

## Public Accounts Committee

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Meeting Venue:  
**Committee Room 3 – Senedd**

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Meeting date:  
**8 January 2013**

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Meeting time:  
**09:00**

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



For further information please contact:

**Policy: Tom Jackson**  
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### Agenda

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#### **1. Introductions, apologies and substitutions (9:00 – 9:05)**

#### **2. Papers to note (Pages 1 – 18)**

PAC(4) 01–13 – Paper 1 – Correspondence from the Auditor General for Wales to Minister for Finance on stage 1 of Public Audit (Wales) Bill

PAC(4) 01–13 – Paper 2 – Correspondence from WAO trade unions to the Chair of Public Accounts Committee on Scrutiny of Public Audit (Wales) Bill

PAC(4) 01–13 – Paper 3 – Correspondence from the Auditor General for Wales on the WAO Local Government fees scale.

PAC(4) 01–13 – Paper 4 – Correspondence from the Permanent Secretary regarding ministerial access to papers of former Ministers

#### **3. Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:**

Items 4 to 5.

#### **4. Consideration of draft report on Maternity Services in Wales (9:05 – 9:30) (Pages 19 – 58)**

#### **5. The Welsh Government's acquisition and action to dispose of the former River Lodge Hotel, Llangollen – Key themes and emerging issues (9:30 – 10:00) (Pages 59 – 89)**



WALES AUDIT OFFICE

SWYDDFA ARCHWILLO CYMRU

Wales Audit Office / Swyddfa Archwilio Gymru

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Date: 20 December 2012  
Our ref: HVT/1791/fgb  
Page: 1 of 2

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Ms Jane Hutt AM  
Minister for Finance and  
Leader of the House  
Welsh Government  
Cardiff Bay CF99 1NA

Dear Jane

Thank you for your letter of 4 December 2012, and thank you for your kind recognition of our discussions regarding the Bill during the Stage 1 plenary debate. I am reassured by your helpful indication that you would bring forward Government amendments to address many of the recommendations of the Public Accounts Committee's Stage 1 report. I am also grateful that you have indicated that you would consider further amendments in relation to data matching and the composition of the proposed WAO Board. I think that getting the right Board composition is a key factor in ensuring the success of the new body.

The extent of TUPE-like protection clearly remains as an issue. As the current employer and potential chief executive of the new employer, I need to ensure that staff are not exposed to detrimental effects, especially as I have had to spend a great deal of time since my appointment dealing with the unintended consequences of previous transfers and re-organisations. I have sought to provide reassurance to staff by, for example, emphasising in Q&A briefing that transfer will not terminate employment and that there will be continuity of service under the Bill, but I cannot realistically give assurances about protections that are absent from the Bill. Such points would not escape the attention of a work-force of auditors.

In order to address the concerns of staff and their trade unions, I think it may be helpful if you could therefore provide something in writing to set out how protection of staff is to be achieved, particularly in respect of variations to employment contracts, collective agreements, trade union recognition and prevention of dismissal by reason of the transfer.

My staff dealing with the Bill continue to stand ready to engage with your officials in respect of these and other Bill-related issues.

Direct Line: 029 2032 0510

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Date: 20 December 2012  
Our ref: HVT/1791/fgb  
Page: 2 of 2

So as to provide continuity, I am copying this letter to the Chair of PAC.

Yours sincerely



**HUW VAUGHAN THOMAS**  
**AUDITOR GENERAL FOR WALES**

cc Mr Darren Millar AM, Chair, PAC



## Wales Audit Office

### PAC(4) 01-13 – Paper 2

Chair: Jeremy Saunders  
Tel 07810 832434

Branch Chair: Ben Robertson  
Tel 029 2032 0597

24 Cathedral Road, Cardiff CF11 9LJ / 24 Heol y Gadeirlan, Caerdydd CF11 9LJ

Mr Darren Millar  
Chair, Public Accounts Committee  
National Assembly for Wales  
Cardiff Bay  
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21 December 2012

Dear Mr Millar

We are writing as branch representatives of the recognised trade unions in the Wales Audit Office, Prospect and PCS. Together, we represent around 75% of the Auditor General's staff.

We support the principles of the Public Audit (Wales) Bill and welcome the Public Accounts Committee's report on Stage 1 of the Bill. If adopted in full, we believe that the recommendations of the Committee's report will lead to substantial improvements in the Bill that would address most of the concerns that we raised in our response to the Committee's consultation on the Bill.

There is one issue that remains a major concern to us, however. The Bill as it stands does not provide the full protection that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE regulations) provides to most employees being transferred from one employer to another. Unfortunately, the TUPE regulations do not cover the proposed staff transfer from the AGW to the WAO because the transfer is part of a re-organisation of administrative services within the public sector. It is critical, therefore, that the legislation contains the same protections as TUPE to ensure that our members suffer no detriment from the transfer and are treated equally with the vast majority of employees in the UK who are covered by the regulations. We were pleased that the PAC took the same view in its recent report on Stage 1 of the Bill and recommended that the AGW and the Welsh Government reach an agreed position on the issue, whereby the Bill provided the same level of protection to the AGW's current staff as the TUPE regulations.

Schedule 3 of the Bill does include some of the relevant protections that are provided in TUPE. However, protection equivalent to four very important provisions of TUPE are missing from the Bill:

- a) Regulation 5 of TUPE for preserving collective agreements.
- b) Regulation 6 of TUPE for preserving trade union recognition.

- c) Regulation 7 of TUPE, which makes unfair any dismissal of an employee that is wholly or mainly by reason of the transfer or a reason connected to it.
- d) Regulation 4(4) of TUPE, which addresses variations in employment contracts.

The absence of these provisions is all the more surprising and troubling because the Government has given several public assurances that it intended to give the same level of protection to our members as the TUPE regulations. The Minister told your committee on 24 September and 22 October that the Bill would, if necessary, be amended to give effect to this intention.

However, we see from your website that the Minister wrote to you on 31 October saying:

*“it has always been the policy intention that principles of TUPE will be applied and that staff will be treated no less favourably as a result of the transfer. I consider that Schedule 3 of the Bill ensures that.”*

This is deeply troubling. By omitting the word “the” it appears that the Government may now intend not to apply some of the key principles of TUPE.

We have expressed our concerns on this matter to the Auditor General and have asked whether discussions between the Auditor General’s representatives and Welsh Government officials have resulted in the Government giving any assurance that it will make amendments to provide the missing protections. We understand that the Government has not given any such assurances. We also understand that the Government is adamant that existing provisions are acceptable and that no change is required.

A further source of concern is that the Minister said in evidence to your Committee on 22 October that:

*“It is our intention that the principles of the Transfer of Undertakings (Protection of Employment) Regulations 1981 be applied in line with the Cabinet Office’s ‘Staff Transfers in the Public Sector: Statement of Practice January 2000’.”*

We hope that the Minister intended to refer to the current regulations and guidance (the current regulations are dated 2006 and the guidance 2007). But, in any event, the Bill does not reflect the requirements of the Cabinet Office statement (COSOP), paragraph 19 of which states:

“Departments must therefore ensure that legislation effecting transfers of functions between public sector bodies makes provision for staff to transfer **and on a basis that follows the principles of TUPE along with appropriate arrangements to protect occupational pension, redundancy and severance terms.**” (our emphasis and underlining).

It is important that the principles of TUPE are reflected in the legislation. It is not enough just to say that COSOP applies. As its name indicates, COSOP is only a code of practice, not a legally binding document in its own right. Indeed, in any case, it is not the Government that will decide on our future terms and conditions but a future WAO board, so Government statements without legal force are of very limited value. Unless the draft legislation is amended, the Board would be able to terminate collective agreements, dismiss staff for a reason connected to the transfer and potentially make adverse changes to terms and conditions without the protections



that would apply to any organisation in the private sector. We find that completely unacceptable.

The current provisions in the Bill are clearly inadequate to cover the relevant regulations in TUPE. That much is evident simply by reading Schedule 3, paragraph 5 of the Bill against the relevant TUPE regulations. We do not understand how the Minister can give public assurances that staff will enjoy full TUPE-like protection and then refuse to bring the Government's bill into line with those very regulations. The reluctance to do so has raised fears among our members that the Government may privately actually wish to give the WAO Board the latitude to make detrimental changes to our employment in the future despite its statements to the contrary. Such perceptions undermine trust and confidence and are best avoided as we go through the transition to the new corporate WAO. Disputes would be less likely to occur if the existence of full TUPE-like protection is put beyond doubt in the legislation.

We should therefore be very grateful if you would table appropriate amendments to the Bill at Stage 2 so as to fully cover the four missing provisions we have outlined above. We note that the Government itself took this approach when transferring some of its own staff to the National Assembly for Wales Commission in 2007. The legislation replicated the relevant TUPE provisions<sup>1</sup> and we see no reason why the same cannot be done for the AGW's staff. We should be very happy to provide you with draft amendments.

We are not seeking any special or favourable treatment by asking for these amendments. We simply want the same protections that apply to other employees in similar situations. This is an issue of fundamental importance to us, and it would give us great confidence if the Assembly were to bring the Audit Bill into line with TUPE protection.

We do hope you and the other members of the PAC will be able to introduce appropriate amendments at Stage 2 of the Bill.

We would be happy to discuss this issue with you if that would be helpful.

Yours sincerely

**Ben Robertson**  
**Chair of the WAO branch of PCS**

**Jeremy Saunders**  
**Chair of the WAO branch of Prospect**

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<sup>1</sup> The National Assembly for Wales (Transfer of Staff to Assembly Commission Scheme) Order 2007, Statutory Instrument 2007 No. 1169.



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Date: 07 December 2012  
Our ref: 621A2012  
Pages: 1 of 11

Dear colleagues

### **Local government audit and inspection fee scales 2013-14**

#### **Including fee scales for the audit of the 2012-13 accounts of unitary authorities, fire and rescue services, national park authorities, probation trusts, pension funds and town and community councils, and estimates for police and crime commissioners and chief constables**

I am required to consult on and prescribe scales of fees payable in respect of the audit of accounts of local government bodies in Wales. I am also required to consult on and prescribe scales of fees in respect of audits, assessments and special inspections carried out under the Local Government (Wales) Measure 2009.

This letter outlines my fee scale proposals for 2013-14. I am only able to provide estimated provisional fee scales for the audit of the accounts of police and crime commissioners and chief constables at this stage. More detailed information is provided in the appendices to this letter.

Fee scales provide a framework within which auditors can discuss fees with local government bodies. Fee scales also enable me to identify and challenge fees that appear to be either too high or too low to enable auditors to properly discharge their responsibilities.

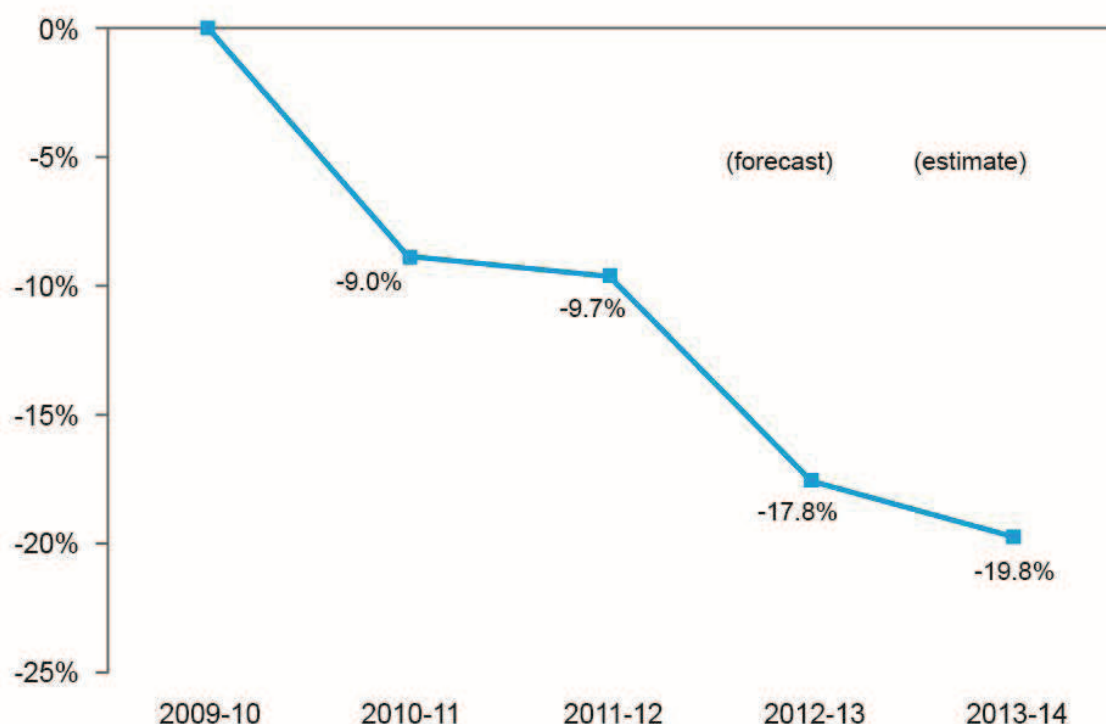
When prescribing fee scales I am under a duty to ensure that the fees subsequently generated are sufficient to enable the Wales Audit Office, taking one year with another, to maintain financial balance in its local government work, and that there is no cross subsidy between local government audits and those of central government and NHS Wales.

All public sector bodies, including the Wales Audit Office, face the challenge of continuing to deliver the best possible services against a background of unprecedented pressures on public finances. On a cumulative basis between 2009-10 and 2012-13, we expect to deliver a real terms reduction in total annual expenditure of close to 21 per cent.

We will continue to seek further savings and efficiencies wherever possible in 2013-14, which will require some difficult decisions being taken as is the case across the whole of the public sector. However, these savings will not be at the level achieved in previous years, as outlined in my annual estimate of income and expenses (see Appendix 4).

In parallel, and in recognition of the financial constraints faced by public sector bodies, we are continuing to seek to reduce our audit fees. Between 2009 and 2011 we achieved a cash terms reduction of £1.27 million in the fees we charged for our audit work, and on a cumulative basis between 2009-10 and 2012-13, we expect to deliver a real terms reduction in fees charged annually to audited bodies of close to 20 per cent (see Exhibit 1).

**Exhibit 1: Cumulative real terms reduction in fees charged annually to audited bodies between 2009-10 and 2013-14**



For 2013-14, through making further internal efficiencies and exercising pay restraint, I am able to propose the following revisions to my fee scales and associated fee rate ranges:

- lower fee scale medians in real terms for all types of local government body other than national park authorities and police bodies (see Appendix 1);
- lower fee rate ranges in real terms for work that requires particular specialist skills, knowledge and experience (see Appendix 2);
- lower fee rate ranges in real terms for all grades of staff carrying out work in relation to the certification of grant claims and returns (see Appendix 3); and
- no uplifts to any fee scales for inflation, which despite the ongoing economic situation is running at between two and three per cent (see Appendix 4).

In addition, for the duration of the period of austerity, I will halve the threshold (from  $\pm 10$  per cent to  $\pm 5$  per cent year-on-year) at which I call-in auditor's fee proposals for review to ensure that they are adequately explained by relevant circumstances.



Taken together my proposals have the potential to result in an average real terms decrease in local government audit fees in 2013-14, through fees being held, on average, at the same cash level as for 2012-13.

However, the potential for any fee reductions will depend on each local body's circumstances. The fee must be sufficient to fund the work required considering local circumstances such as the governance environment, risk, financial and performance management arrangements, size, complexity and the body's track record on improvement. If unplanned or additional work is required as a result of failures by audited bodies to provide what auditors need for them to do their work efficiently, additional fees will be charged commensurate with the additional work involved. In all our activities, I am determined that our work will provide the people of Wales with independent robust information on how their money is spent.

Your local audit team will be able to provide more detail on fees at a local level.

I look forward to receiving your comments on my fee scale proposals by **Friday 18 January 2013**, following receiving your views on our proposed approach to our work for the period 2013-2016 (see Appendix 4 for link).

Yours sincerely



**Huw Vaughan Thomas**  
**Auditor General for Wales**

# Appendix 1

## Fee scales

The proposed fee scales for annual audit work are underpinned by a zero-based approach to audit planning. Resource requirements are converted into fee scales directly based on the costs of delivering the work, which include travel and subsistence. The proposed fee scales for 2013-14, which have been benchmarked, where appropriate, against fees charged by other UK audit agencies, are presented in a tabular format. Additional information and guidance on fee setting, including graphical representations of fee scales, is included on the Wales Audit Office website (see Appendix 4 for links).

Annual audit work includes all work undertaken in relation to the audit of accounts, studies and assessment work carried out under the Local Government (Wales) Measure 2009, where applicable.

Annual audit work does not include that which goes beyond the general duties of auditors, such as elector challenge, reports in the public interest, extraordinary audit, special inspections and work in relation to the prevention of unlawful expenditure (see Appendix 2).

Separate fee rates also apply to work undertaken to certify claims and returns in respect of grants paid or subsidies made to local government service bodies (see Appendix 3).

Auditors will use their professional judgment, informed by my Code of Audit Practice, relevant accounting and auditing standards and guidance issued on my behalf to determine where a particular audited body lies on the prescribed fee scale for that type of body.

Where proposed fees fall outside the prescribed fee scale or have changed by more than  $\pm 5$  per cent year-on-year (a reduction on the  $\pm 10$  per cent threshold applied in previous years) I will review the proposed fees to ensure that they are adequately explained by relevant circumstances. This will constrain the potential for excessive or inadequate fees to arise. Following the application of these controls the fee will be discussed with the relevant audited body and, subject to any further information arising that affects the work to be done, will be confirmed as the fee to be charged to that body.

Please note that as billing arrangements for the Measure assessment work are already in place for the period ended 31 March 2013, those arrangements will not alter until periods from April 2013 onwards.

All the 2013-14 fee scales exclude VAT which will be charged at the standard rate as appropriate.

As reported in Auditor General estimate papers submitted to the Public Accounts Committee for every year since the creation of the Wales Audit Office in 2005, discussions are continuing with HMRC on my Value Added Tax (VAT) position. During 2011-12 HMRC made a ruling on my VAT status but discussions are continuing regarding the VAT treatment of work completed for me. It is possible that I may have to change the way in which I charge VAT in the future, and this in turn may affect the amounts paid by audited bodies.

**2013-14 fee scale for unitary authorities**

Gross expenditure £000,000	Fee range £000			
	Minimum	Median	Maximum	2012-13 median
100	155	196	238	196
200	190	242	293	242
300	215	273	332	273
400	234	298	362	298
500	250	319	388	319
600	264	337	410	337
700	276	353	429	353
800	287	367	447	367
900	297	380	464	381
1,000	307	393	479	393
1,100	315	404	493	404
1,200	324	415	506	415
1,300	331	425	518	425
1,400	339	435	530	435
1,500	346	444	541	444

**2013-14 fee scale for pension funds**

All pension funds	Fee range £000			
	Minimum	Median	Maximum	2012-13 median
	20.0	27.5	35.0	27.5

**2013-14 fee scale for fire and rescue authorities**

Gross expenditure £000,000	Fee range £000			
	Minimum	Median	Maximum	2012-13 median
20	37	48	58	48
40	47	61	75	61
60	54	71	87	71
80	60	79	97	79
100	66	85	105	85

**2013-14 fee scale for national park authorities**

Gross expenditure £000,000	Fee range £000			
	Minimum	Median	Maximum	2012-13 median
2	18	23	28	17
4	24	30	36	22
6	28	35	42	26
8	31	39	47	30
10	33	42	52	32

Whilst individual fees are unlikely to change (subject to changes in local circumstances), the fee scale median for national park authorities (NPAs) will increase for 2013-14. The fee scale proposed now more accurately reflects total Wales Audit Office input and bears better proportionate comparison to the level of direct Wales Programme for Improvement grant that supports our work at NPAs in order to meet the legislative requirements of the Local Government (Wales) Measure 2009.

### Estimated 2013-14 fee scale for police and crime commissioners and chief constables

The Police Reform and Social Responsibility Act 2011 abolishes police authorities and establishes, as separate legal entities, a police and crime commissioner (PCC) and the chief constable (CC) in each local police area. This means that auditors will now need to undertake audits of two statutory bodies in a police area, rather than one. The additional work will require some increase in audit fees. At present I am only able to provide a provisional estimate of the extent of this increase (between 15 and 25 per cent in total on the former police authority fee scale) as I am awaiting final confirmation of accounting requirements for the two bodies. The split of the total fee between the two bodies in a particular police area will be a matter for auditors to determine, based on accounting requirements and the operational arrangements put in place by each of the bodies.

Combined gross expenditure of PCC and CC £000,000	Estimated combined fee range for PCC and CC £000			
	Minimum	Median	Maximum	2012-13 median for police authorities
50	43 to 47	55 to 60	68 to 74	48
100	56 to 61	73 to 79	90 to 97	63
150	66 to 72	86 to 93	105 to 115	75
200	74 to 81	96 to 105	118 to 129	84
250	81 to 88	105 to 115	130 to 141	92
300	87 to 95	113 to 123	139 to 152	99
350	93 to 101	121 to 131	148 to 161	105

### 2013-14 fee scale for probation trusts and other types of bodies

Gross expenditure £000,000	Fee range £000			
	Minimum	Median	Maximum	2012-13 median
1	8	10	12	10
2	10	13	16	13
10	20	25	31	25
20	26	33	40	33
30	30	39	48	39
40	34	44	54	44
50	37	48	59	48
60	40	51	63	52



## 2013-14 fee scale for town and community councils and other types of bodies with income or expenditure up to £1,000,000

The fee scale for probation trusts and other types of bodies is applicable to town and community councils and other types of local government bodies where income or expenditure exceeds £1 million per annum.

Town and community councils and other types of local government bodies with income or expenditure up to £1 million are subject to a 'limited assurance' audit regime. Fees for these audits, which vary according to annual turnover, remain fixed for 2013-14. However, in circumstances where the auditor requires further evidence to properly discharge their responsibilities, including following publication of a related public interest report, additional testing will be undertaken to address the auditor's concerns, and additional fees will be charged commensurate with the additional work involved.

In February 2012 I consulted on changing the current limited assurance audit approach to promote improved governance across all town and community councils (see Appendix 4 for link). The responses to the consultation have been considered and my proposals have been modified, taking account of feedback received from the sector and audit suppliers. I intend to replace the current two-tier (basic/intermediate) approach with a single form of audit for all town and community councils, similar to the current intermediate audit, from the 2013-14 year of accounts onwards. These changes to audit requirements are likely to result in additional audit work related to good governance arrangements at many councils from late 2014. Although the changes to the limited audit regime have been developed with the need to constrain fee increases firmly in mind, they will lead to an increase in fees for some councils compared to the current fee scale. I will consult on the revised fee tables in next year's fee scales consultation.

Annual income or expenditure (fees are payable on whichever is the higher each year)	Type of audit	Proposed fee	Fee charged in 2012-13
£Nil – £1,000	Basic	No fee payable	<i>No fee payable</i>
£1,001 – £5,000	Basic	£60	£60
£5,001 – £10,000	Basic	£130	£130
£10,001 – £30,000	Basic	£150	£150
£30,001 – £60,000	Basic	£310	£310
£60,001 – £100,000	Basic	£425	£425
£100,001 – £200,000	Basic	£575	£575
£200,001 – £300,000	Intermediate	£920	£920
£300,001 – £400,000	Intermediate	£1,100	£1,100
£400,001 – £500,000	Intermediate	£1,520	£1,520
£500,001 – £750,000	Intermediate	£2,045	£2,045
£750,001 – £1,000,000	Intermediate	£2,625	£2,625

## Appendix 2

### Fees for acquiring specialist skills, knowledge and experience

In certain circumstances it may be necessary to use individuals with specialist skills, knowledge and experience, including on work which goes beyond the general duties of auditors, such as elector challenge, extraordinary audit, special inspections and additional work in relation to the prevention of unlawful expenditure. It is essential that individuals with appropriate specialist skills, knowledge and experience are used where needed on more complex work. Additional costs will inevitably be incurred.

To facilitate the use of non-standard fees, I have set the following fee rate ranges for 2013-14 as the basis for local discussion. The actual fee rates charged will be determined in discussion between the appointed auditor/engagement lead and the body to reflect the nature of the work required.

Grade of staff	2013-14 fee rate per hour excluding VAT	2012-13 rate per hour
Appointed auditor/engagement lead	£137 to £241	£137 to £241
Audit/project manager	£98 to £131	£98 to £131
Team leader/senior auditor	£69 to £92	£69 to £92
Other staff	£54 to £67	£54 to £67

Higher rates may be appropriate for certain pieces of work. In such circumstances I must be consulted in advance by the auditor.

### Fees for ancillary work

Audited bodies may make arrangements with me for the appointed auditor (or for me directly) to carry out particular pieces of work that do not fall within the general duties.

Such work should not be accepted if the auditor's or my independence and integrity could be compromised, or could be perceived to be compromised, unless appropriate mitigation and controls can be applied.

Where such work can be carried out within these rules, the fees to be charged are a matter for negotiation between myself and the audited body and are not subject to the scales or rates set out in this letter.

## Appendix 3

### Fees for the certification of grant claims and returns

In carrying out work in relation to government grant claims and other returns under paragraph 20 of Schedule 8 of the Government of Wales Act 2006, appointed auditors act as my agents. I am required to recover, in respect of each grant or return, an amount that covers the full cost of the relevant work undertaken.

Charges for this work are made per diem and will be based on the fee rate ranges set out below. Estimates of the relative proportions of staff grades to be used for different types of grants work are also provided; the proportion of senior staff to be used on such work was reduced for 2012-13 in accordance with my new strategy for more cost-effective external audit certification of grant-funded expenditure throughout Wales (see Appendix 4).

The auditor will discuss the actual fee to be charged with the audited body. The fee will reflect the size, complexity or any particular issues in respect of the grant in question.

Grade of staff	Complex grants staff mix %	All other grants staff mix %	2013-14 fee rate per hour excluding VAT	2012-13 rate per hour
Appointed auditor/ engagement lead	1 to 2	0 to 1	£137 to £220	£137 to £220
Audit/project manager	4 to 6	1 to 2	£98 to £123	£98 to £123
Team leader/senior auditor	18 to 21	12 to 16	£69 to £86	£69 to £86
Other staff	77 to 71	87 to 81	£54 to £67	£54 to £67

Complex grants are:

- BEN01 Housing and council tax benefits scheme;
- EUR01 2007-13 Structural Funds Programme (Convergence and Regional Competitiveness and Employment);
- HOU03 HRA subsidy (non stock transfer authorities);
- LA01 National non-domestic rates return; and
- PEN05 Teachers' pensions return.

## Appendix 4

### Inflation

This year (for the third consecutive year) I am not including an inflationary uplift in the proposed fee scales. Disregarding inflation as part of setting this year's fee scale will provide local government bodies with a benefit of around two to three per cent (as per the latest available HM Treasury GDP deflator series data), which auditors will absorb.

### Useful links

For a link to my consultation on our proposed approach to our work for the period 2013-2016, please [click here](#)

For more information on fee setting and our current fee scales, including graphic versions of fee scales (overlaid with appropriate benchmarking data if required), please [click here](#)

For a link to my *Code of Audit Practice* and associated documentation including statements of responsibilities, please [click here](#)

For a link to my *Estimate of the income and expenses of the Auditor General for Wales for the year ending 31 March 2014*, included as Annex 1 to the Public Accounts Committee's subsequent report which endorses my estimate, please [click here](#)

For a link to my audited *Annual Report and Accounts 2011-12*, please [click here](#)

Please [click here](#) for a link to my consultations on:

- the Wales Audit Office *Grants Strategy*; and
- a Contracting Strategy and the Audit of Town and Community Councils.

Derek Jones CB  
Ysgrifennydd Parhaol  
Permanent Secretary



Llywodraeth Cymru  
Welsh Government

Darren Millar AM  
Chair - Public Account Committee  
National Assembly for Wales  
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6 December 2012

*Dear Darren,*

You will recall that there was interest from several members at the PAC meeting earlier this week about the convention on Ministerial access to the papers of former Ministers. I thought it would be helpful for the Committee if I set out, for the avoidance of doubt, what arrangements are in place.

It is a long established UK Government convention that Ministers of the current Administration may not generally see documents of a former Administration of a different political party. The convention exists in order to provide a degree of privacy to previous Ministers.

The convention also applies within the Welsh Government, but with modification so as to take account of the existence from time to time of coalition governments here – unlike Westminster where until now coalitions have been rare. This means that the convention is applied when Ministers change and a new Minister is of a different political party to their predecessor. Predecessor means the Minister who previously had responsibility for policy which is now with the new Minister. Contrary to the impression which we gave the Committee at the time, for which I apologise, application of the convention is not in fact dependent on a change of Administration (ie the establishment of a new Government following an Assembly election). Rather, it applies whenever there are Ministerial changes resulting in Ministers being replaced by others from a different political party.

Of course Ministers serving in a coalition administration would normally see papers submitted to other Ministers regardless of party, as part of collective Cabinet responsibility.



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The general principle is that new Ministers should not be shown, by access to documents, what advice was given to their predecessors from a different political party or what those Ministers said in response to that advice. Therefore, no submissions or briefings put forward to those previous Ministers should be made available to the new Ministers.

The convention covers documents dealt with by Ministers and not everything held by the Welsh Government. These documents are defined as:

- recorded information which has been prepared for and sent to a Minister, or was prepared by - or explicitly on behalf of - a Minister;
- matters particular to individual former Ministers (e.g. their expenses and diaries); or
- information relating to high profile events and issues which are still of widespread and significant interest.

It is not always obvious whether or not a document is a Ministerial document as defined by the bullets above and so sometimes civil servants have to apply judgement in deciding whether a document is caught by the convention.

An exception to the withholding of those documents defined by the bullets above is where the documents are already in the public domain (either through formal publication or through being issued without restriction outside the Welsh Government).

We recognise that there is a need to reconcile the general principle of withholding access to previous Ministerial documents with practical considerations including, where appropriate, facilitating the continuity of policy. So, where it is necessary to advise Ministers about work undertaken or decisions made by previous Ministers from a different political party, but providing copies of earlier documents is not appropriate, civil servants may consider what information from that earlier documentation should be supplied.

It is appropriate for civil servants to brief Ministers by providing them with a summary of what was at issue, and the action taken, without giving them access to the actual papers. Extracting facts and figures from the earlier documents and presenting them afresh is an appropriate part of this process.

The convention on access to documents of previous Ministers from a different political party by current Ministers also applies to their Special Advisers.

*Yours sincerely,*



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

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# Agenda Item 5

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

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