

Jonathan Da Costa  
RSM UK Audit LLP  
[By email]

10 October 2019

Dear Jonathan

### **Consideration of proposals to amend the Public Audit (Wales) Act 2013**

You may be aware that the Finance Committee is currently undertaking post-legislative scrutiny and considering the case for amending the Public Audit (Wales) Act 2013 (PAWA 2013), which has now been in operation for more than five years.

The Committee's post-legislative scrutiny has focussed on two areas:

1. To explore issues raised by the Auditor General for Wales (AGW) and Wales Audit Office (WAO) in regard to the PAWA 2013; including:
  - Fee charging
  - Quorum arrangements of the WAO board
  - WAO reporting arrangements
  - Issues with laying and reporting accounts
2. To consider to what extent other aspects of the PAWA 2013 may benefit from revision.

Two specific issues have emerged during the Committee's inquiry, relating directly to your role as auditors of the WAO's accounts.

I would be grateful for your views on these issues and the proposals for legislative change, which are outlined in the attached annex. It would be helpful to receive your response by 31 October 2019. Should you require any clarification or further



information, please contact: Georgina Owen, Committee Clerk, 0300 200 6387,  
[SeneddFinance@assembly.wales](mailto:SeneddFinance@assembly.wales).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Llyr', is centered on a light yellow rectangular background.

Llyr Gruffydd AM

Chair of the Finance Committee



## 1. Issues with laying and reporting accounts

The AGW and WAO have highlighted the overlapping annual reporting requirements—those arising from paragraph 33 of Schedule 1 to the PAWA 2013, in conjunction with the Treasury Financial Reporting Manual, and those arising from paragraph 3 of Schedule 2 to the PAWA 2013. Their written evidence to the inquiry explains:

Paragraph 3(6)(a) of Schedule 2 and paragraph 35(2)(b) of Schedule 1 each require reports to be laid before the Assembly. However, in the case of paragraph 3(6)(a) of Schedule 2, it is the AGW and Chair of the WAO who are required to jointly lay the report, and in the case of paragraph 35(2)(b) of Schedule 1, it is the external auditor of the WAO who is required to lay a certified copy of the accounts (which under Treasury direction is accompanied by an annual report). In practice, this is resolved by laying the same document twice (though only one copy appears on the Assembly's website), once by the external auditor and once by the AGW and the Chair of the WAO. Clearly, it is unsatisfactory that the legislation leads to such duplication, and it is not conducive to clarity of responsibility.<sup>1</sup>

The AGW and WAO have proposed amending the PAWA 2013, in order to streamline arrangements by:

1. requiring the AGW and the Chair of the WAO to provide the external auditor of the WAO with their annual report no later than 5 months after the end of the financial year; and
2. requiring the external auditor to lay the report as part of the laying of the annual accounts.

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<sup>1</sup> AGW and WAO: Proposals for a bill to amend the Public Audit (Wales) Act 2013, paragraph 3.17–3.19



## **2. Appointment of the auditors of the WAO's accounts**

Paragraph 34(1) of Schedule 1 of the PAWA 2013 requires the Assembly to appoint a person as auditor of the WAO's accounts, and to determine the person's term of appointment, and paragraph 34(2) permits the WAO to recommend a person for that appointment. The responsibility for appointing the auditors is delegated to the Finance Committee under the Assembly's Standing Orders.

The Finance Committee has appointed auditors twice since the PAWA 2013 was enacted. On each occasion the Committee has authorised the WAO to undertake a procurement exercise and put forward the successful tenderer for approval and appointment by the Assembly, with oversight of the process being delegated to Assembly Commission officials.

Both the Assembly Commission and the AGW and WAO have suggested that significant contractual complications arise because the appointing authority (the Assembly) and the client (the WAO) are different bodies. This necessitates the preparation of tripartite contractual arrangements, including a side agreement to cover, for example, the provision of indemnity should the WAO fail to pay the auditor's remuneration.

The Assembly Commission also told the Committee that its Legal Services team was required to undertake significant work in relation to the appointment of the auditors of the WAO due to the tripartite nature of the arrangement, citing specialist external legal advice valued at £19,500 for the 2018 appointment process.

The Assembly Commission has suggested that there could be merit in considering simplifying the arrangements for appointment of the WAO's auditors. The AGW and WAO have suggested making provision for the engagement of the auditor of the WAO to be a contractual matter between the WAO and the auditor (including terms of appointment and monitoring of performance), but with the appointment being subject to the approval of the Assembly.

