflect the rent-free period agreed in the lease. There will therefore be an associated increase in cash requirement when this rent-free period comes to an end.

Recommendation 16. The Committee recommends that Audit Wales provides information on the final costs and benefits of the changes to its Travel Allowance, including the total costs of implementing the changes; the costs/savings associated with replacement arrangements; and the costs/savings associated with any other related changes such as the uplift in staff salaries.

As set out in our letter to the Committee in November 2021, we estimated annual savings of between £219,000 and £329,000 dependent on annual mileage undertaken with an upfront cost of £1.48m in 2021-22 being repaid from savings in 2022-23 and 2023-24.

In the event, the upfront cost was £1.086m (as set out in our Annual Report & Accounts for 2021-22), with £378,000 of this cost being met by Audit Wales and the balance of £708,000 from additional WCF resource – repaid via a reduction in our call on WCF of £354,000 in 2022-23 and 2023-24.

For 2024-25 we estimate that actual annual savings will be in the region of £300,000 on a like for like basis. This is due to an increase in the number of

operational staff who would have been entitled to receive travel allowance had it not been removed. A breakdown of savings and costs is set out below.

Savings on Travel Allowance	(£873k)
Increased trainee and apprentice pay	£140k
Pay uplift for other staff	£293k
Increased mileage costs	£146k
Net saving	(£294k)

Recommendation 17. The Committee recommends that Audit Wales continues to seek ways to manage the pay increases it proposes awarding to staff within its existing budget.

Our ongoing financial sustainability review mechanism is designed to ensure that we maximise savings and efficiencies, whilst maintaining audit quality and supporting staff wellbeing.

Recommendation 18. The Committee recommends that Audit Wales provides regular updates on:

- **how the funding associated with staff pay awards will be applied across grades;**
- **the budgetary impact of any decisions taken in relation to staff pay;**
- **consultations taking place with Trade Unions and specialist pay review bodies; and**
- **the intended impact of the pay awards on staff turnover.**

We will update the Committee on our 2024-25 pay arrangements once we have received a claim from the Trade Unions and this has been settled.

Recommendation 19. The Committee recommends that Audit Wales provides an update on the expanded trainee scheme, including its associated costs, and information on the proportion of newly qualified staff remaining in the organisation.

Audit Wales will provide further updates on the expanded scheme as the additional funding comes into place in 2024-25; including the outcome of the 2024 recruitment round which will reflect the additional trainee numbers and the ongoing development of the scheme management arrangements.

Information on the number of trainees who secured permanent employment with us on qualification in each year and the percentage of these staff who remain in employment with us now, are set out in the table below.

Trainee cohort	Number of Trainees in cohort	Number offered a permanent role	% offered a permanent role	Still in post	% of those offered posts still in post
2024	13	12	92%	12	100%
2023	11	8	73%	7	88%
2022	11	8	73%	5	63%
2021	10	9	90%	3	33%

Recommendation 19. The Committee recommends that Audit Wales provides regular updates on how it is evaluating the impact of its fee increases associated with its new auditing standards.

The revised audit approach applied in 22-23 required us to employ more experienced, professionally qualified staff on the audits, resulting in the larger than usual increase in audit fees. Reflecting on the results of the completed NHS and central government 22-23 audits, it is clear that this richer skill mix, and consequently the higher audit fee, was necessary in order to comply with the revised auditing standard. As noted above, we will be undertaking a review of the revised approach following completion of our 2022-23 Local Government work over the next couple of months. Where efficiencies in the audit approach are identified, our legislation requires that we reimburse Audited Bodies for any excess fee charged.

Please do not hesitate to contact us if there is any further clarification we can helpfully provide.

Yours sincerely



KATE CHAMBERLAIN
Chair, Wales Audit Office



ADRIAN CROMPTON
Auditor General for Wales

Mick Antoniw AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

Agenda Item 2.5



Llywodraeth Cymru
Welsh Government

Peredur Owen Griffiths MS
Chair
Finance Committee
Senedd Cymru
Cardiff
CF99 1SN

1 February 2024

Dear Peredur

Thank you for your Report on the Financial implications of the Elections and Elected Bodies (Wales) Bill published on 26 January.

I am grateful to the Committee for its considered Stage 1 scrutiny. I have carefully considered the Committee's report and I am happy to accept all of the recommendations. Please see my response in Annex 1 to the set of recommendations in advance of the Stage 1 General Principles Debate.

Yours sincerely



Mick Antoniw AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Annex 1: Response to Finance Committee's report on the Elections and Elected Bodies (Wales) Bill

<p>Recommendation 1. The Committee recommends that the Welsh Government commits to providing full and robust Regulatory Impact Assessments to accompany any relevant subordinate legislation made under this Bill.</p>
<p>Accepted. We have committed to this within the Regulatory Impact Assessment for the Bill.</p>
<p>Recommendation 2. The Committee recommends that the Minister provides further information on costs relating to changes to the Electoral Management Systems as they become clear; including details on how the cost effectiveness of individual pilots will be assessed.</p>
<p>Accepted. We will provide further information on costs as it becomes clear. A full and robust evaluation of all pilots will take place including the financial implications and the implications for EMS services. This will be a requirement of any pilot proposals presented to the Electoral Management Board and it will be required to report on the financial implications of proposed pilots in its evaluation.</p>
<p>Recommendation 3. The Committee recommends that the Minister updates the Committee on costs associated with work being undertaken to increase the accessibility of elections to disabled voters.</p>
<p>Accepted. We will set out further information in the Regulatory Impact Assessments accompanying the secondary legislation.</p>
<p>Recommendation 4. The Committee recommends that the Minister provides information on the outcomes of the research it intends to commission to promote diversity in persons seeking elected office including how that information is captured and collated; and how the Welsh Government intends using that information to make targeted interventions.</p>
<p>Accepted. We will provide the outcome of the research undertaken when it is completed. This will primarily focus on barriers to participation in local democracy because of socio-economic circumstances. In broader terms we will continue to work with others to identify barriers to participation for individuals within under-represented groups through engagement, lessons learned from existing initiatives and feedback through wider reports and studies. This approach will inform future interventions and initiatives targeted at barriers identified through this work.</p>
<p>Recommendation 5. The Committee believes that the introduction of an affordability assessment, such as the one provided in this Bill, serves as a good practice model for future legislation and we recommend that the Welsh Government continues with this new approach</p>
<p>Accepted. We are grateful for the Committee's comments.</p>

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Evidence Paper

Residential Outdoor Education (Wales) Bill

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1. The General principles of the Residential Outdoor Education (Wales) Bill

1.1. The proposal is for a Bill which places a statutory duty on local authorities to ensure that young people receiving maintained education are provided with the opportunity to experience residential outdoor education, for at least one week at some stage during their school years. In effect it seeks to create a statutory entitlement to at least 1 week of residential outdoor experience (ROE) for all pupils in Wales.

1.2. There is currently no such entitlement in legislation at the moment.

2. The Need for the Legislation

2.1. The Bill is unnecessary as schools already have the legal powers to provide residential outdoor education if they wish. It will add to the financial burdens of schools and local authorities and the Bill is drafted in such a way that its legal effect is unclear and is defective. The Bill makes amendments to the Curriculum and Assessment (Wales) Act 2021 (The 2021 Act) which are not appropriate as they do not fit with the legislative scheme or the principles of that Act. The Bill will have the effect of distracting schools from the vital task of implementing the new curriculum.

2.2. The new curriculum makes ample provision for outdoor experiences and the Explanatory Memorandum for the Bill does not adequately make the case for why pupils must be offered residential outdoor education. The Bill has the effect of making ROE compulsory.

3. Wellbeing of Future Generations (Wales) Act 2015 (WFG Act)

- 3.1. The Welsh government believes that the Bill does not further the aims of the WFG Act in a meaningful way and undermines the overarching aims of the principles of the new curriculum in the 2021 Act.
- 3.2. The seven goals identified in the WFG Act already press the importance of developing a healthier Wales as well as emphasising socio-economic goals, including the importance of developing a skilled and well-educated population in an economy which generates wealth and provides employment opportunities. There is ample opportunity in the new curriculum for schools to include outdoor education and residential outdoor education if that is appropriate. The new curriculum requires schools and other settings to take design their own curriculum within the legislative framework set by the 2021 Act. That will enable those schools and other settings to tailor the curriculum to the needs of its pupils.
- 3.3. The Bill adopts a one size fits all approach by effectively requiring all schools and settings to offer a ROE and for all pupils to undertake a ROE. The effect of the Bill is to make ROE compulsory and so it undermines that flexibility the 2021 Act now provides for schools and other settings.

4. Stakeholder Concerns

Consultation Responses

- 4.1. On 31 January 2023, Sam Rowlands MS launched a consultation on his proposal for the then Outdoor Education (Wales) Bill, inviting people to give their views on the policy objectives of the proposed law. The consultation closed on 17 March 2023.
- 4.2. Whilst respondents were largely in support for the principles behind the proposal, we note that eleven respondents (6%) disagreed with the principles behind the proposal, and that seven of these were head teachers, whilst another was the National Association of Head Teachers (NAHT).
- 4.3. Those in disagreement predominantly gave the following reasons:
 - Concern that funding will be diverted away from schools' core budgets, which they believe should be the priority for any available spending on education.
 - Concerns about staffing implications if this is made statutory – having sufficient numbers of school staff to accompany pupils and the impact and pressure on those that are willing to go.

- Fears that schools will not receive funding for the full costs of the staffing requirements – either paying overtime to those supervising visits or sourcing supply cover during their absence.

4.4. While broadly supportive of the principles behind the proposal, there were many observations of matters respondents believe require further consideration. These include:

- Concerns about the negative staffing implications if this is made a statutory requirement.
- Concerns as to whether this should be a universal free entitlement or whether resources should instead be targeted at those who face specific barriers, such as low-income households.
- Concerns that ROE should be seen not just a one-off but something that is consolidated with lead-up and follow-up activities and learning.
- Concerns over the quality of provision and how appropriate standards will be ensured.
- Concerns over the capacity of the sector and the arrangements in place (including governance and funding) between Welsh Government, local government and providers.
- Concerns over the range and diversity of outdoor education provided, recognising that children and young people have different needs and interests.
- Concerns that the practicalities and importance of meeting some pupils' complex needs, for example those with medical, emotional or learning needs, or disabilities.
- Concerns as to whether outdoor education necessarily needs to be residential and how it can also be embedded within school and community life.
- Questions as to how the proposed Bill can complement the promotion of the Welsh language and culture, including increasing opportunities for children and young people to hear and speak Welsh.

4.5. The Welsh Government's view of the Residential Outdoor Education (Wales) Bill recognises these concerns from those stakeholders closest to the delivery of residential outdoor education in schools in Wales and, in particular, has very serious reasons for choosing not to support it in three key areas:

- Curriculum Delivery
- Legislation
- Finance

4.6. These concerns are set out in detail in the rest of this document.

5. Curriculum Delivery

Overview

- 5.1 The Curriculum for Wales places a strong emphasis on experiential learning. Learning outside is far broader than a single residential experience. It is recognised as being of primary importance to a child's progression as well as their development, and well-being, including their social, emotional, physical, cognitive, cultural and personal development – making experiences richer and more memorable. This is especially true at early years but extends throughout learners' time in school.
- 5.2 Effective use of the learning environment is a key enabler for the curriculum across the whole 3-16 age continuum. When designing their curriculum, practitioners will need to consider how their school environment and locality, both indoors and outdoors, can support learners of all ages to experience authentic learning opportunities.
- 5.3 The statutory guidance for Curriculum for Wales, which all schools must consider, emphasises the importance of the learning environment as a key enabler of the curriculum and states that learners of all ages should experience “authentic learning opportunities both indoors and outdoors”. The pedagogical principles outlined in the guidance also emphasise the importance of learning outdoors.
- 5.4 There is therefore a clear expectation that learners engage outdoors on a regular basis and that this helps learners become healthy, confident individuals. The details of this will differ in relation to the school's physical space, the age, development and needs of learners and the focus of the learning. Schools then ensure that they embed outdoor learning in a variety of ways.
- 5.5 This recognises that what engages learners and best supports them to develop positive behaviours around the outdoors will differ from learner to learner and there is no 'one size fits all' approach.
- 5.6 This also recognises that positive, long-term behaviours need to be built over time and those behaviours are most effectively developed through continuous exposure to the outdoors in the school's context, allowing learners to appreciate the benefits of the outdoors at all ages. This is considerably wider than a single intervention.

Curriculum for Wales Framework

5.7 Outdoor learning is encouraged across the Curriculum for Wales, in particular in Health and Well-being, Science and Technology, and Humanities. This is highlighted in the “Designing your Curriculum” sections for each of the Areas of Learning and Experience (“AoLEs”), which form part of the statutory guidance provided for under Section 3 (1) of the Curriculum and Assessment (Wales) Act 2021 that all schools must consider in developing their curriculum. This includes:

Health and well-being:

- *What opportunities for physical activity will your learners find enjoyable and meaningful? What motivates them to engage in a variety of roles, responsibilities and environments (e.g. indoor, outdoor, in and around water)?*
- *For example, enjoyment of activities outdoors will influence learners’ mental health and emotional well-being.*

Science and Technology:

- *Exploration and experience of the world through inquiry, including fieldwork, investigating environments indoors and outdoors in a safe and systematic way, are crucial for all learners across the 3 to 16 continuum.*
- *This can help build learners’ understanding of different environmental issues and help them to learn to demonstrate care, responsibility, concern and respect for all living things and the environment in which we live.*

Humanities:

- *A range of opportunities to learn outdoors to:*
 - *experience and reflect on the wonder of the natural world*
 - *engage with a variety of landscapes, historical and geographical features, environments and places*
 - *learn in local natural spaces and historical sites*
 - *conduct enquires and fieldwork both independently and collaboratively, in partnership with organisations, groups and individuals when appropriate*
 - *engage with historical, cultural and religious sites, including places that are significant to those whom faith and belief are important*
 - *spending time outdoors supports learners’ social, emotional, spiritual and physical development, as well as their well-being.*
- *Being outdoors also helps them to develop an awareness of the need to show care and respect for living things.*

Pedagogy

- 5.8 Using the outdoors to extend learning beyond classroom boundaries is integral to the pedagogy of a curriculum for funded non-maintained nursery settings, providing first-hand, authentic contexts for learning. This year, for example, we have awarded funding to Mudiad Meithrin to enable eight new affiliate Outdoor Thinking trainers to qualify to deliver the new certificate in Outdoor Practice qualification through the Welsh language. The qualification is specific for the early years, enabling the practitioner to become proactive in enhancing the provision, practice and management of the outdoor environment for well-being, play, learning and development. It is also strong on child development, empowering the practitioner to enact effective early years pedagogies in their work setting.
- 5.9 The [Enabling Learning](#) guidance emphasises that while the 12 pedagogical principles should apply to all curriculum design, particular attention should be paid to key approaches that are essential to foundation learning – such as outdoor learning and play.
- 5.10 The Pedagogy section of the Curriculum for Wales framework and key parts of the Areas of Learning and Experience (AoLE) guidance, outline the importance of outdoor learning across the whole education continuum. While traditionally outdoor learning has been associated with early years education, the Curriculum for Wales encourages its use for all age groups, where it can support learning through providing authentic, inspiring experiences and contexts.

Conclusion

- 5.11 It is for these reasons (curriculum principles, pedagogy and the nature of the AoLEs) that the Curriculum for Wales does not tie outdoor learning to a specific experience at a particular point in a learner's pathway. Any additional requirement of the nature proposed, if it related to the curriculum would likely be going beyond the principles and ethos of the Curriculum, set out in the Curriculum Framework.
- 5.12 We consider the most effective way to develop learners' positive behaviours around and relationship with the outdoors to be a continuous experience of outdoor learning throughout their learning journey. We will, of course, continue to support outdoor learning through our approach to resources and supporting materials and we intend to work with the profession through the National Network, our platform for engaging with the teaching profession on the Curriculum for Wales.

6. Legislation

- 6.1 Currently there is no legal duty to provide pupils at maintained schools in Wales with a ROE in either the “old curriculum” or in the “new curriculum”. Wales is currently phasing out the old curriculum which is primarily contained in Part 7 of the Education Act 2002. At the same time, it is phasing in the new curriculum which is primarily contained in the Curriculum and Assessment (Wales) Act 2021. The last year of the transition will be for year 11 pupils in the 2026-27 school year, at which point all pupils in Wales of compulsory school age will be studying the new curriculum. It is a matter for schools as to whether they chose to provide ROE or not. There is nothing in legislation that prevents or requires it.
- 6.2 If ROE is provided as an extra curricula activity then schools are entitled to charge for the cost of providing ROE. However, if that is provided as part of the compulsory curriculum, whether under the old or new curriculum then no charge may be made for the ROE provided.
- 6.3 In light of that the EM states that: “The proposal was to establish a Bill to place a statutory duty on local authorities to ensure that young people receiving maintained education are provided with the opportunity to experience residential outdoor education, for at least one week, at some stage during their school years”. We have taken that to mean exclusively on local authorities. However, the Bill does not place the obligation to provide the residential outdoor education on local authorities, as stated in the EM, but instead places it directly on the Welsh Ministers. It requires them to provide ROE and also to seemingly fund that as if that ROE were provided by a 3rd party.
- 6.4 Separately, the Bill requires the Welsh Ministers to make it a compulsory part of the new curriculum so that the schools must provide it as part of their designed curriculum offer. Therefore the Bill is not clear what the legislative intent is as to who is to provide the ROE.
- 6.5 The EM further states that “Children and young people will be encouraged but not compelled to participate in residential outdoor education”. Unfortunately, in requiring the Welsh Ministers to make ROE a mandatory part of the curriculum, it does make it compulsory. The Bill does not add up to a sensible set of legislative provisions.
- 6.6 The new curriculum set out in the 2021 Act is a huge change for schools and other settings. They will need time and support to fully implement that in order to achieve the best results for learners. The changes proposed by the Bill, whatever the actual policy intent is, will place additional burdens on them and detract them from that mission.

Duty to provide ROE

- 6.7 As noted above, the Bill does not achieve its stated purpose of establishing a statutory duty *on local authorities* to ensure young people are provided with the opportunity to experience ROE. There are no duties placed directly on local authorities in the Bill. All duties are placed on Welsh Ministers. However, in requiring the Welsh Ministers to make it a *What Matters Statement* schools and other settings will be required to deliver it.
- 6.8 Accordingly, section 64A of the Bill seeks to place a duty on the Welsh Ministers to take all reasonable steps to ensure that ROE is provided to all pupils at a maintained school. However, there are several problems with that approach.
- 6.9 The Welsh Ministers do not *provide* education directly (i.e. deliver education to learners). Instead, their duties are confined to the provision of financial resources or other support in the form of guidance etc. It is not appropriate to place such a duty on the Welsh Ministers.
- 6.10 Such a duty is particularly out of step with the legislative scheme of the 2021 Act, where education delivery duties are placed on the settings themselves (e.g. head teachers, governing bodies, teachers in charge of a PRUs etc).
- 6.11 This duty is also phrased in terms that the Welsh Ministers must take *reasonable steps* to ensure ROE is provided. It is not clear how far that duty would require the Welsh Ministers to go to provide the ROE. The Bill provides reasonable steps includes making it a key concept i.e. a compulsory element in the curriculum and making guidance. As the Welsh Ministers appear to be required to do both of those things it is not clear what else, if anything, the reasonable steps duty would require them to do.
- 6.12 In requiring the Welsh Ministers to make it a key concept, it has the effect of making it a compulsory part of the curriculum. That means schools and other settings would be obliged to ensure ROE is provided. That is inconsistent with the statement in the EM that the purpose of the Bill is to require the local authorities to do this or the provisions in the Bill that actually require the Welsh Ministers do this. The Bill is not clear on who must provide the ROE.
- 6.13 It is also not clear what the outcome for the pupil/parent is to be if the child does not want to go on a ROE. There could be many reasons for a child not wanting to attend. If it is a compulsory part of the curriculum, then there must be some sanction for failing to take part in it. Presumably that would involve disciplinary action being taken for non-attendance at a required school curriculum event in the same way as it would for not attending a normal class session. Whilst the EM states it is to be voluntary that is not the legal effect of the Bill.

- 6.14 It is possible given what is said in the EM that the real intention for section 64A(1) is for it to only require the Welsh Ministers to exercise their existing functions so as to facilitate other bodies to deliver the ROE themselves (i.e. the local authority and/or schools), rather than the Welsh Ministers directly provide the ROE. Section 66 of the 2021 Act already provides that the Welsh Ministers must exercise their functions with a view to facilitating the performance of functions conferred on those under Part 3 and 4 of the 2021 Act. In other words, they should ensure resources in the form of money etc are there to enable the settings to actually deliver the new curriculum. However, if that was the intention of section 64A then it fails to achieve it.
- 6.15 As noted above, section 64A(2) provides that taking reasonable steps includes making ROE a key concept within an AoLE and issuing a code as to how a curriculum is to make provision for ROE. However, ROE conceptually is not a subject and therefore does not sit well as a key concept within the legislative scheme of the 2021 Act. That underscores the point that ROE does not fit in the 2021 Act. Further, making it a compulsory part of the curriculum does not mean the LA must provide it. As noted above the Bill does not have that legal effect.
- 6.16 As this is to be a compulsory part of the curriculum, then presumably Estyn will need to inspect. It is not clear how that will work given it is provided off site by 3rd parties and often private businesses. Estyn has powers to enter, inspect and remove documents in respect of school inspections but has limited powers to do that where part of a pupil's education is provided off school site. It would not extend to children attending ROE below the age of 15. No provision is made in respect of that in the Bill.
- 6.17 As a compulsory part of the curriculum and arranged by the schools, then the school will be in locus parentis. In other words, they will be held to be legally responsible for each pupil as if they were a responsible parent. That is the case when attending the school site but that it is a more onerous task if attending ROE on a 3rd party bodies premises and using its equipment.
- 6.18 Section 64A(1) provides that the duty must be discharged (i.e. a duty to ensure ROE is provided) before pupils cease to be a registered pupil at a school. The Bill only applies to maintained schools in Wales. Therefore, if a pupil ceases to be registered as a pupil at a school in Wales at any time and for any reason - e.g. in order to leave Wales, to attend a PRU, or is provided with EOTAS then the Welsh Ministers will have failed in that duty. That would be an untenable position for the Welsh Ministers as they simply cannot know when each and every pupil will cease to be registered at a school in Wales.
- 6.19 The Bill also has implications for the School Teachers Pay and Conditions Document (the STPCD). It is not clear whether teachers are going to be required to supervise and so attend these overnight residential activities. They are not currently obliged to do that and so it seems to officials there would presumably have to be an amendment to the STPCD.

Guidance

- 6.20 The draft inserts a new section 71A into the 2021 Act. That provides that the Welsh Ministers must issue guidance under section 71 of the 2021 Act. There are several problems with that approach.
- 6.21 The section 71 guidance making power is a power and not a duty i.e. it is discretionary. It is not appropriate to turn the discretionary guidance making power into a mandatory making guidance making power for the purposes of ROE. If mandatory guidance making was wanted, then it should be a free-standing provision and not linked to section 71. The proposed section 71A would introduce an inconsistency in the approach to guidance making powers in the 2021 Act. It is not clear why ROE guidance is treated differently to guidance on other important matters in the new curriculum e.g. RVE, RSE or any of the AoLEs. As it is, the Bill presents a confusing and misleading picture to the reader.
- 6.22 It is also unclear as to who is to be the target audience for the guidance issued under section 71A and 71. Section 71 has wide target audience but most of that audience is not relevant to the functions in section 64A. Section 64A only applies to maintained schools in Wales and so not PRUs, independent schools, funded non-maintained nursery education, forms of EOTAS. Yet, as drafted, the Bill provides that the Welsh Ministers would be able to issue guidance on that wider audience which have no functions in respect of ROE.
- 6.23 The drafting of the guidance provisions implies that guidance can include mandatory requirements. For example, the Bill provides that the guidance must include a number of matters including provision that ROE be provided in Welsh. It also states that the guidance may impose requirements before a person is merited to provide ROE. That is not appropriate as guidance can only contain advice and not requirements.
- 6.24 The guidance making powers also provides that any guidance must provide that ROE is not compulsory. However, the effect of other provisions of the Bill is that is to make it a compulsory part of the curriculum and so the Bill provisions are inconsistent.
- 6.25 In any event it is not advisable to include such restrictions on the Welsh Minister guidance making power. The very nature of guidance making powers is that they are to be used to help those with functions better exercise those functions. In order to do that, the guidance needs to have the scope to evolve over time. It may be that evidence will suggest in the future that the 4-day requirement is not best practice. In that case we would have to amend primary legislation before we could amend the guidance. That is not workable and inappropriate in our view.

7. Finance

- 7.1. The First Minister has been very clear with the Senedd and the public over recent months that the budget situation for public services is under extreme pressure. In response to the UK Chancellor's Autumn Budget Statement, the Finance Minister stated that the Welsh Government's "budget in 2024-25 is now £3 billion lower in than it would have been if it had grown in line with the with the economy since 2010".
- 7.2. The 2024-25 draft budget has been the most difficult budget since devolution with the Welsh Government's budget being worth up to £1.3bn less in real terms than when it was set in 2021. As a result, we have had to re-shape the indicative spending allocations within our budget to provide extra funding and protection for the services which matter most to people and communities across Wales – the NHS and the core local government settlement, which funds schools, social services and social care and other everyday services.
- 7.3. Within the Education and Welsh Language portfolio budget we have re-prioritised funding so we can protect school funding as much as possible. Unfortunately, our overall funding settlement is not sufficient to meet all pressures and allow us to do all the things we want to do. Spending more in a specific area means there is less to spend in other areas. Where hard decisions have been required, we have sought to identify those areas where the relative impacts are lesser than their alternatives and we have sought to take action to mitigate impacts as far as possible.
- 7.4. We recognise that the cost-of-living crisis is putting schools and local authorities under significant pressure, and that there are no easy answers to resolving the issues being faced. During challenging financial times visibility and transparency around funding is even more important. Through the 2024-25 draft budget we are proposing further simplification and streamlining of the funding to local authorities and schools in order to provide more flexibility for schools and local authorities in the use of the funding. The proposal in the Bill to provide very specific and directed funding goes against our principle and approach to provide more flexibility in the use of grant funding.
- 7.5. The Bill places an absolute obligation on the Welsh Government to both provide and fund all outdoor residential education provision, whatever that may be, and whatever the cost. The EM estimates the additional cost to the tax payer would be up to £19.7m a year. Whilst we sympathise with the principles of encouraging ROE, what is being proposed by the Bill is simply not affordable and prioritising funding on ROE will mean less funding in other priority areas in education, such as school budgets.

Cost implications of the Bill

7.6. The EM states that the Bill will establish a statutory obligation for providers of maintained education to be allocated funding to enable them to provide ROE. In other words, it imposes an absolute statutory duty on the Welsh Ministers to fund the entire cost of whatever is provided by way of ROE.

The costings in the EM over a 5-year period are replicated below:

Costs (£)	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Attending outdoor activity centres (Ongoing costs)						
Low range	12,397,720	12,317,360	12,209,800	11,868,800	11,559,000	60,352,680
High range	16,321,040	16,216,240	16,074,080	15,623,920	15,216,720	79,452,000
Transport (Ongoing costs)						
Low range	1,330,759	1,322,353	1,309,809	1,272,148	1,239,749	6,474,818
High range	1,861,574	1,850,044	1,833,195	1,780,829	1,735,735	9,061,377
Teacher cover (Ongoing costs)						
	1,554,335	1,535,813	1,498,348	1,447,457	1,388,414	7,424,366
Total costs						
Low range	15,282,814	15,175,526	15,017,956	14,588,405	14,187,163	74,251,864
High range	19,736,949	19,602,097	19,405,623	18,852,206	18,340,869	95,937,743

7.7. These costings are largely in-line with the estimates previously calculated for the Bill by officials. However, officials believe that the likelihood of these costs reducing year on year over the 5-year period, as shown above, is unlikely given the current rate of inflation.

7.8. In addition, and to be clear, the Bill imposes an absolute obligation on the Welsh Government to fund the provision whatever is provided. There is a significant risk that costs could become unaffordable in the current and future financial climate. In addition there are no indicative budgets post March 2025, therefore committing to forecast costings with no indicative budgets is risky.

Unquantified costs and disbenefits

7.9. These costings however do not cover the staffing implications of the Bill in terms of the likely required changes to the School Teachers Pay and Conditions Document (the STPCD), which has provision around the maximum hours worked in the year and when a teacher can be required to work additional hours. Supervising pupils on a week residential would be outside normal school session times and, at the moment, we presume schools manage this by asking for volunteers from teaching staff. There are also specific limits for those teachers working part-time. If a residential trip was to become compulsory, the STPCD would likely need to be amended to reflect that as that will need to be supported by teachers. The STPCD are given legal effect by an order and the content of the STPCD is negotiated with trade unions.

School financial position

7.10. There are increasing concerns within the education system of a funding crisis in Welsh schools. There are significant pressures on school budgets, and we are hearing that schools are needing to make very difficult decisions because of budgetary pressures.

7.11. The amount of funding set aside for school budgets is for local authorities to determine, the Welsh Government does not fund schools directly. The Welsh Government provides funding to local authorities for pre-16 provision in schools in Wales mainly through the Local Government Revenue Settlement in the form of the Revenue Support Grant (RSG).

7.12. Once the local government settlement has been distributed to local authorities, it is the responsibility of individual authorities to set budgets for their schools which are determined by a local funding formula. The School Funding (Wales) Regulations 2010 require 70% of funding for schools' budgets to be distributed on the basis of pupil numbers. Local authorities have discretion to distribute the remaining 30% on the basis of a range of factors so that they can take account of individual school circumstances.

7.13. Local authorities are required by law to have an established School Forum. The purpose of a School Forum is to help develop informed and confident dialogue between local authorities and their schools on budgetary issues.

7.14. The high level of reserves reported over the past few financial years has come as no surprise, due to many activities being paused during the pandemic. Schools continued to receive their normal core funding plus additional Covid-19 funding whilst having reduced expenditure due to various periods of school closure.

7.15. We knew that this would be a temporary position and although, on the face of it, schools have been in a much healthier position, the high level of reserves is depleting rapidly.

7.16. In the latest statistical release (published in October), school reserves have decreased from £301m in 2022, to £208m as of 31 March 2023; a decrease of £93m which is a 31% fall from the previous year.

7.17. In 2022, there were 44 schools in a deficit position, this number has increased to 117 schools as of March 2023.

7.18. Although school reserves still seem high, it is vital to note that they are decreasing at a significantly rapid rate and we must not forget that there are already many schools in a deficit position.

Conclusion

7.19. The Welsh Government's view is that the Bill will put significant and unnecessary additional pressure on education budgets at national, local authority and school level, at a time when they are arguably already as strained as they have ever previously been. Our view, therefore, is that the Bill is unaffordable at this present time.

Jayne Bryant
Chair of Children, Young People and Education Committee
Senedd Cymru

23 January 2024

Dear Jayne,

Residential Outdoor Education (Wales) Bill

I am writing with regard to the recent written evidence paper that was provided to the Committee by the Minister for Education and Welsh Language.

It is worth noting at the outset that I fully respect the Minister's entitlement to have a view on the Bill, and the purpose of me writing today is not to question the Minister's overall position on the Bill. However, I have read the Minister's paper in detail and there are, I believe, some factual inaccuracies or misrepresentations of what the intention of the Bill is and what it does.

I thought it would therefore be helpful to write to the Committee ahead of the session with the Minister to help clarify some of those issues, and to hopefully help the scrutiny process. I am, of course, attending CYPE Committee myself on 1 February, and would be happy to explore these areas further at that time.

The need for legislation

Consideration of whether the Bill is required to deliver its stated aims is a vital piece of the scrutiny process. Unfortunately, the Minister's assertions on whether there is a need for the Bill seems to miss the core aim of the Bill, which is to make the provision of residential outdoor education a statutory requirement.

The Minister states that ‘The Bill is unnecessary as schools already have the legal powers to provide residential outdoor education if they wish’. However, the Minister also concedes in the paper that ‘It is a matter for schools as to whether they chose to provide residential outdoor education (ROE) or not. There is nothing in legislation that prevents or requires it’.

As clearly set out in the Explanatory Memorandum (EM) that accompanies the Bill, the intention of the Bill is to move ROE away from being an enrichment to the curriculum, which is often viewed as a ‘nice to have’, to being an entitlement of the education offer. The effect of the Bill is to make ROE part of the curriculum and whether primary legislation is needed must focus on this, but this does not seem to be reflected in the Minister’s paper.

Furthermore, during the Minister’s oral evidence session with the Legislation, Justice and Constitution Committee on 22 January, a specific question was asked on whether the legislation was required. The Minister’s response was unclear. At the outset of the meeting he indicated that making ROE itself compulsory could be done using existing regulation making powers, whereas making it compulsory to offer the opportunity would require legislation. At the conclusion of the meeting, when asked if he believed there is a non-statutory means of delivering the objectives of the Member in charge, he stated “not on the compulsory side of things”. There appears to be a contradiction during the course of the Minister’s evidence in Committee and a lack of consistency with what is included in the evidence paper to CYPE Committee.

As this is such a fundamental question, it is vital that there is clarity on the Minister’s position here.

The Minister’s paper also questions the Bill’s approach as to whether pupils will be compelled to attend ROE. I know that there was some discussion of this in the LJC Committee regarding whether the Bill’s purpose is to require that an offer of ROE is made to pupils or to make it a requirement of the Curriculum for Wales. The Bill does both. Pupils will be entitled to ROE and schools must provide it as part of the curriculum. However, the Bill requires that the guidance the Welsh Government issues must provide that it is not compulsory for pupils to attend ROE, for example if they really do not want to do so or it is not in their best interests.

Section 42 of the Curriculum and Assessment (Wales) Act 2021 and the associated regulations also assist in this area. I appreciate that the Minister referred to this as a “blunt instrument” so it may assist the Committee to have further information as to why the Minister makes this assessment of his own regulation making power. I

realise that cumulatively this provides pupils with a right to opt out from that aspect of the Curriculum for Wales and that may have caused some confusion but I believe the legal effect of this is clear.

Placing a statutory duty on local authorities or the Minister?

The Minister's paper, on several occasions, states that the intention of the Bill was to place a statutory duty on **local authorities** to ensure that young people receiving maintained education are provided with the opportunity to experience ROE. The paper states that because the Bill doesn't place any duties on local authorities (and instead places them on Welsh Ministers) it does not meet the purpose as set out in the EM.

I am particularly concerned that in making this assertion, the Minister has clearly based his thinking on the information contained in the original explanatory memorandum tabled at the start of the process (August 2022) and not on the Bill or the detailed Explanatory Memorandum introduced by me on 24 November 2023. At paragraph 6.3 of his paper, the Minister quotes from paragraph 3 of the EM upon introduction, which describes what my proposal was at the time of the 'leave to proceed' debate in October 2022. Upon reading the EM further, however, it would have been apparent that this changed as the Bill was developed, as I explain below.

When I entered the Ballot, my proposal had intended that the duties would be placed on local authorities. However, during the development of the Bill, and in designing the best method to deliver the main policy objectives, it was decided that the Bill should instead place a duty on the Welsh Ministers to **'ensure pupils in maintained schools are provided with residential outdoor education'** rather than on local authorities directly.

This change in how the policy objectives would be delivered is explained in the detailed EM that accompanies the Bill (see para 8 and para 117 as examples of where this is mentioned). In particular, footnote 140 on page 58 specifically explains the change in thinking. Footnote 140 states:

"Whilst not directly resulting from the consultation, a significant change to the proposals consulted is that the Bill places the duty on the Welsh Ministers to ensure pupils in maintained schools are provided with residential outdoor education rather than on local authorities as was originally set out in the consultation document. This was due to the level of detail that will need to be considered for the Bill's implementation."

Another concern is that paragraph 6.9 of the Minister's paper states that it is not appropriate to place a duty on the Welsh Ministers to provide residential outdoor education. Again, I believe this misreads / misrepresents the intention of the Bill, which actually places a duty on Welsh Ministers to **ensure it is provided**, not to provide it themselves. However, in paragraph 6.14 of the Minister's paper, there does seem to be an acknowledgement that the intention is for the Welsh Ministers to use their powers to facilitate other bodies to deliver ROE.

It is disappointing that the Minister does not seem to understand the important change in how the policy objectives are being delivered through the Bill (i.e. the deliberate intention to not place duties directly on local authorities). It is also concerning that the Minister has read the Bill as placing a duty on Welsh Ministers to deliver ROE, which it clearly does not do. To be clear, when the Welsh Ministers carry out their duty under the Bill, ROE would be included on the curriculum so at that point there would be a duty upon schools to provide ROE as part of the curriculum.

Effectiveness of the Bill

The Minister's paper makes a clear statement that the Bill is drafted in such a way that its legal effect is defective, but does not give any clear explanation as to why that is the case. If there are areas of the Bill that the Minister considers to be defective, it would be better for that to be clearly explained, so that those areas can be considered during the scrutiny process.

The paper also states that the amendments the Bill seeks to make to the Curriculum and Assessment (Wales) Act 2021 are not appropriate as they do not fit with the legislative scheme or the principles of that Act. Again, there is no explanation of why that is considered to be the case.

Guidance making powers

The Minister states that he does not consider it appropriate to use the same guidance making power which is used to issue discretionary guidance on the Curriculum for Wales (section 71 of that Act) to put a duty on the Welsh Ministers to issue guidance on Residential Outdoor Education.

In drafting the Bill, this has been considered and my understanding is that there is no legal difficulty with the Bill including a power to issue guidance on some matters (i.e. Welsh Ministers may issue guidance), and a duty to issue guidance on other matters (i.e. Welsh Ministers must issue guidance). This is not an inconsistent approach, it is simply taking a different approach for different things.

As an additional point, paragraph 6.25 of the Minister's paper makes reference to the "4-day requirement" in the context of guidance. A previous draft of the Bill that was published for consultation included reference to the course of ROE being comprised of at least 4 nights and 5 days in guidance. However, the Bill as introduced makes the duration clear on the face of the Bill and does not refer to it as part of the guidance. I am particularly concerned that in making this reference, the Minister has clearly based his thinking on a previous draft of the Bill and not the Bill as introduced.

Finance

The paper from the Minister states that the Bill will add to the financial burden on schools and local authorities. What the paper seems to omit is that one of the key aims of the Bill, as set out in Section 2, is to provide for the Welsh Ministers to pay local authorities an amount sufficient to enable the functions relating to ROE to be carried out. The intention, therefore, is that there should not be any additional financial burden on schools or local authorities.

I fully acknowledge that there may be additional costs to be met from the Welsh Government budget. The Minister has raised this in the Plenary statement following the Bill's introduction on 29 November, in LJC Committee on 22 January, and in the written paper to CYPE Committee. The Minister has continually asserted that any additional costs arising from the Bill, would need to be taken from the existing Education and Welsh Language portfolio budget.

The Bill itself, while requiring Welsh Ministers to pay local authorities a sufficient amount, does not require that to come directly through the Education and Welsh Language portfolio budget. The absolute intention of the Bill is that there should be no cut to existing education budgets, as I fully appreciate the importance of maintaining those budgets to meet the current priorities.

There are other matters raised in the Minister's paper that I do not necessarily agree with, and would be happy to explore those further with the Committee. What I have set out above are, I believe, more crucial to the Committee's scrutiny, and I hope some of the clarification I have provided will help that scrutiny.

Yours sincerely



Sam Rowlands MS

Member of the Welsh Parliament for North Wales

Copied to:

Huw Irranca-Davies, Chair of the Legislation, Justice and Constitution Committee
Peredur Owen Griffiths, Chair of the Finance Committee

Agenda Item 4

By virtue of paragraph(s) vi of Standing Order 17.42

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