

Mr Alun Ffred Jones AM  
Chair, Environment & Sustainability Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

Date: 25 November 2014  
Our ref: HVT/2238/fgb  
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Dear Alun

**THE WELL-BEING OF FUTURE GENERATIONS (WALES) BILL: DISCUSSIONS BETWEEN THE MINISTER FOR NATURAL RESOURCES AND THE AUDITOR GENERAL**

I am writing to provide the Committee with an update on the discussions between my lawyers and policy officials and those of the Welsh Government, following the Minister's meeting with me on 4 November 2014.

The main issues that have been the subject of discussion have been our disagreement as to the requirements of existing audit duties in relation to the Bill, and our disagreement as to the National Assembly's legislative competence to introduce new duties on the Auditor General in relation to the Bill:

- In terms of the disagreement as to existing audit duties, the Welsh Government had been of the view that the Auditor General's existing duties in the audit of the accounts of local government and NHS bodies meant that the Auditor General was under a duty to consider the effectiveness and efficiency in the "setting of well-being objectives and taking all reasonable steps to achieve the objectives" (paragraph 390 of the Explanatory Memorandum).
- On the National Assembly's legislative competence, the Welsh Government had been of the view that providing a new duty relating to economy, efficiency and effectiveness on the Auditor General was outside competence.

As the Committee is aware, the advice provided to me by Peter Oldham QC indicated that neither of these Welsh Government views of the law were correct.

The Minister and I met to discuss these matters on 4 November. That helpful meeting was followed by a meeting of our respective lawyers on 17 November, and a series of meetings between our officials held between 19 and 25 November. As a result of those discussions, the Minister has agreed a Policy Note with me, a copy of which is appended to this letter.

I welcome the Welsh Government's proposal of a duty as it is implicit recognition that, in the absence of an existing duty to review the effectiveness of compliance with the Bill, there is indeed a need for a new duty on the Auditor General. It also serves to acknowledge that there is no existing duty on the Auditor General to audit the effectiveness of the setting of well-being objectives (and the Welsh Government has agreed to amend paragraph 390 of its Explanatory Memorandum accordingly). I also welcome the Welsh Government's acceptance of my suggestion that, in the interests of timely and proportionate reporting, the provisions for reporting on the exercise of such a duty should not be tied to an annual cycle but should instead provide some alignment with the Future Generations Commissioner's Future Generations report.

In my view, the enclosed Policy Note sets out a role for the Auditor General that will provide a reasonable degree of consistent audit examination of the setting and achieving of well-being objectives across the Welsh public sector. The Minister has indicated to me that the Policy Note will be translated into an appropriate Government amendment to the Bill, and I await sight of the precise wording of the proposed duty.

I should be happy to provide further explanation if the Committee would find that helpful.

Given the interests of the Public Accounts Committee and the Finance Committee, I am copying this response to Darren Millar AM and Jocelyn Davies AM. A copy also goes to Gareth Jones at the Welsh Government.

Yours sincerely



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

*Enc: Annex: Policy note agreed between the Minister for Natural Resources and the Auditor General for Wales*

cc Mr Darren Millar AM  
Ms Jocelyn Davies AM  
Mr Gareth Jones OBE

## **ANNEX: POLICY NOTE AGREED BETWEEN THE MINISTER FOR NATURAL RESOURCES AND THE AUDITOR GENERAL FOR WALES**

### **WELL-BEING OF FUTURE GENERATIONS BILL**

As suggested by the Auditor General to the Committee, we agree that there should be a new duty on the Auditor General that requires him to examine and report on the application of the governance approaches in both the setting and also the achieving of objectives by public bodies. We are also in agreement that the Auditor General should lay before the Assembly a report on the finding of those examinations in a way that allows the reports to complement the Future Generations Commissioner's FG report and to lay (and therefore publish) the reports.

#### **Proposed Role of the Auditor General**

The Welsh Government has proposed that the Auditor General would regularly examine how the bodies have applied the five identified governance approaches of sustainable development. This means looking at the arrangements they have in place to ensure that they take account of the long term, the need for an integrated approach, working with others, involving people, and taking preventative action in both setting and taking steps to meet their well-being objectives.

The Auditor General would therefore be able to consider issues such as whether the body can show that it has organised itself to have robust mechanisms and procedures in place and whether these are actually being used, that is, are the governance approaches being applied when the body is making key decisions about setting well-being objectives and also when taking steps to achieve them.

Such an examination would not be a simple tick box exercise to review whether or not the body actually has well-being objectives but would be an examination of how seriously the public sector is taking sustainable development. How the Auditor General carries out this examination should be at his discretion so that he has flexibility to do so in a proportionate way.

It is not envisaged that under this duty the Auditor General would look at whether the objectives are the 'right' objectives, but whether the public body has gone the right way, i.e. embedded the governance approaches in setting the objectives, and then achieving them.