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Dear Peredur

WFG work and the estimate

As promised during our evidence session with the Finance Committee on 9 November, I am enclosing a copy of our response to the Welsh Government's recent consultation on additional public bodies to be subject to the well-being duty (Part 2) of the Well-being of Future Generations (Wales) Act 2015.

I should also clarify a point raised during our evidence about the way we are funding our work under the Act. For the relevant local government and health bodies we have, from the outset, absorbed this work within the overall performance audit plans and fees for the relevant bodies without any uplift in those fees to reflect the additional duties flowing from the Act. In central government, the situation I was describing about having charged some fees for work at the Welsh Government and NRW related to the first reporting cycle leading up to my May 2020 statutory report. In the current reporting cycle, we have been adopting the approach of absorbing work under the Act in all relevant central government bodies as part of the funding we receive from the Welsh Consolidated Fund. Paragraphs 16 to 21 in our consultation response address the funding situation and the concerns we have raised about risks associated with maintaining that approach.

Yours sincerely



ADRIAN CROMPTON
Auditor General for Wales

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Welsh Government consultation on additional public bodies to be subject to the well-being duty (Part 2) of the Well-being of Future Generations (Wales) Act 2015

Auditor General for Wales response

The Auditor General's role under the Act

- 1 As the Welsh Government is aware, section 15 of the Well-being of Future Generations (Wales) Act 2015 (the Act) places certain responsibilities on the Auditor General for Wales. Specifically, he:
 - may examine public bodies to assess the extent to which they have acted in accordance with the sustainable development principle when:
 - setting well-being objectives, and
 - taking steps to meet them
 - must examine each public body at least once in a five-year period; and
 - must present a report on the examinations to the Senedd at least a year before each Senedd election.¹
- 2 Audit Wales would be required to carry out such examinations at any new public body that becomes subject to the well-being duty. This assumes there is no general change to the legislation in advance of the duty being extended or alternative provisions for any new bodies for the remainder of this reporting cycle.

Our views on extending the well-being duty to the additional public bodies listed in the consultation document

Context

- 3 We welcome the review that has led to this consultation and note that it is, in part, a response to the recommendation made in the Auditor General's May 2020 statutory report, ['So what's different: Findings from the Auditor](#)

¹ The first such report was published in May 2020 and the next report will be published by early May 2025.

General's Sustainable Development Principle examinations'. We recommended the Welsh Government consider whether additional public bodies should be subject to the Act because:

- The public sector landscape had changed since the original designation of 44 bodies, with several new public bodies being established but not being designated. We referenced the fact the Act requires a collective and co-ordinated effort across the public sector.
 - There were also pre-existing public bodies (specifically the Welsh Ambulance Services NHS Trust (WAST)) that may have warranted designation.
- 4 The Public Accounts Committee also made a similar recommendation in its report 'Delivering for Future Generations: The story so far', following its inquiry in response to the Auditor General and Future Generations Commissioner's (the Commissioner) statutory reports.
- 5 The case for reviewing which public bodies are subject to the well-being duty is clear. It is important to bear in mind that there are some practical challenges that relate to the scope of any extension and what that means in the context of the Auditor General's duty. We should welcome further discussion with the Welsh Government on these matters as it considers the wider responses to this consultation and any next steps.
- 6 We are aware that the Welsh Government intends to undertake post-legislative evaluation of the Act. Ideally perhaps, this evaluation would have been undertaken in advance of or alongside consideration of extending the well-being duty. Nevertheless, the issues in this response are likely to be relevant to post-legislative evaluation, at such time as the Welsh Government undertakes it.

How we deliver our sustainable development principle examinations

- 7 We proposed a new approach to delivering the examinations in our 2020 consultation, Delivering the Auditor General's Examinations 2020-25. Following that consultation, the Auditor General wrote to the relevant public bodies setting out our intention to integrate the examinations alongside existing programmes of work, as far as possible. The Auditor General has a complex range of powers and duties at different bodies, resulting in different opportunities and some barriers to achieving this.
- 8 The Auditor General's existing duties under the Public Audit (Wales) Act 2004 require him to be satisfied that a local government or NHS body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources ('value for money'). To conclude accordingly, we undertake an annual programme of work for that purpose

at each such body². Therefore, it is at these bodies where we have an opportunity to integrate the examinations across a range of audit work.

- 9 The Auditor General does not have an equivalent 'proper arrangements' duty at most central government or sponsored bodies. However, we do have some opportunities to integrate the examinations in our programme of national value for money studies.
- 10 In practical terms, this means:
- We undertake specific examinations on the setting of well-being objectives at each body, taking opportunities to deliver them as part of local performance audit³ programmes at health bodies, local government, fire and rescue authorities and national park authorities. The fact that we do not have a basis for undertaking such local performance audit programmes at the Welsh Government or sponsored bodies means the examinations of well-being objectives are standalone pieces of work.
 - We take opportunities to deliver our examinations of steps to meet well-being objectives as part of planned national and local performance audit work that covers the relevant bodies. However, for some sponsored bodies in particular, this means having to design examinations to discharge the Auditor General's duty under the Act into our work programme that we might not otherwise have prioritised. This then displaces other potential work.
- 11 There are benefits to integrating our examinations as part of existing performance audit programmes wherever possible, which include:
- A broader coverage of examinations;
 - Reduced cost and burden to public bodies; and
 - A more rounded view of performance, which makes the connections between the sustainable development principle and value for money so that we can provide greater insight to public bodies. Indeed, there are potential risks to considering the sustainable development principle separately from value for money. These two concepts do not exist in isolation from one another: value, and particularly effectiveness, need to be considered in relation to the long term.

² Local performance audit programmes will also cover other functions listed in footnote 3 as are relevant in any particular case.

³ We use the term 'performance audit' to cover value for money examinations, improvement studies, studies of services, improvement 'audits' and assessments, special inspections, and 'proper arrangements' audit work. The scale and nature of performance audit programmes varies across the different types of bodies in line with the relevant governing legislation, as well as local circumstances.

- 12 The challenges and implications relating to bodies where we do not have these opportunities and where we are having to build new, standalone work into our programme are set out in more detail below. It will be necessary to consider the implications for any such newly designated bodies and for those central government bodies already covered, in the round.

What this would mean for new bodies

- 13 As required by differences in statute, we have different audit arrangements in place across the proposed new bodies. Therefore, the way we could deliver the examinations would vary accordingly. **Exhibit 1** sets out the existing audit arrangements at each body.

Exhibit 1: proposed additional public bodies and existing local audit programmes

Health Education and Improvement Wales	We currently undertake both audit of the accounts and local performance audit programmes (chiefly to deliver the proper arrangements conclusion). We seek to integrate our examinations as part of those existing local performance audit programmes.
Welsh Ambulance Services NHS Trust	
Digital Health and Care Wales	
Social Care Wales	We currently only undertake an audit of the accounts ⁴ . The absence of statutory provision for a proper arrangements conclusion means that there are no opportunities to integrate our examinations as part of local performance audit programmes.
Welsh Revenue Authority	
Qualifications Wales	
Transport for Wales	These bodies' audits are governed by the Companies

⁴ And tax statements in the case of the Welsh Revenue Authority

Centre for Digital Public Services

Act 2006, which does not provide for a proper arrangements conclusion, so there is no basis for integrating sustainable development examinations with the audit. Also, as Auditor General is not currently the external auditor, we do not undertake any routine audit work at these bodies at this time, which further precludes integrating examinations. In addition, as there are no statutory access rights in the 2015 Act to support examinations.

- 14 We deliver local performance audit programmes at Health Education and Improvement Wales, the Welsh Ambulance Services NHS Trust and Digital Health and Care Wales. While our audit coverage is generally not quite as extensive at these bodies as it is for the seven health boards, it would seem appropriate to adopt our existing approach of integrating our examinations as part of these programmes. We have done this at no additional cost to the existing health bodies to date.
- 15 For the remaining bodies, as statute does not enable us to undertake equivalent local performance audit programmes (or indeed where we are not currently the external auditor), we would need to undertake standalone examinations of both the setting of well-being objectives and taking steps to meet them. This presents issues relating to a). funding, b). ensuring the examinations add value, and c). the timing of the first examinations.

Funding

- 16 As noted in the consultation document, we may charge fees to cover the cost of the examinations. However, we have sought to avoid doing so as it would have a significant impact on bodies' overall audit fees, particularly for smaller bodies. By integrating the examinations where we can, we have generally been able to deliver without charging additional fees to the majority of bodies. Where statutory constraints prevent us from integrating work at central government bodies currently covered by the Act, we are covering the cost in this reporting cycle through funding we receive from the

Welsh Consolidated Fund (WCF), which is approved via our estimate to the Senedd.⁵

- 17 Following the Welsh Government's decisions further to this consultation, we will need to revisit the arrangements for funding the examinations at these and any additional bodies. We will also need to keep fee levels under review at those bodies where we have integrated the requirements to ensure that we are able to adapt our work programmes and respond to the increasing challenges and risks they are facing.
- 18 Given the constraints of statute described above, together with the statutory prohibition on cross-subsidisation of different functions, our current funding position may become more difficult to maintain as further bodies become subject to the duty. While we will continue to look for opportunities to integrate examinations under the Act within our planned work programmes, there are two significant risks associated with continuing with the current arrangement:
- It impacts on our wider programme of work and may practically interfere with the Auditor General's independence in setting that work programme. Further constraining the work programme in this way could also mean that we do not have sufficient capacity to undertake responsive, risk-based work.
 - It relies on the willingness of the Senedd, and its Finance Committee especially, to allow funding from the WCF for our work programme. Further examinations may result in additional funding requirements to offset the risk outlined above.
- 19 As set out in the consultation, it is not therefore possible to guarantee that we will be in position to avoid charging fees for examinations.
- 20 We note that the Welsh Government expressed some concern at the rising cost of public sector audit in its response to our own recent [Consultation on Fee Scales 2023-24](#). We think that the Welsh Government should bear in mind that extending the well-being duty will inevitably result in additional audit costs, irrespective of how those costs are funded, as well as opportunity costs.
- 21 We would welcome the opportunity to work with the Welsh Government and provide relevant cost information if there is to be an update to the regulatory impact assessment as part of an extension of the well-being duty.

⁵ In the first reporting period, we charged a fee to the two larger central government bodies, the Welsh Government and Natural Resources Wales, for some specific aspects of our work under the Act. We funded the work at the four smaller central government bodies through the Welsh Consolidated Fund.

Ensuring our examinations add value

- 22 As described above, integrating our examinations as part of existing programmes of work enables a broader understanding of how public bodies are applying the sustainable development principle and make the connection between the sustainable development principle and value for money. Furthermore, the legislative basis of our work in health and local government bodies allows us to look at the sustainable development principle alongside their corporate arrangements. For example, we have recently undertaken work at councils where we have looked at the sustainable development principle as part of work on assets and workforce planning.
- 23 For bodies where because of the absence of provision for a proper arrangements conclusion we cannot undertake integrated local performance audit programmes, it is (or would be) more difficult to have the same impact through infrequent, standalone examinations. Standalone examinations are also likely to be relatively expensive and burdensome for smaller bodies.
- 24 Delivering standalone examinations is likely to be less efficient. It would be a particular challenge at those bodies where the Auditor General is not the external auditor, as we would not have any existing relationships or cumulative intelligence to draw upon. As the Act does not provide any specific access rights to support sustainable development principle examinations, we would be wholly reliant on voluntary co-operation, leaving the rigour and objectivity of our work vulnerable. (This could be addressed by amending the Act so that it provides such access rights, but this would be going beyond the designation of further bodies.)
- 25 If additional bodies that are not subject to an Auditor General duty to provide a proper arrangements conclusion (or not subject to Auditor General audit at all) are made subject to the well-being duty, we would work with these bodies to develop our knowledge and relationships and design our work to be insightful and impactful. However, such additional work will need to be funded one way or another, and the limitations of breadth, frequency and connection to wider corporate arrangements may make it more difficult to really understand how public bodies are applying the sustainable development principle and ensure our work adds maximum value.
- 26 We would welcome further discussion with the Welsh Government about the Auditor General's section 15 responsibilities as part of post-legislative evaluation. We welcome our responsibilities under the Act; we have undertaken work that has been well-received by public bodies and which we consider to have been valuable. However, we think it is clear that it

would be helpful to consider revising both the 2015 Act and other relevant legislation so as to achieve better alignment between requirements to undertake sustainable development principle examinations and the duty to provide proper arrangements conclusions. Similarly, it may be helpful to consider including access rights in respect of sustainable development principle examinations, particularly if bodies that are not subject to audit by the Auditor General are to be subject to the well-being duty. Such developments might enable us to optimise the proportionality, economy and impact of our approach, especially in the context of a larger number of bodies being subject to the well-being duty.

Timing of the first examinations

- 27 The consultation proposes that new bodies would be subject to the well-being duty from 1 April 2023 and would be required to publish well-being objectives within 12 months (by March 2024). Under the current legislative requirements, this would mean that we need to carry out examinations of a) the setting of objectives and b) steps to meet those objectives in this reporting period. We need to conclude our work in this reporting period in good time (by autumn 2024 ideally) to begin preparing the Auditor General's next statutory report to be published by early May 2025. This leaves a small window in which to deliver what could be 16 additional examinations. Unless we charge fees or can secure additional resources from the WCF to support this work, it is unlikely to be possible to undertake the examinations required within this timescale without significantly and adversely affecting the Auditor General's wider work programme.
- 28 Furthermore, two examinations in what would be a short space of time would be to be burdensome for those newly designated bodies. While the bodies may have some knowledge of the sustainable development principle and may have taken some steps towards applying it, it would also seem reasonable to give them time to adjust to the new requirements. This would be consistent with the approach we took with the original 44 bodies in the early days of the Act.
- 29 If all proposed additional bodies are to be subject to the well-being duty to the timescales identified in the consultation, we would welcome discussions with the Welsh Government on changes to the statutory deadlines for the timing of the first examinations. There would be benefit in allowing for some flexibility on the timing of the examinations of steps to meet well-being objectives with a view to those examinations being carried out from 2025-2026 onwards. We believe this would be helpful to those bodies and, while it does not address the issue of funding, it would provide us with more flexibility in planning and delivering our wider work programme.

Guidance and support to public bodies

- 30 Question 5 in the consultation asks for public bodies' views on guidance and support they have found helpful in carrying out sustainable development. While it is not our role to provide guidance to public bodies, we have designed our work to help public bodies learn and improve how they apply the sustainable development principle. We worked with public bodies and other stakeholders when designing our methodology and one of the outputs was a set of 'positive indicators'. These positive indicators illustrate what good could look like for each of the five ways of working. They have helped to build a common understanding and were welcomed by public bodies.
- 31 We would also draw bodies' attention to the outputs from our examinations. This includes reports to individual bodies, as well as the Auditor General's statutory report, which sets out learning points relating to each of the five ways of working.
- 32 We deliver a programme of good practice events where we share the findings from our work and promote learning between public bodies. The context of the Act and the sustainable development principle have been important features of the programme and we work with the Commissioner's office and other stakeholders to develop and deliver it. Details can be found on our website [Events | Audit Wales](#).

Further points on the selection of proposed bodies

- 33 It is helpful that the Welsh Government has shared its updated criteria for determining which bodies should become subject to the duty. However, the definition of 'strategic functions' is not clear and further explanation of what that means and how it applies in the context of individual bodies would be helpful.
- 34 Similarly, we noted the Welsh Government's rationale for not including certain bodies. However, we think the consultation could have been clearer on the following:
- Registered Social Landlords: The consultation explains that they have not been included because of the 'varied level in public funding'. This prompts the question as to whether some receiving funding above a particular threshold should be included, while others not. There is perhaps a useful comparison to be drawn with community councils, where the provisions set out under section 40 of the Act only relate to those with a gross income or expenditure of at least £200,000.
 - Inspectorates: The consultation explains that they have not been included because they do not have executive functions or strategic

functions. However, given that Care Inspectorate Wales and Healthcare Inspectorate Wales are in essence the Welsh Ministers exercising certain inspection and regulatory functions, it might be helpful to explain the position in relation to these. We welcome the commitment to ensuring there are appropriate arrangements for considering whether new bodies should be subject to the well-being duty as they are created. We would suggest this includes engagement with ourselves and the Commissioner to explore the implications for how we deliver our respective duties and the impact on our resources.

- 35 Finally, our response to the recent Senedd consultation on the Social Partnership and Procurement (Wales) Bill noted the possible increase in bodies subject to the well-being duty and the consequent impacts for that Bill. Specifically, an increase in bodies covered by the well-being duty would result in an increase in the number of bodies covered by the proposed social partnership duty. This would cause the cost of that Bill to rise.
- 36 Given that bodies that become subject to the well-being duty will also become subject to the new social partnership duty, it will be important that they receive clear guidance on how to deliver on both in combination. The social partnership duty could apply at the time when these bodies set their first well-being objectives, meaning that clear guidance should be available as they commence that work, which is likely to be in the 2023-2024 financial year. Clear guidance will be equally important to those bodies already covered by the well-being duty.