

Llyr Gruffydd AM  
Chair of Finance Committee  
National Assembly for Wales  
Tŷ Hywel  
Cardiff Bay  
CF99 1NA

27 June 2019

Dear Llyr

### **Public Audit (Wales) Act 2013**

I am writing in response to your letter dated 4 June 2019 and the Finance Committee's consideration of proposals to amend the Public Audit (Wales) Act 2013 ("the **2013 Act**").

Your letter requests that the Commission provides a written submission detailing the following:

- the administrative, compliance and other costs of delivering the functions relating to the oversight of the Wales Audit Office (set out in Standing Order 18.10-18.11),
- the timescales over which such costs have occurred, and
- any reflections or issues identified with the operation of the Act to date (e.g. with regard to the fee regime).

We have compiled a response providing this detail and this is set out in the Annex accompanying this letter; I hope it provides the information you require.

Commission officials with overarching responsibility for delivering the duties placed on the Assembly by the 2013 Act will also be available on 11 July to provide further clarification and evidence to the Committee.



As ever, if there is any further information your Committee would like, please let me know.

Yours sincerely

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

Suzy Davies

cc Assembly Commissioners, Manon Antoniazzi, Nia Morgan



## Annex 1

The administrative, compliance and other costs of delivering the functions relating to the oversight of the Wales Audit Office ("the **WAO**") as set out in Standing Orders 18.10-18.11 are set out below.

These are derived from the statutory requirements placed upon the Commission by the 2013 Act and the Government of Wales Act 2006, the provision for which is absorbed within the Commission's budget.

The specific requirements of Standing Orders 18.10-11 are addressed individually. The estimated cost of each function is noted, along with the frequency/timescale of that cost, the information reflects costs incurred since the introduction of the 2013 Act. A summary of these costs is provided in Annex 2. Where relevant other issues arise in respect of these functions these issues are also noted.

<b>Standing Order 18.10 (i)</b>	<b>Scrutiny of the WAO's annual budget estimate of income and expenditure</b>
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**Commission activity:** Provide support to the Finance Committee, including the preparation of briefing and production of a report, plus ad hoc requirements.

**Cost to the Commission:** £4,600

**Frequency:** Annually

**Other Considerations:** No issues

<b>Standing Order 18.10 (ii)</b>	<b>Scrutiny of any supplementary budget motions (and supporting WAO Explanatory Memorandum) which amend amounts previously authorised by the Assembly in respect of the WAO</b>
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**Commission activity:** Provide support to the Finance Committee

**Cost to the Commission:** £500

**Frequency:** Annually (could be up to twice a year).

**Other Considerations:** No issues



<b>Standing Order 18.10 (iii)</b>	<b>Scrutiny of any WAO expenditure in excess of its approved budget</b>
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**Commission activity:** Provide support to the Finance Committee

**Cost to the Commission:** £Nil

**Frequency:** Not utilised to date

**Other Considerations:** No issues

<b>Standing Order 18.10 (iv)</b>	<b>Oversight by the Finance Committee of the appointment and removal process of the Auditor General for Wales (AGW) and the Chair of the WAO and making recommendations to the Assembly.</b>
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**Commission activity:** Provide support to the Finance Committee and appointment panel, overseeing the recruitment process, sift process, interview process, preparation of contracts etc.

**Cost to the Commission:** £48,400

**Frequency:** Every eight years for the AGW and at least every four years for the Chair of the WAO.

**Other Considerations:**

The Committee has indicated it wishes to use the services of a head hunter for the next recruitment exercise for the AGW. The approximate cost of this will be £30,000, to be funded from the Commission's budget.

The 2013 Act<sup>1</sup> requires the chair of the WAO to be appointed by the Assembly from amongst the non-executive members of the WAO. The Committee may wish to note that there is scope within the 2013 Act for alternative interpretation of the provisions regarding an extension of the appointment of the Chair of the WAO.

<b>Standing Order 18.10 (v)</b>	<b>Appointment of Non-Executive Members of the WAO board</b>
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**Commission activity:** Provide support to the Finance Committee and appointment panel, overseeing the recruitment process, sift process, interview process, preparation of contracts etc.

**Cost to the Commission:** £10,100

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<sup>1</sup> Schedule 1, Paragraph 5(1)



**Frequency:** Approximately every 12 to 18 months

**Other Considerations:**

Issues have been encountered implementing the requirements of the 2013 Act<sup>2</sup> regarding the reappointment of the non-executive members, which necessitates any candidates for reappointment to the Board being required to participate in a full competition with external candidates. There could be merit in considering whether it would be appropriate for the relevant provisions of the 2013 Act to be clarified in respect of current Board members wishing to serve a second consecutive term of office.

**Standing Order 18.10 (vi)**

**Appointment of the Auditors of the accounts of the WAO**

**Commission activity:** Provide support to the Finance Committee, overseeing e.g. the tender process used during the appointment, and negotiating the tender and contractual documentation to be entered into between the Assembly Commission, the WAO and the preferred supplier.

**Cost to the Commission:** £26,600

**Frequency:** Every four years

**Other Considerations:**

The Commission's Legal Services Team has undertaken significant work in relation to the appointment of the auditors of the WAO (on two separate occasions, in 2014 and 2018 respectively). Due to the complex nature of the tripartite arrangements between the Commission, WAO and the supplier of audit services, these projects have required input from Legal Services, together with substantial specialist external legal assurance (funded from the Commission's budget). The 2018 appointment process resulted in the Commission engaging external legal advice to the value of £19,500.

The Commission's Procurement Team has also provided assurance over the process of the last two tenders in relation to the appointment of WAO auditors. On both previous occasions the tender process was run via the UK Government's Crown Commercial services framework. The Commission had sight and input into the specification, but was not involved in the evaluation of the responses received, as on both occasions, only one bid was returned.

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<sup>2</sup> Schedule 1, paragraph 6(2)



If the tender process was run outside a framework process, this could potentially result in a greater number of supplier bids returned, however this would result in a higher staff cost to the Commission.

There could be merit in considering whether the 2013 Act would benefit from revision to simplify the arrangements for appointment of the WAO's auditors,

<b>Standing Order 18.10 (vii)</b>	<b>Determining the remuneration of the AGW, Chair and Non-Executive Members of the WAO</b>
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**Commission activity:** Provide support and advice to the Finance Committee

**Cost to the Commission:** £2,200

**Frequency:** Every 12-18 months for each WAO Member appointment, at least every four years for the Chair appointment, and at least every eight years for each AGW appointment. As these appointments are staggered, in practice this occurs around every 18 months.

**Other Considerations:**

The Commission has encountered issues due to the linking of the AGW pay to an external sourced index which could be changed significantly or removed. There could be merit in considering an alternative method of increasing the pay of a future AGW, such as fixed increases.

The 2013 Act requires the Assembly to consult on proposed remuneration levels for these offices<sup>345</sup> prior to determining those arrangements. The Committee may wish to note the practical issues the Commission has encountered in identifying the appropriate consultee in respect of WAO Member remuneration (referred to below), and, more generally, whether the requirements to consult remain appropriate.

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<sup>3</sup> Section 7(2) requires the Assembly to consult the First Minister before setting remuneration arrangements for the AGW.

<sup>4</sup> Para 5(2) of Schedule 1 requires the Assembly to consult the First Minister before setting remuneration for the chair of the WAO.

<sup>5</sup> Para 9(1) of Schedule 1 requires the Assembly to consult "an appropriate person with oversight of public appointments" before setting remuneration (and other terms of appointment) for all non-executive Members of the WAO.



<b>Standing Order 18.10 (viii)</b>	<b>Determining terms of appointment for Members of the WAO</b>
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**Commission activity:** Provide support and advice to the Finance Committee

**Cost to the Commission:** £500

**Frequency:** Periodic review as required

**Other Considerations:**

The 2013 Act<sup>6</sup> permits the Assembly to set terms of appointment for the members of the WAO. Since implementation of the legislation, the Commission has developed standard documentation for the appointment of both the chair and other non-executive members. The terms are subject to periodic review, including external legal assurance where necessary, and recommended to the Committee for approval as part of the appointment process for these offices. The most recent external legal assurance exercise resulted in an invoice to the Commission of £500.

The most recent assurance exercise included updating the standard terms to include an automatic remuneration adjustment mechanism. The mechanism provides for an uplift to existing Board members' annual remuneration should the Committee appoint future Board members at a higher rate.

The 2013 Act also requires the Assembly to consult "an appropriate person with oversight of public appointments" before setting terms of appointment. Commission officials have encountered difficulties in establishing a suitable consultee in order to comply with this statutory requirement. The Committee may therefore wish to consider whether the requirement should be revised, or removed altogether.

<b>Standing Order 18.10 (ix)</b>	<b>Approval of the Code of Practice dealing with the relationship between the Auditor General and the WAO</b>
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**Commission activity:** Provide support and advice to the Finance Committee

**Cost to the Commission:** £700

**Frequency:** Infrequent - the first revision to the Code since implementation of the 2013 Act is due to be considered by the Committee in July 2019.

**Other Considerations:** None noted

<b>Standing Order 18.10 (x)</b>	<b>Approval of the scheme for charging fees by the WAO</b>
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<sup>6</sup> Para 8(1) of Schedule 1.



**Commission activity:** Provide support and advice to the Finance Committee

**Cost to the Commission:** £600

**Frequency:** Annually

**Other Considerations:** None noted

<b>Standing Order 18.10 (xi)</b>	<b>Publication of a list of offices/positions and arrangements regarding the activities of a former AGW</b>
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**Commission activity:** Provide support to the Finance Committee

**Cost to the Commission:** £2,000

**Frequency:** Once, unlikely this will be undertaken regularly

**Other Considerations :**

Section 5(3) of the 2013 Act requires the Assembly to publish a list of restricted offices, positions or arrangements on which a former AGW would need to consult with the Assembly before accepting or entering into (as appropriate) after leaving office. The Committee considered this requirement in 2017 prior to the appointment of the current AGW and resolved not to specify any requirements.

However, section 5(3) provides that the Assembly must publish such a list. Accordingly, the Committee published a document confirming that there are no such restrictions on a former AGW that would require consultation with the Assembly, in order to avoid breaching the requirements of the legislation.

The Committee may therefore wish to consider the merits of making the publication requirement optional, to avoid needing to publish a similar document of limited value in the future.

<b>Standing Order 18.11 (i)</b>	<b>Scrutiny of the Annual Plan jointly laid before the Assembly by the Auditor General and the Chair of the WAO</b>
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**Commission activity:** Provide support and advice to the Finance Committee

**Cost to the Commission:** £600

**Frequency:** Annually

**Other Considerations:** None noted



<b>Standing Order 18.11 (ii)</b>	<b>Advising the WAO's auditors on the examinations to be carried out on the use of resources by the AGW and the WAO</b>
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**Commission activity:** Provide support and advice to the Finance Committee

**Cost to the Commission:** £300

**Frequency:** Once

**Other Considerations:** None noted

<b>Standing Order 18.11 (iii)</b>	<b>Scrutiny of the reports laid before the Assembly by the auditors of the WAO's accounts</b>
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**Commission activity:** Provide support and advice to the Finance Committee

**Cost to the Commission:** £700

**Frequency:** Annually

**Other Considerations:** None noted

<b>Standing Order 18.11 (iv)</b>	<b>Scrutiny of the Annual Report and any interim reports laid before the Assembly by the AGW and Chair of the WAO</b>
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**Commission activity:** Provide support to the Finance Committee

**Cost to the Commission:** £3,600

**Frequency:** Annually

**Other Considerations:** None noted

<b>Standing Order 18.11 (v)</b>	<b>Determining dates for the AGW and Chair of the WAO to jointly lay Interim Reports</b>
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**Commission activity:** Provide support to the Finance Committee

**Cost to the Commission:** £Nil

**Frequency:** Infrequent

**Other Considerations:** None noted

<b>Standing Order 18.11 (vi)</b>	<b>Specifying responsibilities of the Accounting Officer of the WAO</b>
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**Commission activity:** Preparation of a draft accounting officer memorandum for the Committee's approval.

**Cost to the Commission:** £2,200

**Frequency:** Every 8 years, when a new AGW is appointed

**Other Considerations:** None noted



## **Other Reflections or Issues**

- any reflections or issues identified with the operation of the Act to date (e.g. with regard to the fee regime).

## **Fee Regime**

As noted in our letter dated 9 May, the AGW only undertakes financial audit work at the Commission. Therefore, some of the complexities outlined in paragraphs 3.4-3.6 of the Proposals document are not relevant to the Commission as the AGW does not undertake a full range of audit functions at the Commission.

Through concerted efforts from the Commission's finance team in tandem with the WAO engagement team, we have seen efficiencies, a slightly reduced fee and refunds in recent years, therefore we have not encountered the disincentive to improving audit efficiency as outlined in paragraph 3.3 of the Proposals document.

As noted previously, from the Commission's viewpoint, clarity and transparency would be the most important aspects of any future fee charging regime. As a client of the AGW and WAO, the Commission would welcome a regime which ensured that fee estimates could be communicated in a timely manner and that an overview of the calculation and methodology used to arrive at the proposed fee remains transparent and explained by the relevant WAO Engagement Lead.



## Annex 2 Summary of costs

Staff costs relate to estimated relevant staff time including on-costs. Other costs include advertising costs incurred during recruitment exercises and external legal assurance.

	Standing Order requirement	Frequency	Staff Costs	Other Costs	Total
<b>18.1</b>	A responsible Committee must consider/advise on:				
<b>i)</b>	Estimate of income and expenditure	Annually	4,600	-	4,600
<b>ii)</b>	Supplementary budget motions	Annually	500	-	500
<b>iii)</b>	Expenditure in excess of budget		-	-	-
<b>iv)</b>	Appointment of AGW and Chair of WAO	Every 4 or 8 years	29,100	19,300	48,400
<b>v)</b>	Appointment of non-exec Members	Every 18 months	10,100	-	10,100
<b>vi)</b>	Appointment of the auditor of WAO	Every 4 years	7,100	19,500	26,600
<b>vii)</b>	Remuneration of AGW/Chair and Non execs	Every 4 or 8 years	2,200	-	2,200
<b>viii)</b>	Other terms of appointment to WAO	Every 18 months	-	500	500
<b>ix)</b>	Code of Practice	Infrequent	700	-	700
<b>x)</b>	Scheme for charging fees by WAO	Annually	600	-	600
<b>xi)</b>	Employment of former AGW	Infrequent	2,000	-	2,000
<b>18.1</b>	A responsible Committee may consider/advise on:				
<b>i)</b>	Annual Plan	Annually	600	-	600
<b>ii)</b>	Work carried out by auditor of WAO	Infrequent	300	-	300
<b>iii)</b>	Reports laid by auditor of WAO	Annually	700	-	700
<b>iv)</b>	Annual Report and interim reports	Annually	3,600	-	3,600
<b>v)</b>	Dates for laying interim report	Infrequent	-	-	-
<b>vi)</b>	Accounting Officer responsibilities	Every 4 years	2,200	-	2,200

<b>Annually</b>	10,600	-	10,600
<b>Every 18 months</b>	10,100	500	10,600
<b>Every 4 or 8 years</b>	40,600	38,800	79,400
<b>Infrequent</b>	3,000	-	3,000

