

Agenda – Finance Committee

Meeting Venue:

Committee Room 2 – Senedd

Meeting date: 17 January 2019

Meeting time: 09.00

For further information contact:

Bethan Davies

Committee Clerk

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1 Introductions, apologies, substitutions and declarations of interest

(09.00)

2 Paper(s) to note

(09.00)

(Pages 1 – 3)

2.1 PTN1 – Response from the Wales Audit Office to the Finance Committee's Annual Scrutiny of the Wales Audit Office and the Auditor General for Wales Report – 10 January 2019

(Pages 4 – 8)

2.2 PTN2 – Letter from Paul Davies AM – Autism (Wales) Bill – 10 January 2019

(Pages 9 – 15)

3 Financial implications of the Legislation (Wales) Bill: Evidence session

(09.00–10.00)

(Pages 16 – 31)

Jeremy Miles AM, Counsel General

Dylan Hughes, First Legislative Counsel, Welsh Government

Claire Fife, Policy Advisor to the Counsel General, Welsh Government

Supporting documents:

[Legislation \(Wales\) Bill](#)

[Explanatory Memorandum](#)



4 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting

(10.00)

5 Financial implications of the Legislation (Wales) Bill: Consideration of evidence

(10.00–10.20)

6 Legislative budget process: approach to scrutiny

(10.20–10.40)

(Pages 32 – 58)

Paper 1 – Legislative budget process: approach to scrutiny

Concise Minutes – Finance Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: Wednesday, 9 January
2019

Meeting time: 09.02 – 10.52

This meeting can be viewed
on [Senedd TV](#) at:

<http://senedd.tv/en/5135>

Attendance

| Category | Names |
|-------------------|---|
| Assembly Members: | Llyr Gruffydd AM (Chair) Rhun ap Iorwerth AM Neil Hamilton AM Mike Hedges AM Nick Ramsay AM David Rees AM |
| Witnesses: | Rebecca Evans AM, Minister for Finance and Trefnydd Andrew Jeffreys, Welsh Government Liz Matthews, Welsh Government Dyfed Alsop, Welsh Revenue Authority Kathryn Bishop, Welsh Revenue Authority |
| Committee Staff: | Bethan Davies (Clerk) Alex Hadley (Deputy Clerk) Martin Jennings (Researcher) Christian Tipples (Researcher) |



1 Introductions, apologies, substitutions and declarations of interest

2 Paper(s) to note

2.1 The papers were noted.

2.1 PTN1 – Letter from the Llywydd to the First Minister– Legislating for Brexit – 4 December 2018

2.2 PTN2 – Letter from the Chair of the Petitions Committee – Petition P-05-803 – 11 December 2018

2.3 PTN3 – Letter from the Minister for Education – ALN transformation programme – 12 December 2018

2.4 PTN4 – Letter from the Ombudsman – Response to the Finance Committee report on Estimates 2019-20 – 18 December 2018

3 Devolution of fiscal powers to Wales: Evidence session 1 (Minister for Finance and Trefnydd)

3.1 The Committee took evidence from Rebecca Evans AM, Minister for Finance and Trefnydd; Andrew Jeffreys, Director, Welsh Treasury; Liz Matthews, Income tax policy and delivery lead, Welsh Government.

3.2 The Minister agreed to write to the Committee with the final costs of transitioning to Land Transaction Tax and Landfill Disposals Tax once confirmed.

4 Devolution of fiscal powers to Wales: Evidence session 2 (Welsh Revenue Authority)

4.1 The Committee took evidence from Dyfed Alsop, Chief Executive, Welsh Revenue Authority and Kathryn Bishop, Chair, Welsh Revenue Authority.

5 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of this meeting

5.1 The motion was agreed.

6 Devolution of fiscal powers to Wales: Consideration of Evidence

6.1 The Committee considered the evidence received.

7 Funding of directly funded bodies

7.1 The Committee agreed the letters.

8 Public Services Ombudsman for Wales 2nd Supplementary Budget 2018–19

8.1 The Committee agreed to write to the Public Services Ombudsman for Wales seeking further information on the 2nd Supplementary Budget.

9 Assembly Commission Supplementary Budget 2018–19

9.1 The Committee noted the Assembly Commission's 2nd Supplementary Budget 2018–19.

Agenda Item 2.1



WALES AUDIT OFFICE
SWYDDFA ARCHWILIO CYMRU

Mr Llyr Gruffydd AM
Chair
Finance Committee
National Assembly for Wales

Via email: SeneddFinance@assembly.wales

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Reference: IG19001/AC073/caf

Date issued: 10 January 2019

Annwyl Llyr

Finance Committee Report on the Wales Audit Office

Further to our letter of 27 November, we are writing to set out our proposed responses to the Committee's recommendations on our statutory reports.

We address each of your recommendations in turn, below:

R1 The Committee is content with the Annual Report and Accounts 2017-18.

We welcome the Committee's position.

R2 The Committee recommends that the Wales Audit Office provides an update on the outcome of the post-project learning exercise undertaken by the Remuneration and HR Committee in relation to early exit payments.

The post-project learning exercise was reported to our Remuneration and HR Committee in July 2018, including learning points from that Committee itself. The Remuneration & HR Committee agreed recommendations focused on enhancing the **process** for future schemes, with no issues raised in relation to the value for money of decisions made. The recommendations included:

- Allowing sufficient time for early exit schemes to form part of the established business cycle, so that decisions can be made within that cycle rather than in addition to it;
- Ensuring the criteria for early exits is stated in the HR policy;
- Strengthening the business case pro forma and involvement of finance & HR in the development of business cases; and
- Improving communications around the terms of the scheme and for unsuccessful applicants.

All of these recommendations are being implemented in the scheme we are currently running, and we will undertake a further post-project learning exercise on conclusion of that scheme.

R3 The Committee recognises the work undertaken so far to address the gender and ethnicity pay gaps and recommends that further progress updates are provided to the Committee

In September 2018, the Board's strategic discussion on equality and diversity concluded with a very strong view that there are moral, legal and business benefits to having a more diverse workforce at the Wales Audit Office. We have a number of actions in hand, within our People Strategy Delivery Plan, and agreed further actions around more targeted and focused recruitment so that we can increase our representation from currently underrepresented groups. We will be making specific reference in job adverts to the fact that we invite and we welcome expressions of interest from people from the black, Asian and minority ethnic communities and from people wanting to work part-time or to job share. We will be offering guaranteed interviews to candidates that meet the minimum criteria and who are from underrepresented groups.

We will provide further updates through our annual equality reports.

R4 The Committee recommends that the Wales Audit Office gives further consideration to signing-up to Chwarae Teg's FairPlay Employer service.

We have since met Chwarae Teg and a business case to sign-up is now being drafted. We plan to have joined by the end of March; we will provide an update through our Annual Equality Report 2018-19.

R5 The Committee notes RSM's recommendation that any amendments to the Public Audit (Wales) Act 2013 should also consider the definition of cost within the context of indirect cost allocation. The Committee will be considering proposals to amend the Public Audit (Wales) Act 2013 in the New Year and recommends that the Auditor General gives further consideration to this and provides an update to the Committee.

RSM's recommendation is in relation to the way the Wales Audit Office allocates overhead costs to audit work that is contracted out. We consider our methodology to be reasonable and have not identified any stronger alternatives; nor have our auditors.

We are keen to work with the Finance Committee in progressing our 'case for change' to simplify the requirements of the Public Audit (Wales) Act 2013, including replacing the "no more than full cost" rule with a requirement to set fees so as to broadly breakeven. Under this proposal, the Wales Audit Office would have to ensure that the total sum of the fees charged for all work (except work by agreement or tendered), taking one year with another, is broadly equivalent to the expenditure in connection with that work.

We do not propose defining in legislation how our costing model should work, but it is an appropriate assurance mechanism for our external auditors to report on the reasonableness of the cost allocation model we use.

We stand ready to support the Committee's deliberations on this matter.

R6 The Committee recommends that the Auditor General provides assurances that effective internal controls are in place to avoid a recurrence of overpayment of fees, as raised by RSM, and an update on this should be provided in the Annual Report for 2018-19.

We undertook a post-project learning exercise to identify what went wrong with our grants audit supplier in this instance and how to avoid a recurrence in future. The outcome has been a shift from placing reliance on the firm's quality assurance arrangements to one of closer management by the Wales Audit Office, so that the same quality assurance arrangements are now applied to all work carried out on behalf of the Auditor General. As part of this, we have set out internal reporting lines in respect of grants work. In future, our grants manager will report issues to the contract manager and the quality manager and consider for escalation to the Assistant Auditor General.

We will provide a statement on this in our Annual Report & Accounts 2018-19.

R7 The Committee recommends that the Wales Audit Office updates the Committee on the impact of any increase in employer pension contributions or pay and price pressures as soon as they are known.

Our current estimate of the additional, unbudgeted cost is in the order of £750,000 in relation to the increase in employers' pension contributions though we await confirmation of precise contribution levels. We will update the Committee during the year, once the position is clearer.

R8 The Committee recommends that the Wales Audit Office clarifies the potential need for additional funding in 2019-20 in the event of there being no transitional agreement with the EU.

We are grateful for the Committee's support of the additional £85,000 contribution in our Estimate towards our work on Wales' preparedness for withdrawal from the EU. If the UK enters into a transition period, as set out in the proposed Withdrawal Agreement, then we anticipate that no Supplementary Estimate will be needed.

However, we do think it is highly likely that a 'no deal Brexit' on 29 March 2019 would require a significantly enhanced level of audit attention and resources during 2019-20. In that scenario, we would re-focus our Brexit-related resources and possibly re-prioritise other work.

We are not currently planning on the basis of seeking a Supplementary Estimate and so only if we found our revised resourcing demonstrably insufficient and were unable to absorb further costs from within our budget, would we contemplate raising the matter with the Finance Committee. Nonetheless, the uncertainties associated with a 'no-deal Brexit' are such that we thought it both prudent and appropriate to signal to the Committee at this early stage that the need for a Supplementary Estimate during 2019-20 cannot be ruled out. Once we know the actual terms of the UK's 29 March 2019 withdrawal we will be able to better identify and assess the resultant audit risks and their implications.

We will continue to liaise with the Public Accounts Committee and other relevant Assembly Committees in relation to any potential impacts for their work programmes.

R9 The Committee recommends that the Wales Audit Office provides further details on the estimated value of income that will be lost as a result of no longer undertaking EU grants audit activity.

Our Medium Term Financial Plan forecasts an expected reduction of £750,000 in relation to audit work on EU Agricultural Funds which we expect will come to an end in 2021-22 in line with the end of the current grant programme. We are not anticipating that any domestic policy which could replace these grants would require the same level of audit. We are therefore planning on the basis that this income stream will largely, or wholly, disappear and are taking appropriate steps to manage that change smoothly, for example, through making specific fixed-term appointments to resource the work.

In the event of a 'no deal Brexit' on 29 March 2019, our audit work would continue to the end of June 2019, thereafter leaving a significant income exposure risk of circa £600,000 in 2019-20. To mitigate this risk in part, we have an agreement with DEFRA to cover extra committed costs, for example, for specific unavoidable redundancies. We would also look at realigning internal resources and revising our wider recruitment and staff replacement plans for next year. However, it may not be possible to fully cover the shortfall in that first year in the event of no deal.

R10 The Committee recommends that the Wales Audit Office provides a breakdown of the projects and savings delivered as part of the "Smarter, Leaner, Better" programme.

We propose including this in our Annual Report & Accounts in future years, to clearly demonstrate the linkage back to the planning assumptions we state in our Estimates for the year.

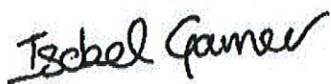
R11 The Committee recommends that the Wales Audit Office provides details of the savings and efficiencies realised from its investment in Data Analytics in future estimates and annual report.

Though it is too early in the programme to be able to say with confidence what efficiencies can be realised, the Data Analytics benefits realisation plan does have

cost savings and efficiencies as one of the benefits we intend to deliver. We will report on this in our Estimate for 2020-21 and future Annual Reports & Accounts.

We trust the above provides the Committee with the assurances it is seeking but do please come back to us if you have any follow-on queries.

We very much look forward to working with you and the Committee.



ISOBEL GARNER
Chair, WAO Board



ADRIAN CROMPTON
Auditor General for Wales

cc: Bethan Davies, Clerk to the Committee

Paul Davies AM/AC

Aelod Y Ceidwadwyr Cymreig dros Preseli Penfro
Conservative Member for Preseli Pembrokeshire

Dai Lloyd AM

Chair, Health, Social Care and Sport Committee

Mick Antoniw AM

Chair, Constitutional and Legislative Affairs Committee

Llyr Gruffydd AM

Chair, Finance Committee

10 January 2019

Dear Chairs,

Autism (Wales) Bill

I would like to thank you and members of your committees for your detailed consideration of the Autism (Wales) Bill and your reports published on 7 December 2018. After careful consideration, I would like to take this opportunity to respond to the recommendations made in each report ahead of the Plenary debate on the general principles of the Bill on 16 January.

Health, Social Care and Sport Committee

Recommendation 8. We recommend that, if the Bill proceeds to Stage 2, an amendment should be brought forward to ensure that Judicial Review is not the only route available for individuals to assert their rights.

I accept the principle behind this recommendation, but having given careful consideration to the relevant issues, it is with much regret that I am unable to implement it at this time.

The overall purpose of this Bill is to ensure the needs of children and adults with Autism Spectrum Disorder (ASD) in Wales are met, and to protect and promote their rights. It would be of great concern to me therefore should those whom this Bill seeks to help are unable to seek appropriate remedies if their needs are not

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met. The Bill currently sets out clear duties on the Welsh Ministers and relevant bodies that enables those wishing to seek redress to do so through judicial review; however I acknowledge concerns that this is not always an easy process to navigate.

In evidence, my officials and I commented on the distinction between enforcement on the part of the Executive, and direct remedies available to the citizen. Whilst the former can be addressed in a number of ways (for example powers of direction and intervention), the options to address the latter in this type of legislation are far more limited. Financial remedies would not be appropriate in this case, and I would not want to legislate for remedies that the citizen already has the right to access (such as complaints via the existing NHS and local authority procedures, and reference to the Public Services Ombudsman). However, like the Committee, I am supportive of the aim of further enhancing the rights of the citizen to access suitable remedies where practical and, as such, have given much consideration during the development of the Bill as to how it might be amended in order to achieve this aim.

Unfortunately however, for the reasons I have outlined, I have been unable to identify a workable solution and am therefore unable to accept this recommendation at this time. That said, I remain fully supportive of the Committee's rationale in making this recommendation, and can assure Members that, should the general principles be agreed, I would be happy to work with Members, or to consider any amendments tabled during the amending periods, with the aim of strengthening the Bill in this respect.

The remaining recommendations made by the Health, Social Care and Sport Committee relate to the Welsh Government. I share the concerns raised by the Committee in its report and fully agree with the Committee that urgent improvements to ASD support services are needed.

Finance Committee

Recommendation 2. The Committee notes the miscalculation in the Regulatory Impact Assessment and recommends this is addressed, should the Bill proceed to stage 2.

Accept.

I wrote to the Finance Committee on 31 October 2018 outlining a miscalculation in the Regulatory Impact Assessment regarding the potential savings that could be made should the Bill result in a 1% reduction in ASD spend. Should the general principles of the Bill be agreed, I can confirm that the revised RIA, which will be produced following the completion of Stage 2 proceedings, will reflect the updated figure.

I share the frustration expressed by the Finance Committee around the Welsh Government's lack of co-operation with me as I sought to obtain accurate data on the current spend on ASD services across Wales. One would expect Welsh Government to collect such data so as to ensure the proper planning and delivery of its own ASD services, and I can say unequivocally that it would have enabled me to provide even greater detail around the costings for the Bill. I wholeheartedly endorse the Committee's recommendation 1 that the Welsh Government should commit to providing information to assist Members in producing accurate costs for explanatory memoranda tabled to accompany Bills introduced in accordance with Standing Order 26.91.

Constitutional and Legislative Affairs Committee

Recommendation 1. The Member in charge should table an amendment to the Bill to require that the autism strategy under section 1 of the Bill is subject to the negative procedure.

Accept.

I accept this recommendation and, should the Bill proceed to Stage 2, commit to tabling an amendment to this effect to ensure that this level of Assembly scrutiny is afforded to the strategy.

Recommendation 2. The Member in charge should discuss with the Cabinet Secretary a suitable timeframe for completion of the autism strategy and table an amendment to section 1(4) of the Bill to increase the 6 month deadline in line with those discussions.

Accept.

I am aware that the Cabinet Secretary for Health and Social Services has expressed concern around the timescale specified in the Bill for completion of the autism strategy. I am content to reconsider the timeframe and commit to working with the

Welsh Government to agree a suitable timescale and to table an amendment to the Bill to that effect.

Recommendation 3. The Member in charge should re-consider whether the remedies available to citizens under the Bill are appropriate, and if necessary, table amendments at Stage 2 to provide a more effective way of enforcing the Bill's provisions.

Accept.

This is similar to recommendation 8 made by the Health, Social Care and Sport Committee. As stated in my above response to that recommendation, I am supportive of enhancing citizen's rights under the Bill where possible, and have carefully considered all practical options to achieve the aim of strengthening the remedies available to them. Unfortunately, as I have explained, I have been unable to identify a meaningful way of amending the Bill in this respect.

However, I re-iterate my commitment to ensuring that the Bill does provide for remedial rights where practical and, as I have stated above, am happy to work with Members and other experts, or to consider any amendments tabled during the amending periods, with the aim of strengthening available remedies under the Bill.

Recommendation 4. The Member in charge should table an amendment to the Bill setting out the data that must be collected by local authorities, with the addition of a power for the Welsh Ministers to prescribe in regulations, subject to the affirmative procedure, other categories of data (in effect replicating the provision in section 6(6)(j)).

Accept.

Section 6 of the Bill sets out the specific data to be collected by NHS bodies to assist in the diagnosis and service provision for people with ASD. The specified categories of data are judged to meet the minimum requirements for satisfying the functions of diagnosis, service planning and development. This provision was informed in large part by consultation with Dr Dawn Wimpory, who manages a trial on ASD data collection for Betsi Cadwaladr UHB, and who is herself a clinical practitioner. It was further underpinned by the public consultation on this aspect of the Bill.

I acknowledge that, whilst local authorities are specified as one of the relevant bodies to whom parts of section 6 would apply, this is solely in relation to their general obligations to assist the Welsh Ministers to discharge their own data collection duties under section 6(1). The Welsh Ministers' duties are to obtain, produce and keep updated reliable data to support their functions under the Bill – and it is open to them to decide what data they must collect to achieve this. Whilst the specific data obligations placed on NHS bodies in section 6(6) of the Bill were included to address a clearly defined and pressing need, no evidence was received identifying a lacuna in relation to data collection within local authorities generally. Further, the Minister, in his evidence, pointed out that the Welsh Government already has extensive powers to collect data, and did not require further powers or obligations in this regard.

The Committee may be interested to note that the forthcoming Welsh Community Care Information System (WCCIS), which I referred to in the Explanatory Memorandum, will better enable health and social care professionals to record and share important information covering a range of activities such as community nursing, health and social care visits, mental health, learning disabilities, substance misuse, complex care needs or social care therapy.

Taking all this into consideration, I am happy to seek expert advice on the types of data that local authorities might usefully collect to assist in diagnosis and service provision, and, if appropriate, table amendments accordingly.

Recommendation 5. The Member in charge should table an amendment to section 9(1) of the Bill to remove paragraph (b) of the definition of autism spectrum disorder.

Accept.

The primary focus of the Bill is on the improvement of ASD services in Wales. However, as currently drafted, section 9(1) permits the Welsh Ministers to prescribe other neurodevelopmental disorders by regulations. This means that if future Welsh Ministers believe the provisions of this Bill should be applied to people with other neurodevelopmental disorders, they would have the power to do so.

This provision was included in the Bill as feedback from the consultation exercises I ran strongly supported the use of the WHO definition of ASD and the inclusion of

a power to specify other neurodevelopmental disorders. The rationale for including this provision was to enable the benefits of legislating for ASD to be extended to those with other conditions, however the Bill is first and foremost about the improvement of ASD services in Wales, and this is its primary focus.

I have carefully considered the rationale behind the Committee's recommendation and conclude that I am content to table the amendment necessary to implement this recommendation.

Regardless of a provision to extend the scope of this Bill to include other conditions, I believe that passing and implementing my Bill will benefit those with a wider range of conditions.

The Bill will result in the upskilling of staff who work not just with people with ASD, but people with other conditions too. The diagnostic process for autism includes consideration of related or co-occurring conditions (e.g. ADHD), necessitating skills in identifying and differentiating these other conditions. Provision in the Bill for earlier diagnosis will ensure that people receive the right help sooner, whether they have autism or another condition. In addition, improving service standards and data collection, and encouraging research and innovation, can help promote best practice across services and ensure appropriate diagnosis levels measured against relevant prevalence data.

Recommendation 6. The Member in charge should table an amendment to the Bill to enable the data collection requirements for new relevant bodies prescribed under section 9(1) to be set out in regulations subject to the affirmative procedure.

Accept.

This ties in with my response to the Committee's recommendation 4. I accept that, should it be necessary to extend the data collection requirements to include an additional body or organisation, the regulations should set out the data collection requirements on that body where expert evidence indicates this is necessary. If the general principles of the Bill be agreed, I will commit to tabling an amendment to the Bill to that effect.

I am grateful to each committee for the time you have taken to consider the Autism (Wales) Bill and your detailed reports. The aim of this Bill has always been to improve services to meet the needs of people with ASD and their families across

Wales, and I firmly believe that the measures in this Bill provide the most effective means of achieving the improvements needed.

Yours sincerely,

A handwritten signature in black ink that reads "Paul Davies". The signature is written in a cursive, slightly slanted style.

Paul Davies AM
Preseli Pembrokeshire
Leader of the Welsh Conservative Assembly Group

Agenda Item 3

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

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Agenda Item 6

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

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