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Dear Peredur

Review of the Statement of Principles: Update

Thank you for your letter of 18 October 2023. I am responding both for myself and, with her agreement, the Chair of the Wales Audit Office.

We are grateful to the Committee for its consideration of the response we submitted on 16 June 2023, though we are sure you will understand our disappointment that you do not feel able to support many of the suggestions we made. While encouraging Directly Funded Bodies (“DFB”s) to be mindful of pressures on the public purse is reasonable, we continue to think that the principles are somewhat lopsided and lack recognition of why the DFBs properly have distinct budgeting processes so as to ensure DFB financing is kept separate from the Welsh Ministers’ prioritisation of executive government spending.

We are pleased, however, that the Committee intends to provide some explanation of the distinct funding processes for DFBs on its web pages. Likewise, it is reassuring that the Committee recognises the difficulties caused by the delay in the publication of the Welsh Government’s draft budget and the limited information provided to inform budgetary planning. And it is encouraging that the Committee is keen to explore during this year’s budget round whether the timescales for budgets and estimates set out in Standing Orders and legislation are fit for purpose.

We are also grateful that the Committee has written to the Welsh Government to ask that the Minister actively provides detail of any intention to present a supplementary budget motion. Noting that you felt it disproportionate to propose amending Standing Orders to require the Welsh Government to provide such notification, we should

perhaps clarify what we are suggesting and why. Specifically, our suggestion was intended to strengthen the effectiveness of the Auditor General's controller function (approvals to draw) and to streamline the effort that is needed to ensure the procedure is watertight. We were not suggesting that Ministers be required to inform DFBs generally. We would suggest that our proposal for such notification may still usefully be incorporated into any more general review of procedures taking place before the end of the Senedd as it would undoubtedly strengthen the overall system of financial control.

You mention in relation to the procedures for supplementary budgets that recent experiences since your consultation letter in May 2023 have called into question the sustainability and suitability of those procedures and whether they reflect the constitutional status of the DFBs. We share your concerns.

Before delving into particulars, we think it is helpful to consider the supplementary budget arrangements in their wider context. As you know, section 126 of the Government of Wales Act 2006 provides for the supplementary budget process. That section must, however, of course be read and interpreted in the wider context of Part 5 of the Act (Finance), as well the Senedd's Standing Orders.

In very brief summary, Part 5 of the Act establishes the Welsh Consolidated Fund as a neutral account for Wales' finances. Reflecting the Westminster parliamentary model, the Fund is operated by the Welsh Ministers but not owned or controlled by them. The Fund provides funding not just for the Welsh Government but also the DFBs, which are the "relevant persons" defined in section 124 of the Act other than the Welsh Government. The Fund is held by the Paymaster General (in practice the UK Government Banking Service), and money may only be paid from the Fund if the Auditor General provides an approval to draw, which in itself may only be given if the sum is charged on the Fund by legislation or authorised or deemed authorised by a Senedd budget resolution. These are essential overall controls to ensure that government only spends money with parliamentary approval.

Budget motions to obtain such approval, whether annual or supplementary, may only be moved by Ministers (sections 125(2) and 126(5)). This reflects the constitutional convention that government asks for money and parliament (the Senedd) grants it. It is also worth noting as a matter of practicality that on average Welsh Government expenditure makes up about 99.7% of issues from the Fund.

Confining the movement of budget motions does, however, leave DFBs at the mercy of Welsh Government co-operation if a DFB needs to make a change to its budget because of unforeseen developments. As DFBs may not hold reserves and are generally highly constrained in terms of financial flexibility, this is a serious problem. It is particularly problematic in the case of the Wales Audit Office, which is subject to very exacting and inflexible rules in relation to fees, as has been explained before.

Changing the legislation so as to expand the range of persons enabled to move budget motions would be a deviation from the Westminster model and given the comparatively very small sums required by DFBs might be regarded as a disproportionate measure. It also seems likely to cause confusion. However, the model clearly requires the Welsh Ministers to act appropriately where a DFB has a need to seek a supplementary change to its budget.

We would support an amendment to Standing Orders to require the Welsh Government always to incorporate and move a supplementary budget motion from a DFB. More particularly the commitment would be to incorporate into a supplementary budget motion any proposal from a DFB that has been laid and reported on by the relevant committee. If amendment to Standing Orders is not feasible, a less formal solution might be for the Committee to write to the Minister seeking a written undertaking to the same effect.

Another option might be to set out somewhat firmer expectations by way of general timetable. Experience shows that the Welsh Government, if not DFBs, usually need two supplementary budget motions each year: one around June and one around February. We think it would be helpful for all concerned, including the Senedd, to seek to set this pattern as the minimum normal timetable. In other words, for Standing Orders to require all relevant persons to lay (or present to the relevant committee) by specified dates each year an explanatory memorandum in respect of the subsequent supplementary budget motions to be moved by Ministers. Where a relevant person does not require any change in resources, the explanatory memorandum can simply note that. This would be a regularisation and extension of the Committee's existing practice and reduce the risk or perception that the Welsh Government can interfere with the Senedd's consideration of supplementary budgets in respect of DFBs. It would also help the Senedd to have a greater degree of certainty as to the timing of supplementary budget motions.

We hope that is helpful. We should be happy to discuss.

Yours sincerely



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Chair, Wales Audit Office



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