

## The Assembly Commission

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Meeting Venue:  
**Presiding Officer's office, 4th floor – Ty  
Hywel**

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Meeting date:  
**8 March 2012**

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Meeting time:  
**11:00**

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



For further information please contact:

**Carys Evans, 029 2089 8598**  
Secretariat

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### Agenda AC(4)2012(2)

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#### 1. Chair's introduction

- Introduction and apologies
- Declarations of interest
- Minutes of the previous meeting (Pages 1 – 5)

#### 2. ICT service improvement update (Pages 6 – 8)

#### 3. Framework for the Assembly Commission annual report and statement of accounts 2011–12 (Pages 9 – 10)

#### 4. Commission budget strategy 2013–16 (Pages 11 – 15)

#### 5. Handling requests for information under the Freedom of Information Act 2000 (Pages 16 – 25)

#### 6. Update by Commissioners on their portfolios (Page 26)

#### 7. Assembly Commission rolling programme (Page 27)

#### 8. Any other business

# Agenda Item 1c

## The Assembly Commission

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Meeting Venue: **Presiding Officer's office, 4th floor – Ty Hywel**

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Meeting date: **Thursday, 2 February 2012**

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Meeting time: **10: – 12:30**

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Cynulliad  
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Cymru

National  
Assembly for  
Wales



**Minutes:** AC(4)2012(1)

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**Committee Members:**

**Rosemary Butler (Chair)**  
**Peter Black**  
**Angela Burns**  
**Sandy Mewies**  
**Rhodri Glyn Thomas**

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**Officials present:**

**Claire Clancy, Chief Executive & Clerk of the Assembly (Official)**  
**Adrian Crompton, Director of Assembly Business (Official)**  
**Keith Bush, Director of Legal Services (Official)**  
**Craig Stephenson, Principal Private Secretary to the Presiding Officer (Official)**  
**Carys Evans, Principal Commission Secretary (Official)**  
**Ross Davies, Equalities Manager (Official)**  
**Ian Summers (Official)**  
**Mike Snook, National Assembly for Wales (Official)**

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**Others in attendance:**

**David Melding, Deputy Presiding Officer**  
**Mair Barnes, Independent Adviser**

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### 1. Introduction

- 1(i) Introduction and apologies
- 1(ii) Declarations of interest

There were no declarations of interest.

1(iii) Minutes of the previous meeting

An update on Item 2 of the minutes was provided. Rhodri Glyn Thomas AM wrote on 13 January 2012 requesting the Presiding Officer's determination of whether the proposed National Assembly for Wales (Official Languages) Bill was within the legislative competence of the Assembly. He also wrote to the Chair of the Communities, Equality and Local Government Committee to give notice of the intended introduction of the Bill. The Bill was introduced on 30 January.

Commissioners thanked officials for their work on the Bill and Scheme and the associated consultation.

All other actions were being progressed by officials.

The minutes were formally agreed.

## **2. Assembly Commission Equality Plan 2012–16**

The Presiding Officer thanked Ross Davies for compiling the submission to Stonewall's Workplace Equality Index and noted that the Assembly's ranking has improved again this year to the 20th gay friendly place to work in the UK, and third in the UK in the Government category. Commissioners expressed their congratulations to all those involved, as well as those involved in the staff network, which also includes Members' support staff, and which won the best Welsh network of the year.

Sandy Mewies AM introduced the paper on the equality plan.

The Equality Act 2012 requires the Commission to publish its equality objectives by April 2012. The Equality Plan 2012–16 has been developed, in consultation with Members, their staff and Assembly staff, as well as external partners and stakeholders, to cover the Commission's legal duties in relation to equality, the Commission's corporate ethos, roles and responsibilities, our priority objectives, consultation methodology and an action plan. While some of the actions represent new areas of work, many of them build on the work that has gone on to date to embed equality in the Assembly's work.

The Plan, once agreed, will be supported and monitored by the Equality Team. An annual report on progress against the Plan will be brought to the Commission each April.

Commissioners commended the rigorous consultation that had been undertaken in developing the plan and noted that it builds on a strong foundation. They discussed

the need to ensure there is sufficient data available to monitor the plan, particularly in relation to the composition of the workforce.

It was agreed that the plan represented a substantial and thorough piece of work. The Equalities team and all those involved in the preparation of the strategy were thanked for their efforts to date.

The Commission formally agreed the Equality Plan 2012–16.

**Action:** Officials to provide an update on the steps being taken to improve the monitoring of the workforce. A full review of the plan will take place in April 2013.

### **3. Reviewing the effectiveness of the Assembly Commission**

The Commission agreed its Governance Principles and Supporting Provisions in June 2011. This included a commitment to evaluate the effectiveness of the Commission as a body, as opposed to the effectiveness of the organisation as a whole. It was agreed that the first formal evaluation would take place after about twelve months.

From 2011–12 onwards, it is a requirement that the Commission’s annual report and accounts contain a Governance Statement, which, amongst other things, will outline the governance arrangements for the organisation as a whole.

The proposed timescale and methodology for the evaluation was discussed and agreed. In particular, the first review will take place in the autumn of 2012. This will be an iterative process, identifying areas for improvement which will be subject to ongoing monitoring. It will be based on evidence gathered from Members and other stakeholders as well on information provided by the Commissioners themselves.

It was agreed that Ian Summers would undertake the evaluation, working with Mair Barnes, and that the approach will be outlined in the Governance Statement in the Accounts for 2011–12.

### **4. Update on Wales Legislation Online**

The Commission considered the future of its financial support for the Wales Legislation Online website, in the light of: the objectives set by the Commission in 2008 and in particular progress towards a “Welsh statute book”; the fact that the website had not been able to secure sufficient long–term funding from other sources to enable substantial progress in that direction to be made, and; the Welsh Government’s alternative plans for improving the accessibility of Welsh law, as announced by the Counsel General on the 5 October 2011.

The Commission noted the praise which the website had attracted from a wider range of bodies over the years and agreed that it had made a useful contribution to public understanding of devolution over the last four years, with Commission support. However, as far as the future was concerned the Commission felt that its contribution to improving public accessibility to Welsh law could best be achieved by developing the information provided through the Assembly's own website. The Commission asked to be kept informed on progress in this direction.

The Commission decided not to continue its financial support for Wales Legislation Online and authorised the Chief Legal Adviser to take the necessary steps to give effect to this decision as soon as was reasonably possible.

## **5. Assembly staff reward strategy**

The Commission existing pay deal for staff ends on 31 March 2012. The new reward strategy, which will be effective from 1 April 2012, was discussed and Commissioners stressed that it would be important to take account of the adverse economic context and other relevant contextual factors. The strategy will guide negotiations with trade unions and will underpin future reward arrangements.

## **6. Management Board report to the Commission**

Claire Clancy introduced the report from the Management Board.

The paper provided an update on key issues within each of the strategic goals, as well as a finance update and details of the Freedom of Information requests received since the last Management Board report. This month, the minutes from the last meeting of the Assembly Commission Audit Committee were also annexed to the report for information.

The following items were discussed:

### **Facilities management contract**

Following a competitive tendering process, the facilities management contract has been awarded to Norland Managed Services Ltd for five years with effect from 1 April 2012, with an option to extend for one additional year. The contract includes maintenance and management of the Assembly estate, estates advice, professional services and window cleaning, and involves expenditure of about £925,000pa.

Commissioners also discussed the approach to procurement more generally, and agreed that this should be an agenda item at a future meeting.

### **Severance scheme**

A limited voluntary exit scheme is being offered to all Assembly staff. The scheme is designed to ensure that the Commission's staffing complement and structure is capable of supporting the delivery of outstanding parliamentary support during the Fourth Assembly by allowing the organisation to respond to shifts in skill requirements, improving workforce efficiency, facilitating organisational change, and delivering long-term savings where possible. Commissioners stressed the importance of ensuring that the decisions provided effective use of public funds and delivered a pay-back for the organisation.

Commissioners also received an update on the way the ongoing ICT problems were being addressed. Claire Clancy explained that she had written to senior management in Atos expressing serious concern about service standards and continuing problems, including the e-mail system failure on 18 January. Atos immediately started a service improvement plan.

Peter Black AM, along with Commission officials, will be meeting individual members to gather evidence on the ICT problems Members are facing to ensure these are addressed as part of the service improvement plan.

## **7. Assembly Commission rolling programme**

The rolling programme was noted.

## **8. Any other business**

Commissioners asked to have a private meeting with the Chief Executive following the Commission meeting.



## Comisiwn y Cynulliad Assembly Commission

### AC(4)2012(2) Paper 2 part 1

**Date:** Thursday 8 March 2012

**Time:** 11:00 –13:00

**Venue:** Presiding Officer's office

**Author name and contact number:** Brian Davidge, ext 8879

## ICT service improvement update

### 1.0 Purpose and summary

1.1 To inform the Commission about the steps being taken to improve ICT services for Members and their staff.

### 2.0 Recommendations

2.1 The Commission is asked to:

- a. note the on-going work on the service improvement programme;
- b. propose any additional work that might improve service delivery.

### 3.0 ICT Service Improvement Programme

3.1 In response to concerns raised by Members about aspects of the ICT service provided, the following immediate action has been taken:-

- The Chief Executive wrote to the Chief Executive of Atos (the ICT contractor) and the Welsh Government's Permanent Secretary (as ICT contract holder) expressing concern about service delivery and priority given to Assembly services. She subsequently met with the Permanent Secretary and the Atos team, and will be meeting the Chief Executive of Atos UK and Ireland with the Presiding Officer and Peter Black AM on 8 March.
- An improvement plan has been agreed with Atos which will provide immediate service enhancements (set out below). Arrangements are in place to monitor achievement against that plan, including weekly reports to the Chief Executive.

- Direct discussions have been arranged between each Assembly Member and Assembly staff to identify any outstanding service issues and likely future needs.

3.2 A service improvement plan has been agreed with Atos. The main points are:

- Atos Helpdesk engineers have been further briefed on the importance of dealing consistently with Members and AMSS to the same high standards.
- An engineer will visit every constituency office and perform a system and layout health check, putting problems right immediately where he can, advising on technical issues and providing or arranging training where a need is identified. To date 14 visits have been undertaken and feedback has been good. Our plan is to arrange such visits to every new office when a Member moves, provide a similar service regularly on an annual basis and extend the facility to home offices. A report will be produced to identify common issues.
- All discussions with Members will be followed up by general support staff and engineers who will implement quick fixes and arrange any necessary training. Additional resource from Atos has been brought in to ensure that Assembly staff can secure fixes on some issues.
- A guide reminding users of the appropriate route to the support available in a simple, understandable format will be produced and supplied to everyone.
- Following problems with constituency office connectivity, all will be moved to the new BT infrastructure as and when their BT Exchanges are made ready – 11 offices have already been moved.
- Where the local BT Exchange is not yet ready and is not on the list for upgrades between now and the summer, we will move the data circuits to a different area of the BT network to provide an improved service. One office has been moved successfully and has seen an improvement.
- We have changed the way the ICT Team and Atos engineers and managers work together, to avoid wasteful duplication and enhance communication.



- Atos are providing increased project management and technical design support to enable us to deliver improvement projects more quickly.
- We are reviewing our security rules and approach to service provision to tailor more effectively to Members' support needs (more details set out below).

Although many of the above service enhancement steps can be accommodated within the cost framework of the Merlin contract, some represent additional services and the Assembly will incur extra costs. We are talking to Atos about the extent to which these costs are shared between us.

3.3 There are also medium to longer term options which will begin a transformation of our ICT services, some extending into new contracting arrangements post 2014 but others for delivery beforehand. There will be contract and cost constraints to be considered. Options include:

- a. Opening up access to a wider choice of kit, sharing thinking to provide improved services for Members;
- b. Establishing a "use your own kit" project and begin to build it into our plans, to allow greater flexibility for Members;
- c. Reviewing our current broadband offering for Members' homes and offices to provide more flexibility and choice in the future;
- d. Reviewing our Blackberry offering to provide more flexibility and choice;
- e. Introducing changes to the service framework provided by Atos, subject to costs.

3.4 Agreeing an improved set of clear performance criteria tailored to the Assembly's needs which enable us to judge quickly and how well the improvement plan is working.



**AC(4)2012(2) Paper 3 part 1**

**Date:** Thursday, 8 March 2012

**Time:** 11:00 - 13:00

**Venue:** Presiding Officer's office

**Author name and contact number:** Iwan Williams, ext 8039

**Framework for the Assembly Commission annual report and statement of accounts 2011-12**

**1.0 Purpose and summary**

1.1 This paper provides an outline of the proposed content of the 2011-12 Annual Report and Statement of Accounts.

**2.0 Recommendations**

2.1 The Commission is asked to agree the proposed outline for the Annual Report and Accounts 2011-12.

2.2 In accordance with the Assembly's sustainability policy, the full report will only be available online, although printed summary versions will be available for distribution at summer events and across the Assembly estate. Careful consideration will be given to distributing them to appropriate public spaces such as public libraries.

**3.0 Discussion**

3.1 The Annual Report and Accounts 2011-12 will be written with the information needs of an external audience in mind, primarily the public, but will also need to address other audiences including Assembly Members, their support staff, the media and other stakeholders.

3.2 It is proposed that the report focuses on the strategic priorities for the Fourth Assembly, with a strong emphasis on building an Assembly for the future. It will cover:

- a. preparations for the election and dissolution;
- b. the election and new membership;
- c. the work of the new Assembly Commission (to include the strategy and introduction of the Official Languages Bill);

## **AC(4)2012(2) Paper 3 part 1**

### **Framework for the Assembly Commission annual report and statement of accounts 2011–12**

- d. new arrangements for Assembly business (to include reference to changes to the Committee structure and Plenary and the mainstreaming of European issues);
- e. the work of the Remuneration Board, internal audit, continuous professional development, and the work of the Standards Commissioner.

3.3 The proposed framework of the 2011–12 annual report is:

- a. Presiding Officer's foreword;
- b. Introduction from the Chief Executive and Clerk of the Assembly;
- c. Building an Assembly for the future;
- d. Royal Opening of the Fourth Assembly – the day in pictures, including videos of key moments, such as the Presiding Officer and the Queen's speech;
- e. Short biographies of the 60 Assembly Members;
- f. Outlining the role and responsibilities of Assembly Members by highlighting their work in the following areas:
  - i. representing constituents' interests;
  - ii. making laws for Wales;
  - iii. holding the Welsh Government to account;
- g. Statement of accounts, including management summary.

3.4 The English version of the Annual Report will be available for review on 14 June 2012, when it will be sent to be translated.

3.5 The Annual Report and Statement of Accounts will be laid before the Assembly and published online on 12 July 2012.



## AC(4)2012(2) Paper 4 part 1

**Date:** Thursday 8 March 2012

**Time:** 11:00–13:00

**Venue:** Presiding Officer's office

**Author name and contact number:** Nicola Callow, ext 8054

## Commission Budget Strategy 2013–16

### 1.0 Purpose and summary

1.1 This paper outlines the suggested approach to the Commission's 2013–14 Budget and provides indicative figures for the remaining years of the Fourth Assembly term (2014–15 and 2015–16).

### 2.0 Recommendations

2.1 That the 2013–14 Budget be prepared in line with the indicative figures set out in the 2012–13 budget document and in accordance with the principles set out in the budget strategy at Annex A.

2.2 For 2013–14 the Assembly Services budget is £35.750 million with £13.700 million for Assembly Members' salaries and costs. This represents an increase of 5.3% compared with the 2012–13 Budget.

2.3 As this budget document will also provide indicative figures to the end of the Fourth Assembly, Commissioners will wish to consider longer term planning assumptions. This will be especially important if Commissioners wish to follow a different budget strategy in any of the remaining years of the Fourth Assembly.

### 3.0 Consultation

3.1 Management Board's regular review of the budget progress will enable each Assembly service to feed into the budget process. In addition, the Chief Executive holds regular updates with Commission staff and this together with email and regular intranet updates will keep Assembly staff informed of progress.

3.2 Regular updates from the Remuneration Board will be provided to ensure that the Commission keeps abreast of financial implications arising from Determination amendments.

3.3 Commissioners will wish to consider any plans for consultation with Assembly Members and their staff. The 2013–14 Budget process provides for one-to-one meetings with each Commissioner to support this process. Presentations for party groups can be provided as needed.

#### **4.0 Discussion**

4.1 This budget, the third year of the Fourth Assembly, is expected to continue the trend in growth and investment started in 2012–13. This follows the recommendation by the Finance Committee...”to reconsider its [the Commission’s] budgetary proposals, on the basis of enabling the increase it is seeking to be introduced on a phased basis, over 2–3 years”.<sup>1</sup>

4.2 Delivering within the 2013–14 £35.750m indicative budget for Assembly Services means that any change to the operating spend (salaries and running costs) will need to be balanced with the amount available for investment initiatives and projects. This will also apply to the 2014–15 and 2015–16 budgets. The anticipated budget for the investment programme is in the order of £2.2m per annum.

4.3 Decisions concerning the pay and other costs of Assembly Members continue to be the responsibility of the Remuneration Board. Any budgetary implications of Board decisions will be reported to the Commission.

#### **5.0 Timetable/Next Steps**

5.1 The 10 May and 28 June Commission meetings will provide further opportunities for Commissioners to evaluate the budget progress. The budget document will need to be finalised at the Commission’s 12 July meeting. Commissioners will be offered personal budget updates with emphasis on their portfolio areas to be held in May and September.

5.2 The timetable has been accelerated to ensure that Commissioners’ input and agreement is obtained well in advance of the 27 September meeting, where the Commission’s formal approval to lay the draft 2013–14 budget will be sought. The last day to lay the budget document is 28 September 2012. A detailed timetable can be found in Annex B.

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<sup>1</sup> National Assembly for Wales, Report on Scrutiny of the Assembly Commission Draft Budget 2012–13, Finance Committee (Fourth Assembly), 20 October 2011, Para 58.



## Commission Budget Strategy – Annex A

### Assembly Services Budget

#### 1.0 Assumptions

- 1.1 Table 1 provides a high level analysis of the key budget expenditure headings. It shows the year on year increase in funding for the Commission. The figures in Table 1 are based on the following assumptions.
- 1.2 The Commission will not exceed the indicative budget figure of £35.750m for 2013–14. Primarily this will mean the balance of funds, once all salaries and running costs (depreciation, fixed and discretionary costs) are allocated will form the Assembly Service projects and future investments budget.
- a. This will require prioritising the investment programme and ensuring there is sufficient flexibility in the timing of projects to manage with the resources available.
  - b. One key issue concerns the cost implications of any change to the ICT service provider and the developing ICT strategy. Work is in hand, and will take some time, to develop a costed strategy and business case. This will feed into budget considerations at the appropriate time.
- 1.3 In calculating the 2013–14 salary expenditure there is no specific provision for any general pay award. The budget does include incremental salary adjustments for 2013–14 (and subsequent years) at an annual cost of 1.5%.
- 1.4 The Chancellor's Autumn 2011 statement<sup>1</sup> sets out the expectation that public sector pay awards will average one per cent increase for each of the two years following the pay freeze. As no budget provision for a pay award was made in 2012–13 and 2013–14:
- a. 1% has been added in 2014–15 and 2015–16 for a general pay award. This is just an estimate, it does not represent an agreed settlement.
  - b. Both years also include the incremental salary adjustments.

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<sup>1</sup> *Autumn Statement 2011*, HM Treasury, November 2011.

## AC(4)2012(2) Paper 4 part 2

- 1.5 In calculating the fixed and discretionary costs for 2014–15 and 2015–16, the key assumptions are as follows:
- a. In 2014–15 it has been assumed that only fixed costs will be adjusted by inflation. This assumes that any other increases in discretionary costs will be managed by the services from their existing budget. This mimics the approach adopted in 2012–13 and 2013–14.
  - b. In 2015–16 the 2.5% inflation adjustment has been applied to all costs.
- 1.6 Depreciation has been estimated on the basis of existing assets plus a minimum £1.5m capital expenditure per year with an average life of 4 years. (A variation of £400k in any one year incurs £100k depreciation.)

## 2.0 Potential risks

- 2.1 There are a number of known unknowns to be aware of in planning for future budgets. Whilst this is part of the reason for holding a separate contingency fund, there are a few issues that could have a significant impact on the Commission's budget if they materialise.
- 2.2 One such issue is an expected accounting standard change that will see leased assets (such as Tŷ Hywel) reflected in the accounts as an asset with an associated depreciation charge to the budget. The earliest we expect this change to be implemented is the 2013–14 financial year. In the past, such accounting changes have been accompanied by an agreed H M Treasury budget amendment to ensure organisations neither benefit nor are penalised.
- 2.3 No change has been included in the Commission's costs of employing staff. The 2012–13 National Insurance and Pension rates are assumed to apply through 2013–14 – 2015–16.
- 2.4 The Commission continues to link its budget to the Welsh block figures using 0.3%. Changes to future Treasury settlements such as those from pension reform or budget ring fencing can have a material impact on future Welsh block figures and therefore the Commission's funding.



**Assembly Members' Budget**

**3.0 Assumptions**

3.1 The figures in Table 1 are based on the July 2011 Determination and the Remuneration Board discussions on amendments to the Determination for 2012–13 financial year. The increase shown for Support Staff costs reflects incremental salary adjustments only. For the 2013–14 Determination, the Remuneration Board will be reviewing Support Staff pay. There could also be amendments to the allowances. The financial impact of these outcomes will be assessed and presented for Commissioners' review at the May or June meetings.

**4.0 Potential risks**

4.1 Any risk that Remuneration Board decisions exceed the indicative budget is mitigated through holding a contingency. The contingency level will need to reflect any potential outcome of the Remuneration Board's deliberations. There is also the option of seeking a supplementary budget in a financial year.

<b>Table 1 Assembly Commission Budget summary</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014- 15</b>	<b>2015-16</b>
	<b>£000s</b>	<b>£000s</b>	<b>£000s</b>	<b>£000s</b>
	Draft Allocation	<i>Indicative</i>	Indicative	Indicative
<i>Assembly Services:</i>				
Salaries	15,565	16,100	16,300	16,700
Fixed and Discretionary Costs	12,990	13,250	13,400	13,750
Efficiency target	(470)	(250)	(250)	(250)
Contingency	500	500	500	500
Depreciation	3,900	4,000	4,400	4,500
Investment Programme	992	2,150	2,350	2,350
Sub- Total	<b>33,477</b>	<b>35,750</b>	<b>36,700</b>	<b>37,550</b>
<u>Change from previous year</u>	<u>5.7%</u>	<u>6.8%</u>	<u>2.7%</u>	<u>2.3%</u>
<i>Remuneration Board:</i>				
Assembly Members - salary & Office costs	6,900	6,900	6,900	7,100
Support Staff	6,600	6,800	7,000	7,200
Sub- Total	<b>13,500</b>	<b>13,700</b>	<b>13,900</b>	<b>14,300</b>
Total Funding required	<b>46,977</b>	<b>49,450</b>	<b>50,600</b>	<b>51,850</b>
Funding per 2012-13 approved budget	<b>46,977</b>	<b>49,450</b>	<b>50,598</b>	<b>51,863</b>
Change from previous year	5.1%	5.3%	2.3%	2.5%

## 2013-14 Budget Preparation - Summary Timetable

## Annex B

Description	Due Date
<b>Recess 13 February 2012 - 17 February 2012</b>	
Meetings with Budget Managers & Investment Team	06 -27-Feb-2012
Receipt of Service baseline costs and details of additional resources	27-Feb-2012
Compile 2013-14 Budget - numbers	02-Mar-2012
Commission meeting - approve 2013-14 Budget Strategy	08-Mar-2012
Key budget issues - Financial Summary to Management Board	14-Mar-2012
Revise draft Budget Paper to reflect Management Board decisions	28-Mar-2012
<b>Recess 2 April 2012 - 20 April 2012</b>	
Management Board meeting - budget discussion	23-Apr-2012
Draft Budget Paper cleared for distribution to Commission	30-Apr-2012
Arrange one to one meetings with Commissioners	1-9 May 2012
Commission meeting - budget discussion	10-May-2012
Draft Budget Proposals in line with Commissioners' decisions	31-May-2012
<b>Recess 4 June 2012 - 8 June 2012</b>	
Commission meeting	28-Jun-2012
Review Draft Budget if required in light of Commissioners' decisions	05-Jul-2012
Commission meeting to finalise 2013-14 Budget document	12-Jul-2012
<b>Recess 23 July 2012 - 21 September 2012</b>	
Amend Draft Budget if required	27-Jul-2012
Pause and Review to take account of any developments over summer months	07-Sep-2012
Circulate Draft Budget Document to Commissioners prior to meeting for comments	14-Sep-2012
Arrange one to one meetings with Commissioners	14 - 26-Sep-2012
Commission meeting	27-Sep-2012
Lay Draft Budget Proposals - (SO 20.13 no later than 1 Oct)	28-Sep-2012



**AC(4)2012(2) Paper 5 part 1**

**Date:** Thursday 8 March 2012

**Time:** 11:00 – 13:00

**Venue:** Presiding Officer's office

**Author name and contact number:** Steve O'Donoghue, ext 8746

**Handling requests for information under the Freedom of Information Act 2000**

**1.0 Purpose and summary of issues**

1.1 This paper seeks the views of the Assembly Commission on possible improvements to the way we handle requests for information under the Freedom of Information Act 2000. The intention is to find ways to streamline our approach in order to make better use of Assembly resources.

**2.0 Recommendations**

2.1 That:

- we review the extent of the information that we publish proactively, with a view to ensuring that the kind of information likely to be the subject of requests is already in, or will in due course be put into, the public domain;
- we make full use of the relevant exemptions (“information accessible to applicant by other means” and “information intended for future publication”) which proactive publication will make available, when responding to relevant requests;
- where the estimated cost of compliance with a request exceeds the “appropriate limit”:
  - a) we will maintain our current policy, in accordance with Principle 8 of the Assembly's Code of Practice on Public Access to Information, of not imposing the charge authorised by the Act as a condition of providing the information requested; but
  - b) in exceptional cases (for example where the amount of work involved in compliance would be disruptive) the Chief Executive will have discretion to apply the exemption (section 12 of the Act) from complying with the request.

### **3.0 Background**

3.1 The Freedom of Information Act 2000 requires the Assembly Commission (on behalf of the Assembly) to provide certain information on request (Annex A). It allows us 20 working days in which to respond to such requests, although there is no sanction (other than to appeal to the Information Commissioner) where this limit is exceeded and extensions are almost always agreed by applicants where the information requested is complex. While many responses are relatively straightforward, some can take a considerable amount of time and effort to assemble and in exceptional cases can disrupt the on-going work of staff. Compliance with the Act is a legal requirement, but our approach is also buttressed by the Assembly's Code of Conduct on Public Access to Information and, in line with the principles of the Act and the Code, our general approach has always been to be as helpful as possible to enquirers. Annex B provides further detail on the way we handle these requests.

### **4.0 Our general approach**

4.1 Where necessary we enter into a dialogue with enquirers in order to make sure that we understand the information they are seeking and to present it in the format most suitable for their needs. This approach is one which we are required to take by section 16 of the Act (duty to provide advice and assistance) as well as being in line with the Assembly's own Code. It has stood the Assembly in good stead. Our Fol team usually establishes an excellent rapport with enquirers and generates confidence on their part that we are dealing with their requests honestly and to the best of our ability. The accuracy and completeness of our responses, and the proportionality with which we apply exemptions, are rarely challenged and there has only ever been one appeal to the Information Commissioner against the application by us of an exemption, and that appeal was dismissed.

### **5.0 The administrative burden**

5.1 Whilst most requests can be answered relatively easily, there is a small number which generate a disproportionate amount of work. Recent examples have been a request, received in 2010, relating to purchases using the Commission's credit card. This required a significant number of hours work (approximately 60 hours) for the Finance area. Another was a request relating to the Commission's decision, in 2009, to change the arrangements for translating the record of proceedings.

5.2 Although our dedicated FoI unit collates information needed to respond to requests, the burden of retrieving information falls on staff generally and is in addition to their continuing duties. In some cases it can therefore be disruptive of the on-going work of the Assembly and the Commission. It is legitimate, therefore, to examine ways of mitigating the burden, whilst still respecting our statutory duty and clear commitment to openness and of engagement with the people of Wales.

## **6.0 Increased use of published information in responding to requests**

6.1 One way both to reduce the burden on Assembly staff, and, in some cases, to improve our response times, would be by reviewing and expanding the amount of information we publish proactively. Increasing the amount of routinely published information would further demonstrate our commitment to openness and transparency.

6.2 In selecting the further information to be published we would draw on our experience of the kind of information which would otherwise be the subject of FoI requests. For example some requests have necessitated the collation and analysis of staff salary bands, which we do not routinely publish. Similarly, detailed information on Commission spending is not routinely published but attracts a steady stream of requests.

6.3 We can also learn from approaches taken by local authorities and other public bodies, who, in some regards, already routinely publish classes of information which we do not, such as staff salary bands. Salaries and special responsibility payments received by Members are all already publicly available but could be presented in a more accessible way. Many requests ask for breakdowns of particular heads of Commission spending and the detail which we provide when publishing our annual accounts could reduce this kind of request.

6.4 Pro-active publishing of information enables enquirers to be referred to that information instead of requiring a specific response. The Act also allows information to be with-held if there is an intention to publish it, for example on a quarterly or annual basis. As well as reducing the burden of responding to individual requests, proactive publishing also results in more balanced media reporting. Major one-off releases of information enable the media to “cherry-pick” particular unrepresentative pieces of information whereas, as has been demonstrated in the case of Members’ allowances monthly routine

publication means that the level of media interest has reduced significantly and is only able to focus on genuinely significant items.

## **7.0 Exemptions relating to the cost of providing information**

- 7.1 The Freedom of Information Act 2000 contains special rules in relation to requests where the *estimated* cost of complying with the request exceeds the “appropriate limit” which is currently £600 , calculated at £25 per hour per person (regardless of actual rate of pay), and which is therefore equivalent to a total of 24 hours’ work.
- 7.2 If the estimated total number of hours involved in complying with a request exceeds the limit, we are not required by the Act to provide the information requested. Examples of requests involving considerable effort are described in paragraph 5.1above. It should not be assumed, however, that these would necessarily have exceeded the “appropriate limit” since the time which we are allowed to count when doing the calculation is limited to retrieving the information and does not include considering the application of exemptions, redacting personal information etc. which are often the most time consuming part of the response. We have reviewed all 71 requests received in 2011 and assess that none of them would have exceeded the exemption limit.
- 7.3 Although the number of requests to which this limit would apply is therefore likely to be very small, the amount of work involved in responding to them would be substantial and relying on this exemption would be likely therefore lead to a significant reduction in the workload involved in responding to requests.
- 7.3 Refusing to respond is not the only option. Where the estimated cost of responding exceeds the “appropriate limit” the Act permits a body, instead of refusing to comply, to require the person who is making the request to pay, in advance, a fee for disclosure equal to that estimated cost. The Assembly’s Code of Practice only permits charging for information in exceptional circumstances and this avoids any suggestion that access to information depends on the means of the enquirer, whilst preserving, as a long stop, the power to charge where the system is being abused for commercial purposes.
- 7.4 The use of these provisions is not without its difficulties. Our calculations of estimated costs would have to be capable of withstanding scrutiny by the Information Commissioner or even the courts.

There are also risks to the Assembly's reputation for openness associated with applying these provisions, particularly in view of the fact that we have not done so in the past.

- 7.5 Neither are the provisions in question totally water-tight. The maker of a request may, for example, succeed in sub-dividing it into separate requests, each of which falls under the "appropriate limit". Whilst separate requests can be "aggregated" when estimating the cost of responding, this can only be done where they request "the same or similar" information and this will not cover all cases of sub-division.
- 7.6 On balance, we recommend that we do not make a major change to current practice and that we should not (other than in very exceptional circumstances) impose charges for responding to FOI requests. We should, however, be prepared, in appropriate circumstances, to exercise the discretion to refuse to respond altogether. This would be consistent with the Assembly's Code of Practice on Public Access to Information. For example, a refusal to allow substantial resources to be diverted to responding to a request where there is no genuine public interest in the information and where the consequence would be to disrupt the on-going work of the Assembly, would satisfy the "exceptional circumstances" requirement of the Code.

## **8.0 Promotion of awareness of the Freedom of Information Act**

- 8.1 One of the factors in ensuring a rapid turnaround of requests for information is ensuring that all those involved in this work are aware of the requirements of the Freedom of Information Act. Our experience shows that this is not always the case and we therefore propose running a programme to improve awareness amongst staff. This might also encompass Members and their staff, since one source of delay is the need to consult Members when requests to the Commission relate to individual Members. Greater understanding of the requirement of the Act to ensure their inputs are focused as efficiently as possible and that these requests are given appropriate priority would therefore help. We have already started to offer such support to Assembly staff and Members (for example with sessions at party group meetings that included a presentation by Anne Jones (Assistant Information Commissioner)).

## **10.1 Conclusions**



- 10.1 The Assembly Commission is invited to consider the issues discussed and agree that we should make every effort to increase the amount of information we publish routinely and also to increase our use of references to published information in our responses to requests.
- 10.2 The Commission is also invited to indicate its views on the options relating to the application of the “appropriate limit” provisions in the Act, namely that, in appropriate circumstances only, we should exercise our right not to provide the information requested, where the estimated cost of doing so exceeds the “appropriate limit” *and* there are circumstances (such as the disruptive effect on the other duties of staff) which justify doing so. We should, on the other hand, maintain our policy of not charging for information (other than in very exceptional cases).

## **Annex 1 – Freedom of Information Act responsibilities of the Assembly and Assembly Members**

### **The Assembly's Obligations**

1. The National Assembly for Wales, as a public authority, has a legal obligation to respond to requests for information made under the Freedom of Information Act (2000). This Act gives the public a general right of access to recorded information held by the Assembly. The Assembly also has a separate duty, as a data controller, to respond to subject access requests made under the Data Protection Act 1998.
2. Compliance with the Acts is regulated by the Information Commissioner, a UK independent supervisory body reporting directly to Parliament. Anne Jones is Assistant Information Commissioner for Wales and heads the Wales Office of the Information Commissioner. Her role is to advise, assist, oversee and enforce the requirements of the:
  - Data Protection Act 1998
  - Privacy and Electronic Communications Regulations 2003 (& 2011)
  - Freedom of Information Act 2005; and the
  - Environmental Information Regulations 2004
3. We have a strong working relationship with Anne and she has made a number of presentations to both staff and AMs to help raise awareness of the Assembly's obligations under the different legislation and on the role of the Information Commissioner. Her office also provides advice and guidance to Assembly Members on an individual basis.
4. The requirements of the Data Protection Act 1998 can have a bearing on freedom of information requests where they involve third party personal data.
5. Under the Freedom of Information Act the National Assembly for Wales is expected to:
  - Proactively disclose information where appropriate;
  - Consider relevant exemptions and final decisions on whether to disclose;
  - Consult with third parties when necessary; and

- Comply with practicalities such as time constraints (we generally have 20 working days to respond to a request)

### **Obligations for Assembly Members.**

6. Freedom of Information Act: Assembly Members are not themselves public authorities and cannot be required to disclose information under the Freedom of Information Act. However, the Act could require the Assembly Commission to disclose information it holds about an Assembly Member and this includes information passed to the Assembly Commission by an AM.
7. Data Protection Act: Assembly Members are ‘Data Controllers’ under the Data Protection Act and they may come into contact with personal data in a number of guises: as employers, through constituency work and Assembly business. Their obligations include:
  - Obtaining consent to use personal data in a different context to how it was acquired;
  - Keeping information secure;
  - Dealing with subject access requests;
  - Ensuring constituents know how their data is being used.

## Annex B – Procedures for dealing with Requests under the Freedom of Information Act

1. The Assembly receives around 50 requests a year under the Freedom of Information Act and these can cover almost any aspect of its activities. Table 1 gives the number received over the last five years. It shows two ‘step’ increases: one when the MP’s expenses disclosures were made; the other in the lead up to the 2011 election.

Table 1

Year	Total number of requests	Number of requests relating to Members
2007	24	07
2008	45	25
2009	52	12
2010	52	15
2011	71	14

2. The majority of requests concerned:
  - Assembly Members expenses and allowances;
  - Assembly staffing and;
  - Assembly expenditure

### Managing the process

3. The Assembly’s Code of Practice on Access to Information sets out the Assembly’s commitment to openness and the principles it will follow in responding to requests They are:
  - Maximising openness (but subject to legitimate constraints such as the various exemptions in the 2000 Act);
  - Using clear language;
  - Maintaining a Publication Scheme;
  - Publishing on the internet;
  - Respecting privacy, confidentiality and the law;
  - Prompt and comprehensive responses;
  - Right of complaint, and
  - Providing information free of charge (except in exceptional circumstances).
4. The time and resources required to respond to each request vary considerably. In some cases we can simply refer applicants to information which is already in the public domain; in others we have to

having to undertake a significant exercise to gather information. Alongside these the process also involves:

- liaising with colleagues in the Legal Service about issues such as data protection and possible exemptions;
- the redaction (where required) of documents so as to remove information by which individuals can be identified and other data protection matters;
- consulting Members and staff in respect of information about them that could be released.
- prior clearance of all responses by the Chief Legal Advisor and Chief Executive; and subsequent publication on the Disclosure Log on the Assembly's website.

# Agenda Item 6

## Comisiwn y Cynulliad

### Assembly Commission

Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



#### AC(4)2012(2) Paper 6 part 1

**Date:** Thursday 8 March 2012

**Time:** 11:00 -13:00

**Venue:** Presiding Officer's office

**Author name and contact number:** Carys Evans, ext 8598

## Assembly Commission portfolios

### 1.0 Purpose and summary

1.1 This paper invites Assembly Commissioners to provide a verbal update on their portfolios.

Portfolio	Commissioner
Presiding Officer and Commission Chair, with responsibility for Legal Services.	Rosemary Butler AM
Budget, governance, including Audit Committee membership, and links with the Remuneration Board. Improvement of services to Members, employment support and professional development for Members and their staff.	Angela Burns AM
ICT, broadcasting and e-democracy, the Assembly estate, facilities and sustainability. The Commission as the employer of Assembly staff.	Peter Black AM
Education services, front of house, catering and security. The Commission's statutory equality functions and Freedom of Information.	Sandy Mewies AM
Citizen engagement and communications, national and international outreach. The Commission's Welsh language functions and policy.	Rhodri Glyn Thomas AM

Although the Deputy Presiding Officer, David Melding, is not formally a member of the Commission, it was agreed that he would support the Commission by focusing on the Pierhead as a centre for Assembly development and debate, and links with the Wales Governance Centre and others relevant to this role.



## Comisiwn y Cynulliad Assembly Commission

AC(4)2012(2) Paper 7 part 1

**Date:** Thursday 8 March 2012

**Time:** 11:00 –13:00

**Venue:** Presiding Officer's office

**Author name and contact number:** Carys Evans, ext 8598

### Assembly Commission rolling programme

Meeting date	Agenda item	Portfolio holder/lead official
<b>10 May 12</b>	Draft budget strategy 2013-14	Angela Burns/Steve O'Donoghue
	Procurement	Angela Burns/Steve O'Donoghue
	Assembly staff remuneration (tbc)	Peter Black/Steve O'Donoghue
	Management Board report to the Commission	Claire Clancy
	Rolling programme	Secretariat
<b>28 Jun 12</b>	Sign off annual report and accounts 2011-12	Presiding Officer/Claire Clancy
	Draft budget 2013-14	Angela Burns/Steve O'Donoghue
	ICT strategy	Peter Black/Brian Davidge
	Portfolio holder updates	Portfolio holders
	Rolling programme	Secretariat
<b>12 Jul 12</b>	Draft budget 2013-14	Angela Burns/Steve O'Donoghue
<b>27 Sep 12</b>	Draft budget 2013-14	Angela Burns/Steve O'Donoghue