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Welsh Government

Mark Isherwood MS

Chair, Public Accounts and Public Administration Committee
Welsh Parliament
Cardiff Bay
CF99 1SN

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Dear Mr Isherwood,

Thank you for your letter dated 21 December 2022, in which you asked for information on the funding of the four Commissioners and their offices. Information on the Budget approval process and funding comparisons are attached.

I hope that this is helpful to the Committee in considering the funding of the Commissioners and how it supports their important roles and activities.

*Yours,
Andrew Goodall*

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PUBLIC ACCOUNTS AND PUBLIC ADMINISTRATION COMMITTEE

CALL FOR EVIDENCE: FUNDING OF COMMISSIONERS IN WALES

Background

1. The four Commissioners operate according to separate pieces of legislation, but the management of their funding must comply with the financial framework in Wales, detailed in HM Treasury's [Consolidated Budgeting Guidance](#)¹ and [Financial Reporting Manual](#)², and in the Welsh Government's [Managing Welsh Public Money](#)³. This fits with the overall Welsh Government budget setting process which is governed by the requirements of the Government of Wales Act 2006 and the Standing Orders of the Senedd.
2. The Commissioners must co-operate with their partnership teams by providing all necessary assistance and information to the Welsh Government to take forward its budget planning decisions.
3. The relevant Minister will confirm both the net revenue and capital resource budgets and amount of grant-in-aid (cash) funding to be provided to the body for the next financial year. As part of the net resource budget allocation, the Minister will also confirm the level of income which may be retained by the body to fund activity in the financial year in accordance with Managing Welsh Public Money. This will normally be no later than one month after the final budget has been agreed by the Senedd. Any funding for the year in question must be authorised by the Senedd in the Annual Budget Motion.
4. Where possible, the Minister will also provide indicative resource revenue and capital budgets for subsequent years to inform budget planning. However, details of indicative budgets for future years can decrease or increase according to Government priorities, changes to Ministerial portfolios, budget fluctuations (at UK and Wales levels) or any concerns about the efficiency or effectiveness of the body being funded. Commissioners may also be required to model different options for activity dependent on the funding available.
5. When setting resource revenue and capital budgets and grant-in-aid (cash) requirements, consideration will be given to the levels of reserves (if any) held by the body and income expected from other sources.

The Committee requested information on the following items:

¹ <https://www.gov.uk/government/collections/consolidated-budgeting-guidance>

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1124824/MASTER_FINAL_2022-23_FReM.pdf

³ <https://www.gov.wales/sites/default/files/publications/2018-10/managing-welsh-public-money.pdf>

Budget approval process

The budget process for agreeing the estimates submitted by the Commissioners.

6. The legislation requires that the Commissioners submit estimates of the income and expenses of their offices to the relevant Welsh Ministers at least five months before the beginning of the financial year to which it relates (that is, by 31 October each year). Ministers must examine the estimates submitted and then lay them before the Senedd.

7. Welsh Government budget preparation for any financial year starts in June or July of the previous year and receiving the Commissioners' forecasts in October is later than ideal for this process. In preparation for the 2023-24 budget planning process, officials proposed a new mechanism whereby the Commissioners would submit an early draft of the budget forecasts by July 2022. A letter was sent in May 2022 by both the Minister for Social Justice and the Minister for Education and Welsh Language to request early submission of draft budgets, to include an outline of budget pressures and potential cost savings, with an opportunity to update these at a later date should this be necessary.

8. All four Commissioners agreed to this proposal and submitted their drafts to their partnership teams, allowing greater time to scrutinise and discuss proposals before the final budget estimates were received as required by legislation. As part of this process, Ministers consider the Commissioners' statutory functions and strategic plans, and the level of resources required for them to operate effectively and to fulfil their functions and strategic aims. The estimates and other funding issues are discussed in the regular meetings between each Commissioner and their Minister.

What guidance the Welsh Ministers/Welsh Government officials provide to the Commissioners ahead of them submitting their estimates for the forthcoming year, such as information to support forward financial planning, including the Welsh Government's best assessment of the level of funding available in future years and factors to take into account when preparing the estimates.

9. Partnership teams share Welsh Government assumptions on planning and pressures as part of their engagement with the Commissioners and to support the earlier submission of draft estimates. This helped Commissioners to forecast budget pressures for different aspects of provision for the year ahead and for future years. They were encouraged to be pragmatic in terms of their requirements and to consider ways of making cost savings where these were possible. All the Commissioners are in a similar position where their biggest budget pressure is staff costs, taking around 80% of their budgets.

10. Following receipt of the draft estimates, partnership officials held discussions with the Commissioners' officials to ensure a full understanding of their needs, whilst also ensuring that the Commissioner had an up to date and realistic forecast of the budgetary situation. The overall size of the Welsh Government's funding was not available until the UK Government published its Autumn Statement on 17 November 2022 so there was limited information to be shared with any bodies funded by the Welsh Government until late in the budget process.

What process is in place to agree any modifications of the estimate.

11. Prior to the formal agreement of the Budget by the Senedd, officials in the Welsh Government and the Commissioners' offices discuss the budget proposals as set out above and aim to agree modifications if needed before the final estimates were submitted in October. They then received budget notification letters for 2023-24 at the end of 2022. In line with legislation, the Commissioners' final estimates are examined before being laid before the Senedd.

12. Ministers have requested that the pattern of early draft forecasts for the year ahead continue and meetings between Ministers and their Commissioners are being planned to establish this.

13. Commissioners have the opportunity to raise changes to expected resource outturn and cash needed at any time and during the regular review meetings with the partnership team. If the Minister approves any changes, there are two ways of providing additional resource budget cover, although both involve formal notification of the changes in writing to the Commissioner. Each Commissioner's activity will be reported in a specific main expenditure group (MEG).

- Resource budget cover can be provided within the overall existing resource budget for the MEG where there has been sufficient slippage elsewhere in that MEG: this would not be part of the Supplementary Budget as the budget would not be changed;
- Resource budget cover can also be provided by a MEG to MEG transfer, or a transfer from Welsh Government reserves, as part of the Supplementary Budget commission to the Groups during the financial year. The Supplementary Budget motion is supported by Main Expenditure Group allocation that includes Budget Expenditure Lines (BEL) for each Commissioner's budget.

14. Partnership teams meet the Commissioners' officials regularly during the year to plan schedule for their financial draw requests – when and how much will be required. They also discuss any additional capital requirements, such as changing leases, which may require ministerial support.

In December 2021, the Welsh Government published its Draft Budget 2022-23 and its first multi-year Welsh Budget since 2017. To what extent is the Welsh Government moving to a ‘Term of Government’ approach for funding for Commissioners to facilitate longer term planning and greater stability, improve efficiency and effectiveness, while complying with statutory requirement for the Commissioners to submit an estimate to Welsh Ministers at least five months before the financial year to which it relates.

15. The Welsh Government was able to provide Commissioners with indicative budgets for 2023-24 and 2024-25 through the 2022-23 Draft Budget following the UK Government’s spending review in 2021, which provided us with a funding envelope for 2022-23 to 2024-25. These are not confirmed until the formal funding letters, setting out the budget available for the coming financial year, are issued annually.

16. Whilst the Welsh Government recognises the need to provide our partners with longer-term certainty of funding to aid financial planning, Wales has only been provided with a funding settlement from the UK Government until 2024-25 and so there is limited scope for longer-term financial planning. It should be noted that Welsh Government plans to give longer term direction and certainty to the Commissioners – and to all devolved public bodies – have been affected by the revised budget process and the exceptional response needed by HM Treasury. This means that some of the actions that had been taken have of course had to adapt to the UK and global financial outlook, with an impact on all budgets under the Welsh Government’s control.

Does the budget approval process include any review, across the Partnership Teams (sponsors) within Welsh Government departments, of the estimates submitted each year by Welsh Commissioners. Does this seek to achieve consistency in approach, as far as is appropriate and practicable, and if so how.

17. Partnership team officials from the relevant divisions meet on a regular basis to ensure alignment in our approach towards supporting the Commissioners. Matters such as finance, protocols for appointing Commissioners, terms of appointments, reviewing Commissioner salaries and comparing the options proposed by Commissioners for cost savings are discussed. The format and content of financial estimates are discussed in those meetings to try to identify best practice. This group was pivotal in ensuring the consistency in treatment of budgetary uplifts to Commissioner bodies as part of the Draft Budget for 2023-24, published by the Minister for Finance and Local Government on 13 December 2022, in which all Commissioners were allocated a 6% uplift in revenue funding to support pay in 2023-24.

18. In accordance with the financial framework, the Commissioners have moved to resource-based funding. Welsh Government officials have been working with the Commissioners to ensure that their reserves are brought down and retained cash is managed to 5% of their annual cash grant-in-aid awarded.

Funding comparisons

In its Report, the ESJ Committee concluded:

...we note the Commissioner's comments that there is a discrepancy in funding between Wales' Commissioners. While we acknowledge that each Commissioner has different roles and responsibilities and that resourcing needs will vary accordingly, clarification on the justification behind different resource allocations is lacking and warrants further scrutiny. We believe that the onus is on the Welsh Government to better justify how each Commissioner is resourced.

Your views on the ESJ Committee's conclusion about how each Commissioner is resourced.

19. The resourcing for each Commissioner is linked to their role as set out in legislation. Each Commissioner's revenue funding will receive a 6% increase in the next financial year (2023-24). This uplift assumes a 4% pay settlement in 2022-23 (the same as implemented in the Welsh Government for delegated grades outside the Senior Civil Service) and an assumed further 2% increase in 2023-24. Whilst this increase can be managed within the Commissioners' existing budgets for 2022-23, the increase in 2023-24 will mean that Commissioner should be able to continue to operate with the current numbers of staff, whilst continuing to align staff pay with Welsh Government pay scales. Without this funding, it is likely that the Commissioners would have had to shed some posts.

20. The Welsh Language Commissioner receives a larger share of funding than the other three Commissioners, reflecting the wider powers of that Commissioner under the Welsh Language (Wales) Measure 2011. The remaining Commissioners each receive broadly similar levels of funding: while their roles and responsibilities vary, each has a similar demand on resources which are largely driven by staffing costs.

21. The Minister for Social Justice has considered resource issues for all Commissioners for whom she has financial responsibility in her budget-setting decisions and has been able to propose an increase in budgets for 2023-24 and 2024-25 for the Children's Commissioner, the Older People's Commissioner and the Future Generations Commissioner. However, there is no guarantee of being able to offer a similar increase in budget in future years, although the Minister will consider all her budgetary requirements during the Welsh Government's annual budget-setting process.

22. In addition to this baseline provision, the Welsh Government International Relations Division has provided resources to the Future Generations Commissioner in 2022-23 and 2023-24 to promote international interest in sustainable development and the Welsh Government's well-being agenda aspirations. The same Division is also providing resources to support the Commissioner's work on the "Globally Responsible Wales" initiative.

Has the Welsh Government conducted a review of the funding allocated across Commissioners and/or their respective financial positions. If so, can you provide details.

23. As part of our aligned approach towards supporting the Commissioners, the budget pressures along with the measures taken to make savings have been compared across the Commissioners.

24. The key pressure for all Commissioners is that of staff costs (around 80% of all costs). The budget allocation for all Commissioners has supported suitable pay awards in line with Welsh Government pay rises. Two of the Commissioners – Older People’s and Future Generations – have been funded to better achieve pay parity by ensuring that all staff are paid at least the same as the minimum pay point of the equivalent Welsh Government grade. A total of nine public bodies, including these two offices, have received funding to meet this Programme for Government commitment.

25. A formal review of the role and functions of the Children’s Commissioner for Wales was carried out in 2014, undertaken by Dr Mike Shooter. This resulted in a number of recommendations for the Commissioner, Welsh Ministers and the then-Assembly: the Minister at the time, Lesley Griffiths, published the final response to the review on 9 February 2016.

26. Following Dr Shooter’s review, the Welsh Government supported a review by the independent Commissioners for Children and Older People of their existing support services arrangements. The review began in early autumn 2015 and focused on the effectiveness, efficiency and value for money of the arrangements for non-frontline services which supported the Commissioners’ outward-facing roles, as well as exploring and considering a range of alternative options including collaborative arrangements. This took place in parallel with the work to establish support services for the Future Generations Commissioner when her office became operational in April 2016.

27. On 14 July 2022, the Minister for Social Justice wrote to the Future Generations Commissioner and those bodies subject to the Well-being of Future Generations (Wales) Act 2015 to consult on her intent to include the bodies listed below in the definition of a ‘public body’ for the purpose of Part 1 and Part 3 of that Act:

- Qualifications Wales
- Social Care Wales
- Health Education and Improvement Wales
- Welsh Revenue Authority
- Transport for Wales
- Centre for Digital Public Services
- Digital Health and Care Wales
- Welsh Ambulance Service NHS Trust

28. In her response of 14 October 2022, the Future Generations Commissioner agreed with the list of bodies but also highlighted the need to provide additional funding to the Commissioner to support these bodies. Work is ongoing with the Commissioner’s officials to scope out the potential additional resources the Commissioner may require to support the proposed list of additional bodies.

29. One non-financial area of discrepancy relates to the terms limits of the four Commissioners. The Older People's Commissioner has a term of office of four years with a possible extension of two years. All the other three Commissioners are appointed for terms of seven years.

We note the Minister for Social Justice's response to the ESJ Committee's Report (May 2022) says she has asked Welsh Government officials to explore the "scope and need for an evaluation of the [Well-being of Future Generations (Wales)] Act, which could include an assessment of the role and functions of the Commissioner". Have officials undertaken this work, and if the Minister has decided in light of it to evaluate the Act, this Committee would welcome further information about the work, including the proposed timing and scope.

30. There are many potential benefits in conducting a post-legislative evaluation of the 2015 Act. It has been over six years since the Act took effect, so it appears timely for an evaluation to take place. An evaluation could help provide a better understanding of the impact and effectiveness of the Act and would add to the evidence base available to deliver policy objectives to promote sustainable development. A multi-year evaluation would also strengthen the culture of continuous improvement that exists across the Welsh public sector and is central to the Welsh Government's WFG agenda.

31. On this basis, the Minister for Social Justice has advised officials to explore the scope and need for such an evaluation. Given the broad scope of the Act and its reach across organisations in Wales, the initial scoping stage for this piece of work has required consideration of multiple components and this work is still ongoing. The Minister will update the Public Accounts and Public Administration Committee, the Equality and Social Justice Committee, and our wider stakeholders on progress and the proposed approach later in 2023.

Has the Welsh Government undertaken any reviews, such as post legislative scrutiny or evaluation, which considers the roles of the other Commissioners in Wales and/or their costs compared with the estimates made at the time each role was established, with reasons to explain any variances (where appropriate).

32. Other than the 2014 review of the Children's Commissioner, there have been no formal reviews of this nature looking back to estimates made at the time of each Commissioner's establishment. Commissioners and their partnership teams hold regular discussions on the need to align the terms and conditions of Commissioners to ensure fairness and transparency.

The Welsh Government's assessment of the impact of the designation of the Commissioners' offices under the changes to the Government of Wales Act 2006 (Budget Motions and Designated Bodies) Order 2018 on their current and future financial positions. What support did the Welsh Government provide to support the Commissioners move to the new arrangements?

33. The general principle with alignment is that all public bodies within the central government sector should be designated and considered for consolidation within the Welsh Government's Consolidated Accounts. The designation is technical business as usual process carried out by Welsh Government that includes the body to be designated within the schedule of the Order. The Commissioner bodies do not meet the materiality threshold for consolidation in the Welsh Government's Consolidated Accounts. No support is required for the designation process other than to explain the process and impact, which we have done on numerous occasions since the initial consultation in 2019, and Welsh Government officials continue to work with Commissioners and all relevant public bodies with regards to the appliance of the financial framework.

34. Part of the alignment exercise involves explaining how the financial framework in Wales applies to all entities that fall within the central government sector. This involves explaining how the Welsh Government, as custodian of the public sector in Wales, must comply with HM Treasury's financial framework, detailed in Consolidated Budgeting Guidance when planning, monitoring and reporting the activity for the whole of the central government sector in Wales. Groups do have the discretion to agree certain operating freedoms with individual arm's length bodies: however, the Groups have to manage these within the overall financial framework. This exercise also includes cash management, as retaining high levels of cash is seen as an inefficient use of public resources and will increase the borrowing costs for the public purse. To ensure that excessive levels of cash do not build up, the Welsh Government has a standard tolerance of 4% of the cash grant-in-aid received during the year and 2% at the end of the year. As the Commissioners may need cash to investigate a Welsh Minister or the Welsh Government, this tolerance was increased to 5% for each Commissioner and arrangements were agreed that would avoid them having to seek resource budget to carry out these investigations from the Minister being investigated should this situation arise.

34. The Welsh Government has updated the standard framework document, which includes resource budgeting and cash management arrangements, and will be working with each arm's length body to put this amended framework in place. An amended framework, including any operating freedoms, the 5% cash tolerance and the process for securing budget to fund investigations, will be included in the framework to be agreed and put in place with the Commissioners. The resource information required for budget planning is already part of the Commissioners' estimates which include both expected resource outturn and cash required. The partnership team will discuss and agree any other financial information required to support budget planning.