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Y Gweinidog Cyllid a Busnes y Llywodraeth
Minister for Finance and Government Business



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref:
Ein cyf/Our ref:

Jocelyn Davies AM
Chair, Finance Committee
National Assembly for Wales

Dear Jocelyn,

16 December 2014

AUDITOR GENERAL FOR WALES' ANNUAL REPORT AND ACCOUNTS

Thank you for your letter of 2 December regarding the Committee's scrutiny of the Auditor General's for Wales' Annual Report and Accounts in November. You note that during your scrutiny session, the Auditor General raised a concern regarding the requirements placed on him by the Public Audit (Wales) Act 2013 in relation to the charging of fees for his audit functions. You asked if I would clarify the Welsh Government's intentions behind the wording in the Act.

This letter also responds to the Committee's recommendation regarding the Act:

Recommendation 1. *The Committee recommends that the Public Audit (Wales) Act is amended to clarify the audit fee charging requirements, and in the meantime that the Wales Audit Office comes to a mutual understanding with organisations about what is required in terms of charging, subject to any relevant legal advice.*

The primary purpose of the Act was to respond to the widespread concerns regarding the operation and oversight of the Wales Audit Office and the Auditor General for Wales, by strengthening the arrangements for the governance and accountability of the office and its functions.

Whilst the Welsh Government led the introduction of the legislation, the Act addressed issues which had cross-party support. Throughout the passage of the legislation, I took steps to ensure there was clear separation between the roles of the Welsh Government and those of the WAO and the Auditor General, and to maintain the independence of the Auditor General's role. There was also much debate as to where the scrutiny functions should lie and it was agreed that they should rest with the Assembly rather than the Welsh Government. The Act provides for the Assembly to determine the nature its scrutiny should take.

As the Act focuses on governance arrangements, it makes relatively little reference to the functions of the WAO and Auditor General and does not prescribe the manner in which they

should carry out their functions. Section 8(1) of the Act says "*The Auditor General has complete discretion as to the manner in which the functions of that office are exercised...*".

Section 10 of the Act requires the Auditor General to issue a code of audit practice prescribing the way in which his audit functions are carried out. The relevant functions are also set out in Section 10 of the Act – largely by reference to previous legislation, notably the Government of Wales Act 1998 and the Public Audit (Wales) Act 2004. Again, the provisions allow the Auditor General to determine the detail of the code of practice.

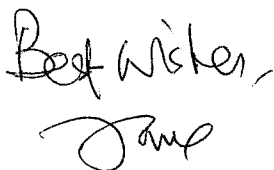
The Act also allows considerable discretion regarding the arrangements for the charging of fees. Section 23 requires that "*fees may not exceed the full cost of exercising the function to which the fee relates*" and Section 24 says "*The WAO must prepare a scheme relating to the charging of fees*" but the Act does not set out detailed specifications as to the nature of the scheme.

One of the key purposes of these and other provisions in the Act was to make the arrangements more transparent and accountable, by requiring relevant plans, codes and schemes to be prepared, published and, where appropriate, subject to scrutiny and approval by the Assembly.

In taking this approach, my intention was to ensure that the Assembly had sufficient flexibility to shape its arrangements for scrutiny and that the Wales Audit Office and Auditor General could propose the detail regarding the execution of their functions in ways which met existing needs and could be adapted to changing circumstances.

As such, I am not convinced the Act needs to be amended. Furthermore, the distinction between the respective roles of the Welsh Government, the Assembly, the WAO and Auditor General was the focus of much debate during the passage of the Bill and the Act, as passed, reflected our agreed position as to those roles. I would see it as being at odds with that position if the Welsh Government were to propose to amend the Act in any way which would prescribe the functions or duties of the WAO or the Auditor General in more detail. If the Committee takes the view that the 2013 Act should be amended, I would therefore regard this as a matter for the Assembly rather than the Welsh Government to take forward.

I hope this assists the Committee in its considerations.



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