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Dear Christine

The Draft Local Government (Wales) Bill—Follow-Up to Evidence Session

During the Committee's meeting on 4 February 2016, I undertook to provide the Committee with details of any value for money study or cost-benefit analysis that was undertaken following the local authority re-organisation in 1995-96.

As mentioned at the meeting, any such analysis would most likely have been undertaken by the Audit Commission, as the Auditor General for Wales and the Wales Audit Office had not been established at the time. I attach an annex listing and briefly summarising Audit Commission work that has relevance to the 1995-96 reorganisation, but I should note that none of that material contains a cost-benefit analysis of the re-organisation or a review of any cost-estimates.

I note, however, at the end of the annex that academic research by Professor Malcolm Chisholm provides a comparison of pre-reorganisation estimates with identified actual costs, and identifies that the costs were significantly underestimated in all three countries of Great Britain. In Wales, his estimates indicate an outturn cost of some £227 million (at 1996-97 prices). As you no doubt appreciate, it is important to bear in mind that the form of re-organisation undertaken in the 1990s was quite different to that envisaged by the draft Bill, in that in the 1990s unitary authorities were being created in place of a two-tier structure, rather than existing unitary authorities being amalgamated. There is therefore no direct costing comparison.

I think I should also take this opportunity to provide you with a copy of our consultation to the Welsh Government (please see attached document) and to mention a further potential problem with the proposed regulation powers in section 143. This further point is addressed in our response to the Welsh Government but was not included in the Auditor

General's letter to you of 25 January 2016 as the full potential implications of section 143 were not apparent to us at the time. The issue is not straightforward, and we are in the process of obtaining independent advice on this point. We will update you on the outcome as soon as that is available.

The relevant material concerning section 143 is in our answer to question 5.1 and under the subheading "Conflict with audit independence". It may, however, be helpful if I provide a short explanation here.

Section 143 sets out to empower the Welsh Ministers to make regulations for co-ordinating work of the Auditor General with work of Her Majesty's Chief Inspector of Education and Training in Wales (Estyn) and work of the Welsh Ministers in terms of their social services inspection functions (CSSIW). Using these powers, the Welsh Ministers would apparently be able to set timetables for when audit work is done and require the sharing of information.

These regulation-making provisions seem to be at odds with section 8(1) of the Public Audit (Wales) Act 2013, which says:

"The Auditor General has complete discretion as to the manner in which the functions of that office are exercised and is not subject to the direction or control of the National Assembly or the Welsh Government."

The regulation-making provision therefore appears to provide the Welsh Ministers with the means in effect to amend section 8(1) of the 2013 Act. As we understand it, section 8(1) of the 2013 Act is protected from amendment by the Assembly by virtue of paragraphs 2 to 4 of Part II of Schedule 7 to the Government of Wales Act 2006. In particular, it appears to me that the regulation-making powers ought to be limited to the oversight or supervision of the Auditor General and of his functions, which are properly matters for the Wales Audit Office and the National Assembly, rather than the Welsh Ministers, and any regulations that purported to have an effect that compromised the Auditor General's discretion would be invalid. Even if that analysis is not correct (and in any event there is scope for considerable confusion and expense), and such regulations were valid, then audit independence would be compromised.

Thank you again for the opportunity to comment.

Yours sincerely



Anthony Barrett
Assistant Auditor General

Annex

Reports and other materials addressing the local government reorganisations of the 1990s

Audit Commission

As far as we have been able to establish (and pending the conclusion of further searches underway at the British Library), the Audit Commission produced four papers on the local government reorganisations of the 1990s. None of them amount to a cost-benefit analysis. Instead, they are more in the way of advice for councils during the transitions.

1. Time for Change? A Consultative Paper on Work to Support the Implementation of Local Government Re-organisation, May 1994

This was a “scene setting” consultation paper, as in it set out possible outcomes of the reorganisation and possible challenges and opportunities for councils. It did not present a thorough cost-benefit analysis. Indeed, in respect of England it could not have done so, given the absence of firm restructuring proposals for England at the time. For Wales, there was a Local Government (Wales) Bill proposing to establish the unitary councils, but the paper does not reflect any cost-benefit analysis or review of costs and benefits in respect of those proposals. The paper sets out proposals for how the Commission’s work could benefit the process and invited views on those proposals.

2. Paving the Way: Helping Councils Prepare for the Future, December 1994

This paper focuses on the challenges facing ‘outgoing’ councils, highlighting possible challenges and providing advice and best practice on what to do in the winding up period. There is a reasonable amount of Wales-specific content, but no cost-benefit analysis.

3. Seize the Day! Guidance for Incoming Unitary Authorities, May 1995

This paper contains guidance for shadow authorities and incoming unitary councils, such suggestions as to the priority of “creating their vision by defining aims and values” and using the vision to guide decisions on management structure and top level appointments.

4. All Change: Managing Local Government Reorganisation and Beyond, May 1996

This has a focus on the councils that were to be reorganised in 1997, so has only tangential relevance to Wales, although there is content on “the post reorganisation agenda for unitary councils”—essentially still highlighting difficulties and providing advice.

National Audit Office

From our research it seems that the National Audit Office did not produce anything on the reorganisations. This absence is to be expected, as the National Audit Office would

probably have regarded the subject as lying chiefly within the Audit Commission's remit despite the role of the then Welsh Office, Department of Environment and Local Government Commission.

Academic research

Chisholm M, 2002, "The cost of local government structural reorganisation in Great Britain during the 1990s", *Environment and Planning C: Government and Policy*, volume 20, pages 251-262. This provides a comparison of pre-reorganisation estimates with identified actual costs, and identifies that the costs were significantly underestimated in all three countries of Great Britain. In Wales, his estimates indicate an outturn cost of some £227 million (at 1996-97 prices), compared with pre-legislative estimates presented to Parliament of between £65 million and £150 million. It is, however, important to bear in mind that the form of re-organisation undertaken in the 1990s was quite different to that envisaged by the draft Bill, in that in the 1990s unitary authorities were being created in place of a two-tier structure, rather than existing unitary authorities being amalgamated. There is therefore no direct costing comparison.