



Peredur Owen Griffiths MS
Chair
Finance Committee
Senedd Cymru

6 April 2022

Dear Peredur

Draft Public Audit (Amendment) (Wales) Bill

Thank you for your letter dated 16 March 2022 in which you ask me to set out the Government's position on each of the draft Bill proposals and to inform you whether the Government would support the Committee introducing the Bill. I have addressed each proposal below but would of course be happy to meet to again discuss any concerns you have regarding this issue.

In summary, I'm afraid I do not share your view that the case for the Bill is strong. The Government opposes the main proposals as a matter of principle and does not consider the remaining – generally minor – issues to be a priority. The Government is very clear, therefore, that it does not support the introduction of a Bill.

The Government's position on the 8 key proposals in the draft Bill are as follows.

Scheme for charging fees etc. This appears to be the most important proposal from Audit Wales' perspective, and having now considered what is being called for in more detail, it is a proposal we strongly oppose.

Contrary to what has been suggested by Audit Wales, we understand the legislative framework for audit in Wales very well. The Auditor General's role, with the support of the WAO, is to undertake the audit and other finance related functions allowed for in statute in respect of public bodies in Wales. As creatures of statute they cannot do anything else. A fee charging scheme is provided for in the legislation but can operate on a cost recovery basis only.

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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.

In other words neither the Auditor General nor the WAO have powers to operate (in any way) essentially as a private entity for the purpose of generating a profit, and they have no powers to operate otherwise than in relation to Wales.

Like all other provisions made in Senedd legislation, section 19 of the Public Audit (Wales) Act, which (among other matters) provides that the WAO may provide professional services to a “public authority”, can only apply “in relation to Wales”. (And the Government is clear in its view that auditing public authorities abroad does not relate to Wales).

The Government opposes any proposal that would allow the Auditor General or the WAO to essentially operate like a commercial operator. The Government considers this to be inappropriate and unnecessary. It is also of the view that in the absence of a clear separation of accounts between public and private activities, there is scope for cross-subsidisation and an unfair competitive advantage in respect of commercial work. In addition the Government opposes any suggestion that the Auditor General or the WAO should be able to provide services to foreign entities, something that could not be provided for in Senedd legislation in any event due to the constraints on its legislative competence. Like all over Welsh public bodies, the Auditor General and the WAO should remain focussed on improving the well-being of the people of Wales.

In so far as the more detailed proposed change to the arrangements for charging Welsh public authorities is concerned, the Government opposes this as it is of the view that it would allow Audit Wales wish to operate to a different standard from the remainder of the public sector in Wales (as laid out in Managing Welsh Public Money or in delivering efficiencies and record keeping). Driving efficiencies should be a goal for all public sector organisations regardless of whether charges are being incurred as should correct record keeping to ensure those paying for services are charged correctly.

Quorum arrangements. The role of the non-executive directors in providing effective oversight of the AGW is fundamental to the system put in place by the 2013 Act (and is a concept that has been adopted in other legislation since). The purpose of the non-executive director quorum requirements is to ensure proper scrutiny and appropriate conduct of meetings – issues that go beyond any vote that may occasionally occur on a decision. The Government would, therefore, be unable to support the proposed quorum arrangements.

Interim reports. Although the requirement to provide interim reports was included in the Public Audit (Wales) Act 2013 for good reason, as no other public sector organisation has a similar requirement to provide interim reports, the Government would not, in principle, oppose this proposed change. However, detailed consideration of the proposals and provisions would be required before the Government could confirm its support.

Laying reports and accounts. The Government considers the change to the laying requirement to be a reasonable request in principle, provided the report and accounts fully comply with the FReM. Detailed consideration of the proposals and provisions would again be required before the Government could confirm its support.

Certification deadlines. The Government would be content with the proposed changes in principle but only if the AGW provides a full explanation to the Senedd of why the four month deadline cannot be met and a proposed timetable. Detailed consideration of the proposals and provisions would be required before the Government could confirm its support.

Appointment of auditors of AW's accounts. It remains unclear as to why the change is needed. Without this clarification the Government would be unable to support the change.

Appointment of non-executive members. Rolling over membership for a second term (only) is common in the public sector. However, there is no clear justification as to why the rules on remuneration need to be amended. Without this the Government could not support the change.

Consultation requirements. Again there is no clear justification for amending the current arrangements. Without further details the Government could not support the proposed change.

To conclude, the Government does not believe the proposed changes to the scheme for charging fees or quorum arrangements are justified or necessary. Furthermore, we would suggest that further clarification on the proposals relating to the appointment of auditors, appointment of non-executives and consultation requirements is needed. The Government would be content with the proposals relating to interim reports, laying reports and accounts and certification deadlines in principle, however, detailed consideration would be required to confirm that the Government could support the provisions as drafted.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans". The signature is written in a cursive style with a large initial 'R'.

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