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Dear Simon

The complex public audit fee regime in Wales – a case for change

We have very much welcomed the willingness of the Finance Committee to discuss and explore potential for the simplification of the public audit fee regime in Wales. We are now pleased to provide the Committee with proposals that we consider would lead to its simplification.

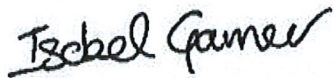
You will recall that the Committee's report of March 2016 recommended that the Public Audit (Wales) Act 2013 be amended to clarify the audit fee charging requirements for the Wales Audit Office, following representations we made to the Committee about the operational complexities of working to the Act. The legislation governing audit fees in Wales is complex and differs markedly from the much simpler arrangements in place for the other UK audit bodies. It means that the processes underpinning how we operate the fee regime are complicated, time consuming and confusing to many. We do not believe that this was the intention underlying the legislation.

In June 2017, we issued a discussion paper '[Simplifying a Complex Fee Regime](#)' which explained the operating complexities and unintended consequences of legislation and our proposed solutions to those complexities. This discussion paper was shared with audited bodies and other relevant parties, and we very much welcomed their responses. We have changed some of our recommendations in light of their feedback, as explained in the attached Case for Change paper, which we look forward to discussing with the Committee.

The Case for Change paper does not explore the other complexities arising from the 2013 Act, such as the requirement for interim reports and the very restrictive quorum requirements. The paper also does not address problems in relation to other legislation that we consider important, as set out in the Auditor General's letter of 5 April (copy attached for ease of reference).

We look forward to attending Committee on 9 November to discuss the above.

Yours sincerely



ISOBEL GARNER
CHAIR, WALES AUDIT OFFICE



HUW VAUGHAN THOMAS
AUDITOR GENERAL FOR WALES

Enc: Case for Change paper

Auditor General's letter HVT2702 dated 5 April 2017

Date: 5 April 2017
Our ref: HVT/2702/fgb
Page: 1 of 7

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Annwyl Simon

UPDATING ACCOUNTS AND AUDIT LEGISLATION

During the Committee's session on 15 March 2017 on issues relating to the audit of Natural Resources Wales, I undertook to write to you with further details of the need for some updating of Welsh accounts and audit legislation.

The main overall problem

As I mentioned on 15 March, the main overall problem with the audit provisions for Welsh public bodies is their inconsistency across the various bodies. Within that overall issue, the most serious problems are as follows.

a) The lack of a duty to be satisfied as to arrangements for securing vfm in central government bodies

The lack of a requirement for the Auditor General to satisfy himself as to arrangements for securing value for money in central government bodies (the Welsh Government, Welsh Government Sponsored Bodies and certain other bodies such as the Assembly Commission) is in contrast to the requirement in respect of local government bodies and health bodies (under sections 17(2)(d) and 61(3)(b) of the Public Audit (Wales) Act 2004 respectively).

The absence of a duty to be satisfied as to arrangements for securing vfm in central government means that the work to support scrutiny of central government bodies is permitted by statute to be less extensive and thorough than that done in the NHS and local government. In practice, my central government audit teams work on a discretionary basis to overcome this weakness, by, among other things, considering whether deficiencies that they encounter during the audit of accounts

are matters that should be taken into account in the design of vfm examinations and studies. They also raise issues that they encounter in management letters. Similarly, my vfm examination and study teams will look to take account of corporate governance issues in planning and executing their work.

Even given these work-arounds, the situation is less than satisfactory, as discretionary consideration is more open to challenge than consideration done in the course of a statutory duty. A further practical issue is that the absence of specific statutory consideration of arrangements for securing vfm means that more additional work now needs to be done in central government than in local government and the NHS in order to undertake the sustainable development principle examinations required by section 15 of the Well-being of Future Generations (Wales) Act 2015. This is because consideration of arrangements for securing vfm requires significant amounts of review of corporate governance arrangements, and much of that governance review work may be used to meet both the requirements of sections 17 and 61 of the 2004 Act and the requirements of section 15 of the 2015 Act.

b) The absence of explicit provision in statute for regularity opinions among many central government bodies

An absence of explicit provision for a regularity opinion means that a fundamental element of Assembly control of central government expenditure is missing from statute in respect of the relevant body. The Committee will be well aware that one of the key functions of the National Assembly is the approval, following scrutiny, of budget motions so as to authorise government's use of resources. In order to complete the cycle of control, it is necessary that the National Assembly receives reports on whether the resources it has voted have been used in accordance with its intentions.

The bodies affected by the omission of relevant provisions are:

- the Care Council for Wales;
- the Education Workforce Council;
- the Higher Education Funding Council for Wales;
- the Local Democracy & Boundary Commission for Wales;
- the National Library for Wales;
- the National Museums & Galleries for Wales;
- Natural Resources Wales;
- Qualifications Wales.

The Arts Council and the Sports Council are also affected because of the omission of relevant provisions from their Royal Charters. Indeed, the Sports Council's Charter omits audit provisions completely.

I have continued the Comptroller & Auditor General's practice of providing regularity opinions in respect of all sponsored bodies despite the omissions because it is clearly required for the reasons set out above. It is also regarded as necessary to comply with professional standards (the Financial Reporting Council's Practice Note 10).

c) Inflexibility of deadlines

As the case of NRW has illustrated, accounts and audit deadlines are sometimes not sufficiently flexible when significant problems arise. For Welsh public bodies, there is no agile variation provision in legislation as there is for UK resources accounts under the Government Resources and Accounts Act 2000.

d) Overlapping laying requirements

There has been a recent tendency for legislation to include provision for bodies to prepare annual reports on the exercise of functions and for those bodies (not the Auditor General) to lay such reports (see, for example, paragraphs 28 and 29 of Schedule 1 to the Qualifications Wales Act 2015). These requirements sit alongside requirements for the Auditor General to lay the audited accounts with his certificate and report (for example, paragraph 33 of Schedule 1 to the Qualifications Wales Act 2015). At the same time, the Financial Reporting Manual (FRM) set by HM Treasury places a requirement on bodies to provide an annual report alongside the accounts. (Indeed, it is normal for bodies in both the public and private sectors to publish "annual reports and accounts".) These multiple requirements can lead to confusion as to who is required to lay the "annual report".

Potential solutions

The absence of a duty to be satisfied as to arrangements for securing vfm in central government bodies could be remedied by the insertion of such provision in relevant legislation. For the Welsh Ministers and the Assembly Commission this would mean amending the Government of Wales Act 2006 (or any restatement of audit provisions following the Wales Act 2017). These would be small amendments rather than extensive changes. For Welsh Government Sponsored Bodies, similar small amendments would be needed for a range of legislation, including:

- The Care Standards Act 2000
- The Commissioner for Older People (Wales) Act 2006
- The Government of Wales Act 1998 (for Estyn)
- The Well-being of Future Generations (Wales) Act 2015
- The Further & Higher Education Act 1992
- The Local Government (Democracy) (Wales) Act 2013
- The Museums and Galleries Act 1992
- The Natural Resources Body for Wales (Establishment) Order 2012
- The Public Services Ombudsman (Wales) Act 2005
- The Qualifications Wales Act 2015
- The Welsh Language (Wales) Measure 2011
- The Royal Charters of the Arts Council and the Sports Council

Similarly, regularity opinion provisions could be inserted in relevant legislation where these are missing. Likewise, provisions for the laying of annual reports could be aligned so as to provide for the Auditor General to lay such reports (preferably combined annual reports that meet both statutory and FReM requirements).

As regards improving the flexibility of deadlines, again, specific provisions to allow variations by Order, along the lines of those provided by the Government Resources & Accounts Act 2000, could be inserted in the full range of relevant legislation. Such provisions would need to explicitly provide for accelerated procedure so as to enable variations to be made in a worthwhile realistic (short) timescale. However, as I previously mentioned in my letter of 22 December 2016, an alternative and more efficient approach might be to include provision with the effect that the deadline applies only to the extent that it does not prejudice compliance with the Code of Audit Practice. This could dispense with Order-making processes altogether.

With all four of the issues set out above, piecemeal amendment of individual pieces of legislation would not be the most efficient approach. A more sensible approach would be to codify the provisions, for example, along the lines of the provisions of Chapter 2 of Part 2 of the draft Public Audit (Wales) Bill, which was consulted on by the Welsh Government in March 2012. However, some changes to the draft Bill provisions would be needed, as, among other things, it should cover recently created bodies, such as the Future Generations Commissioner.

Data matching

While it is not strictly a matter of audit in itself, I should also take this opportunity to raise the issue of how my data matching powers are now lagging behind those of counterparts in Scotland, England and Northern Ireland.

Currently, data matching exercises are undertaken for the purposes of preventing and detecting fraud. The exercises are done in collaboration with other UK audit agencies, and are known as the National Fraud Initiative (NFI). To date, the NFI has prevented and detected fraud and error of over £1.1 billion across the UK, with some £26 million being prevented and detected in Wales. Most of these amounts relate to fraud perpetrated against public bodies.

Under section 64A of the Public Audit (Wales) Act 2004, I currently have a power to undertake data matching for the “purpose of assisting in the prevention and detection of fraud in or with respect to Wales”. The Auditor General for Scotland, the Secretary of State and the Comptroller & Auditor General Northern Ireland have similar powers under the following legislation:

- Scotland—the Public Finance and Accountability (Scotland) Act 2000;
- England—the Local Audit and Accountability Act 2014;
- Northern Ireland—the Audit and Accountability (Northern Ireland) Order 2003.

The Scottish legislation, however, also provides for data matching to be undertaken for the purposes of assisting in the prevention and detection of crime other than fraud, and for assisting in the apprehension and prosecution of offenders. Furthermore, the Scottish Parliament’s Post Legislative Scrutiny Committee has recently consulted on strengthening and extending the coverage of the Scottish legislation.

The legislation in respect of English bodies contains provision for the purposes of data matching exercises to be extended by regulations so as to cover assisting:

- (a) the prevention and detection of crime other than fraud;
- (b) the apprehension and prosecution of offenders;
- (c) the prevention and detection of errors and inaccuracies, and
- (d) the recovery of debt owing to public bodies.

The Northern Ireland legislation is similar to that applying to English bodies but does not include the prevention and detection of errors and inaccuracies. It is, however, the strongest in the UK in terms of requiring bodies to participate in data matching exercises, as it enables the Comptroller & Auditor General Northern Ireland to require any body audited by him (other than designated “North/South co-operation implementation” bodies) or a local government auditor to provide information for matching rather than that power applying just to a defined list of bodies. For Wales, the list of such mandatory participants is inadequate, as it is limited to local government and health bodies.

My counterparts and I are continually developing the NFI so as to provide further support to public bodies. There is, however, a significant risk that if Welsh data matching legislation does not keep pace with that in other UK jurisdictions, then:

- (a) it may not be possible to run complete UK-wide data matching exercises in Wales;
- (b) the potential financial benefits of data matching to identify errors and inaccuracies, and assist debt recovery will not be available to Wales, and
- (c) the potential to achieve additional savings through the inclusion of new mandatory participants will not be realised.

I would therefore ask the Committee to consider seeking change to the Welsh legislation so as to extend the permitted purposes of data matching to those listed above in respect of English bodies. I would also ask the Committee to consider seeking change to the legislation so as to change the provisions for potential mandatory participants so that all bodies audited by the Auditor General are covered.

Other audit related matters

I know that the Committee is already aware of my concerns about the complexity and difficulties caused by the fee provisions of the Public Audit (Wales) Act 2013 (and related legislation amended by that Act). However, I will not go into detail again now, as the WAO Board and I intend to provide more material setting out how the provisions are not fit for purpose and suggesting possible solutions, in a forthcoming consultation document.

Finally, I should perhaps mention that I am in the process of developing my response to the Welsh Government’s “Reforming Local Government” White Paper. The main focus of that White Paper is the structure of Welsh local government, which has some implications for my audit functions. In addition, there is also a small amount of coverage concerning my functions, with among things, a commitment to repeal Part 1 of the Local Government (Wales) Measure 2009. I will copy my response to the Welsh Government’s White Paper consultation to the Committee. However, I can say now that I welcome repeal of Part 1 of the 2009 Measure, as it is unnecessarily prescriptive and lacks the

flexibility needed to provide proportionate reporting. Repeal of the 2009 Measure will allow resources to be used in pursuit of the more proportionate arrangements of Part 2 of the Public Audit (Wales) Act 2004.

Yn gywir



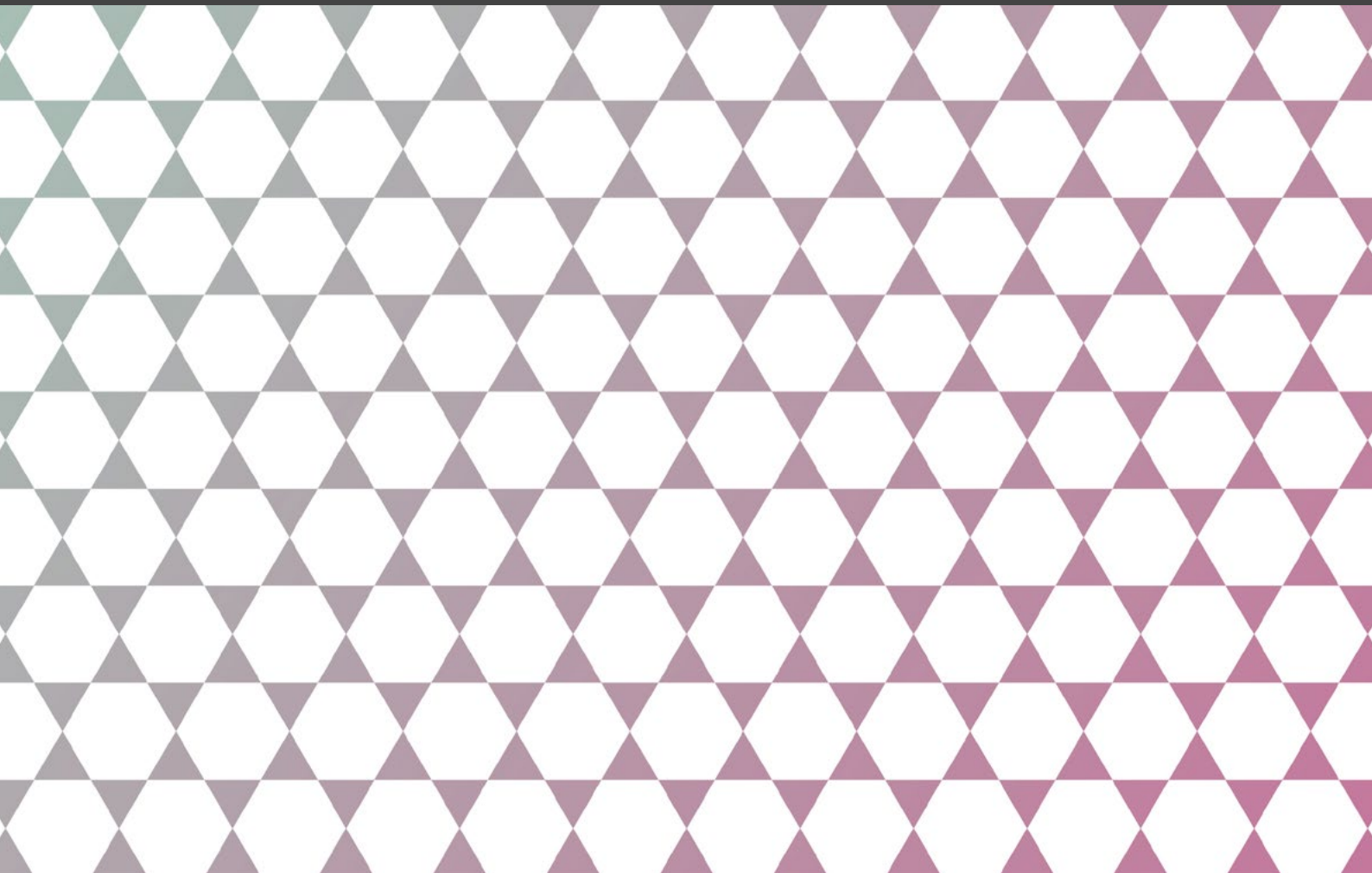
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The complex public audit fee regime in Wales – a case for change



WALES AUDIT OFFICE
SWYDDFA ARCHWILIO CYMRU



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We welcome correspondence and telephone calls in Welsh and English. Corresponding in Welsh will not lead to delay. Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg a Saesneg. Ni fydd gohebu yn Gymraeg yn arwain at oedi.

Mae'r ddogfen hon hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

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Foreword

Funding for the Wales Audit Office comes from two main sources – from the fees we charge for the audit work we do (circa 70% of our funding), and from the Welsh Consolidated Fund which finances specific areas of our spending (circa 30%).

In March 2016, the National Assembly’s Finance Committee recommended that the Public Audit (Wales) Act 2013 (the Act) be amended to clarify the audit fee charging requirements for the Wales Audit Office, following representations we made to the Committee about the operational complexities of working to the Act.

The Act set new arrangements under which the Wales Audit Office may or must charge fees for certain audit-related work undertaken by the Auditor General for Wales. The legislation governing audit fees in Wales is complex and differs markedly from the much simpler arrangements in place for the other UK audit bodies. It means that the processes underpinning how we operate the fee regime are complicated, time consuming and confusing to many.

We do not believe that the Welsh Government intended to create the level of complexity that we have experienced in practice when it introduced the legislation. Nor do we believe that this was the Assembly’s intention, when it enacted the legislation.

In June 2017, we issued a discussion paper [Simplifying a Complex Fee Regime](#) which explained the operating complexities and unintended consequences of legislation and our proposed solutions to those complexities. This discussion paper was shared with all of our stakeholders.

We now set out our proposed recommendations which take account of what our stakeholders told us in response. We thank our stakeholders for sharing their views with us.

We conclude by proposing that we further explore interim measures which could improve our operating efficiency and overcome some of the complexities, pending a longer-term, fit-for-purpose fix which can only be brought about by legislative change through the National Assembly. We have very much welcomed the willingness of the National Assembly’s Finance Committee to discuss and explore potential for the simplification of the fee regime. We look forward to continued discussions with the Finance Committee in light of this paper.

Isobel Garner
Chair, Wales Audit Office

Huw Vaughan Thomas
Auditor General for Wales

Executive summary

- 1 The Public Audit (Wales) Act 2013 sets out the arrangements under which the Wales Audit Office may or must charge fees for certain audit-related work. Other legislation, such as the Public Audit (Wales) Act 2004, sets out where fee scales must be set and who must be consulted on the setting of those scales.
- 2 We cannot charge fees without a Fee Scheme approved by the Assembly. This provision within the 2013 Act ensures an important, further level of independent scrutiny of our plans, along with Assembly scrutiny of other key documents including our annual Estimate of Income and Expenses and Annual Plan.
- 3 Where we charge a fee, we set hourly fee rates at a level only to recover the costs we incur, as legislation precludes us from charging any more than that. We then set our fees based on the estimated staff time for each auditor role required to complete the work. This is done on an annual basis for each audited body. Legislation requires that any fee we charge “may not exceed the full cost of exercising the function to which the fee relates”. In order to meet this requirement, we have established methods to quantify full cost and use timesheets to record time spent on audits.
- 4 The fee regime in Wales is markedly different to those in place in the other parts of the UK, and is much more complex. This paper argues for the aligning of the arrangements in Wales more closely with those in place elsewhere in the UK.
- 5 Three particular provisions from fee related legislation elsewhere in the UK have the potential to simplify the fee regime in Wales:
 - the ability to charge fees with a view to breaking even on fee-related work ‘taking one year with another’;
 - setting notional fees for accounts prepared by government departments or other bodies that are funded directly from the relevant Consolidated Fund; and
 - greater latitude so that the full extent of the terms and conditions of agreement work¹ are a matter for the relevant auditing body.

1 Non-statutory audit work that we undertake on a commissioned basis

- 6 We see the advantages of such simplification as:
- providing greater certainty to audited bodies of the fee to be charged and overcoming the lack of incentive to drive efficiency in audit delivery at ground level;
 - ending the circulation of fee money across central government bodies; and
 - enabling the Wales Audit Office to make better use of agreement work as part of our financial strategy, which could help reduce the net cost of public audit in Wales.
- 7 We consulted with our stakeholders on options for change in those areas.
- 8 Consultees were broadly supportive of our proposal to amend the 'may not exceed the full cost' constraint and replace it with a provision along the following lines in section 24 of the 2013 Act. This would provide sufficient flexibility to improve the cost effectiveness of our management and processing arrangements:
- 'In setting fee scales, amounts to be charged and means by which the Wales Audit Office is to calculate fees included in a scheme under this section, the Wales Audit Office must aim to ensure that fees charged to a person do not exceed the full cost of the work undertaken, taking one year with another.'**
- 9 On the basis of the general support from stakeholders to simplify this aspect of the fee regime, we will further explore interim measures which could improve our operating efficiency and overcome some of the complexities, alongside recommending a longer-term, fit-for-purpose solution, which can only be brought about by legislative change.
- 10 We took stakeholder views on our proposal to move to notional fees being set for bodies funded from the Welsh Consolidated Fund directly along with the NHS in Wales and the Welsh Government Sponsored Bodies.
- 11 Responses identified a concern amongst stakeholders that notional fees would reduce transparency and accountability. This has not been found to be the case in the other audit agencies of the UK, which have long operated in this way, such as in the National Audit Office. Even under a notional fee regime, we would still expect Audit & Risk Assurance Committees to hold us to account in proposing our audit plan and notional fee for the year.

- 12 However, both the Welsh Government and Natural Resources Wales raised objections to this proposal, leading us to revise our thinking. Our proposal for notional fees is now constrained to just those bodies funded directly from the Welsh Consolidated Fund², being comparable with the arrangements in place in England, Scotland and Northern Ireland.
- 13 Finally, we took stakeholder views on empowering the Wales Audit Office to determine fee rates for agreement work and for it not to be constrained by the “no more than cost of function” restriction in the Act. Such a change would provide a greater incentive for the Wales Audit Office to undertake such work, providing development opportunities for our staff as well as allowing us to retain any surplus over the cost of delivery and use it to reduce our call on the Welsh Consolidated Fund.
- 14 The majority of responses were broadly supportive of simplification in this area. Cautions raised around the risk of cross-subsidisation are already part of our risk management arrangements when considering agreement work.
- 15 The remainder of this paper gives further detail on all the above aspects.

2 Welsh Government (Welsh Ministers), National Assembly for Wales Commission and Public Services Ombudsman for Wales

The case for change

The fee regime for the Wales Audit Office

- 16 The Public Audit (Wales) Act 2013 sets out the arrangements under which the Wales Audit Office may or must charge fees for certain audit-related work. Other legislation, such as the Public Audit (Wales) Act 2004, sets out where fee scales must be set and who must be consulted on the setting of those scales. We choose to consult more widely than legislation requires as we consider it enhances transparency and gives all our stakeholders the opportunity to comment on our fee-charging plans.
- 17 **Appendix 1** provides the relevant extract of the 2013 Act, along with an overview of the equivalent legislation applying to the other UK audit bodies. **Appendix 2** provides a full list of enactments under which the Wales Audit Office may or must charge fees. It is a complex picture.
- 18 Our Annual **Estimate** (budget) sets out the detail of our expected income and expenditure for each financial year. Aligned with the Estimate, we publish a **Fee Scheme**, which sets out our charging structure for audit work and fee scales as required by legislation. Both the Estimate and Fee Scheme, along with our Annual Plan, Interim Report and Annual Report and Accounts, are subject to scrutiny by the Assembly's Finance Committee. We cannot charge fees without a Fee Scheme approved by the Assembly, which ensures an important further level of independent scrutiny of our plans.
- 19 We are not able to charge fees for all aspects of our work – for example, audited bodies do not pay for the Auditor General's programme of economy, efficiency and effectiveness examinations. Such work is financed from the Welsh Consolidated Fund, as set out in our Estimate, under the authority of the Assembly's annual budget motion.
- 20 Where we charge a fee, we set hourly fee rates at a level intended only to recover the costs we incur, as legislation precludes us from charging any more than that. We then set our estimated audit fees based on the estimated staff time for each auditor role required to complete the work. This is done on an annual basis for each audited body.

Comparison with other UK audit bodies

- 21 **Exhibit 1** compares fee-related legislative requirements in Wales with those in place for the other UK audit bodies (narrative provided in **Appendix 1**).

Exhibit 1 – Comparison of fee-related legislation across UK audit bodies

Fee-related requirements	Wales Audit Office	National Audit Office	Audit Scotland	Northern Ireland Audit Office
Set fees to broadly break even on fee work taking one year with another.	No	Not specified but is established practice	Yes	Not specified but is established practice
No fee charged for accounts prepared by central government bodies (bodies financed directly by the relevant Consolidated Fund).	No	Yes	Yes	Yes
Must have a fee scheme setting out arrangements for charging fees.	Yes	Yes	No	No
Terms and conditions for agreement work are a matter for the audit body.	Yes but with restrictions	Yes	Yes	Yes

- 22 Three particular provisions stand out from **Exhibit 1** that have the potential to simplify the fee regime in Wales:
- the ability to charge fees with a view to breaking even on fee-related work ‘taking one year with another’;
 - not charging a fee for accounts prepared by government departments or other bodies that are funded directly from the relevant Consolidated Fund; and
 - greater latitude so that the terms and conditions of agreement work are a matter for the relevant auditing body (in our case the Wales Audit Office Board).

The bases for our consultation with stakeholders

- 23 We published a discussion paper on 6 June 2017 and invited stakeholder views by 28 July. We were pleased to receive 24 responses from across the sectors we audit.
- 24 Our discussion paper set out in detail the complexities arising from the current arrangements and their implications. We set out in the discussion paper that we saw the opportunity for simplification in Wales by bringing aspects of the fee regime more in line with those governing other parts of the UK. In particular, we set out potential advantages in:
- providing greater certainty to audited bodies of the fee to be charged and overcoming the lack of incentive to drive efficiency in audit delivery at ground level;
 - ending the circulation of fee money across central government bodies and the NHS; and
 - enabling the Wales Audit Office to make better use of agreement work as part of our financial strategy.
- 25 Set out below are the 3 solutions suggested in the discussion paper, along with a summary of the responses received from stakeholders and our recommendations taking into account those consultation responses.

Solution 1: To amend legislation to require that fees charged to an audited body do not exceed the full cost of the work undertaken, taking one year with another

- 26 We do not believe that the 2013 Act was intended to cause the level of complexity now experienced nor risk compromising the overall financial position of the Wales Audit Office. Nor do we believe the ‘may not exceed the full cost’ constraint was intended to be a disincentive to be more efficient in delivering audits. This disincentive occurs because the ‘may not exceed the full cost’ constraint has been included in section 23 of the Act (provisions relating to fees, and in certain places in other legislation) rather than section 24 (provisions for a scheme relating to the charging of fees). The positioning in section 23 results in a strict liability in relation to individual payments for specific aspects of our work, rather than requiring fee scales and fee amounts to be set at an appropriate level in the Fee Scheme for the overall amount of audit work we undertake.
- 27 To address this problem, we suggested that the Act is amended so that the ‘may not exceed the full cost’ constraint applies to the setting of fee scales and fee amounts in the section 24 Scheme for charging fees, rather than the fees actually charged under section 23 (and relevant provisions in other legislation). We also suggested removing the reference to cost ‘of a function’³ and including provision for ‘taking one year with another’. Making these changes would retain the discipline of requiring fee scales and fee amounts to be set with a view to recovering no more than the full cost of the work undertaken, but in a less prescriptive and inflexible way than is currently the case. A provision along the following lines in section 24 of the Act should provide sufficient flexibility to improve the cost effectiveness of our management and processing arrangements:

‘ In setting fee scales, amounts to be charged and means by which the Wales Audit Office is to calculate fees included in a scheme under this section, the Wales Audit Office must aim to ensure that fees charged to a person do not exceed the full cost of the work undertaken, taking one year with another.’

3 By omission of subsection 23(5)(b) of the 2013 Act, together with omission of subsection 20(5A) of the Public Audit (Wales) Act 2004 and subsection 27(4A) of the Local Government (Wales) Measure 2009.

Consultation responses

- 28 The majority of stakeholders were supportive of our preferred solution for simplification of the regime, with the assurance that audited bodies would not be charged more than the audit has cost taking one year with another. A range of narrative responses were provided; other than comments that simply agreed, a summary of the key points raised by individual responses is provided below:
- 1 Supportive in order to minimise the cost of the service provided by the Wales Audit Office through maximising efficiencies.
 - 2 Fee rates must be as transparent as possible and efficiency savings must be made wherever possible.
 - 3 Recognition that the current regime creates a disincentive to be more efficient in delivering audit work; changes must benefit audited bodies as well as the Wales Audit Office.
 - 4 Process should not allow the auditor to be inefficient in what they do. The cost of changes in audit teams should not be passed on to audited bodies.
 - 5 Would reduce the risk of unwanted year end surprises in terms of additional fees being charged.
 - 6 In reducing complexity, it is important that the Wales Audit Office does not end up with a simplistic generic system that also has unintended consequences.
 - 7 Happy with the current method of charging, just want a greater breakdown of costs so auditees can get a feel for its value for money.
 - 8 Encouraging a continued focus on cost reduction and lower fees wherever possible.
 - 9 Seek to change the approach but without the need for legislative change – support from Welsh Government to accommodate such a move going forward.
 - 10 The legislation should be simplified further, along the lines of ‘Wales Audit Office must charge fees in accordance with a Fee Scheme to be approved by the National Assembly annually’. Then use management policies to implement in greater detail.

Wales Audit Office recommendation having considered stakeholder views

- 29 We welcomed the responses received and broad support for simplifying this aspect of the legislation. There is evidently a shared desire for the Wales Audit Office to work as efficiently and effectively as possible, with a view to containing or lowering fees where possible. We will continue to ensure the fee setting process is transparent and that audited bodies understand how their fee is calculated. We will also continue to strive to improve the overall value for money in how we operate as the Wales Audit Office, reporting annually on this through our Estimate and Annual Report & Accounts.
- 30 **On the basis of the general support from stakeholders to simplify this aspect of the fee regime, we recommend that the legislation is amended so as to replace the existing 'no more than full cost requirement' with a duty on the Wales Audit Office to devise fee scales and calculate fees so as to seek to achieve no more than full cost recovery, taking one year with another.**
- 31 In the meantime, we will take further legal advice to re-test the scope to streamline our fee charging arrangements, while ensuring compliance with the 2013 Act. If we are able to operate such streamlining, we would re-lay the Fee Scheme to reflect and explain those arrangements.

Solution 2: Central government and NHS audit work to be cash funded from the Welsh Consolidated Fund (following approval of the Estimate of the Wales Audit Office) instead of through fees

- 32 The charging of fees for central government bodies and the NHS represents a circulation of funds within the same sector amounting to some £4.9 million annually.
- 33 Looking at our counterparts in the other UK audit bodies, we see that such circular cash funding is avoided for government departments – no cash fee is charged (although a notional charge is included in the accounts of those bodies) and the cash funding for that work is provided to the audit office concerned direct from the relevant Consolidated Fund.
- 34 In considering whether to move to this approach for Wales, we saw scope to extend the approach to cover the NHS, Welsh Government Sponsored Bodies and the Commissioner bodies. For all these bodies, the Auditor General undertakes their work for the Assembly rather than for the audited body. It is therefore arguably also appropriate for the cost of the audits to be funded directly by the Assembly through the Wales Audit Office's budget scrutiny and approval process rather than by the audited body. To some extent, this approach bolsters audit independence from the body being audited.
- 35 The Auditor General would still be subject to the monitoring and advice of the Wales Audit Office and the legal requirement to exercise functions cost effectively. Furthermore, the Wales Audit Office would still be subject to the Assembly's scrutiny through the Finance Committee.
- 36 The estimated total cost of the audit work across these bodies (in the order of £4.9 million) would be included in the annual Estimate of the Wales Audit Office, to be funded from the Welsh Consolidated Fund. It would be balanced by a one-off adjustment to the Welsh Government's budget and other relevant bodies.
- 37 We would provide relevant audited bodies with a notional fee cost, for inclusion in their Resource Budget and Annual Accounts, per Financial Reporting Manual requirements. The key change is that we would no longer physically raise invoices for that work nor have transfers between bank accounts for the sums invoiced.

Consultation responses

- 38 Although the majority of stakeholders were supportive of our preferred solution, importantly two of the larger stakeholder organisations, the Welsh Government and Natural Resources Wales, were not. The Welsh Government's response said that without maintaining a clear link between audit work and audit costs incurred, there is less of an incentive for the public sector to pursue change.
- 39 A range of narrative responses were provided by stakeholders; other than comments that simply agreed, a summary of the key points raised by individual responses is provided below:
- 1 Concern of increased complication from this proposal.
 - 2 Need to ensure it is a cost neutral adjustment.
 - 3 Implication to audited bodies, their boards and Audit Committees in terms of seeking a quality service at a reasonable price. Where does the challenge to the audit fee come from under the new proposal?
 - 4 Savings would be minimal in terms of processing transactions and could be offset by increased administrative issues relating to changing grant-in-aid allocations.
 - 5 Concern that adjustments may be made by the Welsh Government to Grant in Aid beyond the adjustment for the fee, based on previous experiences of Welsh Government Sponsored Bodies. Also, some bodies use a mix of Grant in Aid and other income to fund the fee. Others have no Grant in Aid at all.
 - 6 Creates perception that the audited body does not pay for its audit.
 - 7 Discussions during the audit planning stage may well lead to changes in the hours needed to complete the work and hence the costs incurred.
 - 8 This approach would take the burden away from the public body and allows the Wales Audit Office the autonomy to undertake a full audit without pressure of costs.
 - 9 Of significant note, the Welsh Government is opposed to switching to notional charges as proposed by this question.

Wales Audit Office recommendation having considered stakeholder views

- 40 We have listened carefully to the areas of concern raised by stakeholders in relation to moving to notional fees. Some stakeholders were concerned that notional fees might reduce transparency and accountability. This has not been found to be the case in the other areas of the UK that have long operated in this way, such as in the National Audit Office. Even under a notional fee regime, we would still expect Audit & Risk Assurance Committees to hold us to account in proposing our audit plan and notional fee for the year.
- 41 However, we have revised our thinking in light of feedback and would find it difficult to continue to argue for change that goes beyond what is in place in other parts of the UK. Our proposal for notional fees is therefore now constrained to just those bodies funded directly from the Welsh Consolidated Fund, being comparable with the arrangements in place in England, Scotland and Northern Ireland. These bodies in Wales are the Welsh Government (Welsh Ministers), the National Assembly for Wales Commission and the Public Services Ombudsman for Wales.
- 42 **We recommend that notional audit fees be set for bodies funded directly from the Welsh Consolidated Fund, bringing Wales into line with the arrangements in place across the rest of the UK.**

Solution 3: Legislative change to enable the Wales Audit Office to fully determine payment terms for agreement work

- 43 Our fee regime is such that we may not charge more than the full cost of the work that we do – whether done under statute or by agreement. This is unfortunate. If we were allowed to charge for agreement work on a competitive basis, we believe we could secure a better overall financial position and one which could actually reduce our call on public funds by reducing our net operating costs.
- 44 Agreement work is the audit of accounts, certification of grants or other audit work which is commissioned by the audited body rather than required by statute. Examples of such work include our audits for the Government of Anguilla which were won through a competitive tendering exercise.
- 45 We believe that adopting a model where the payment terms of agreement work can be fully determined by the Wales Audit Office, rather than being constrained in legislation, would enable greater economy in the overall cost of public audit in Wales. We have faced the position of having to part-refund fees because the final cost of the work came out less than the figure agreed through a competitive tender process; this seems nonsensical.
- 46 Such a change would enable us to retain any surpluses made rather than have to refund the difference. We see potential to use this greater discretion as part of our financial strategy in the long-term to help contain the cost of public audit in Wales. In effect, it could lead to us drawing less from the Welsh Consolidated Fund than we otherwise might.

Consultation responses

- 47 The majority of responses were broadly supportive of simplification in this area. Other than the comments that simply agreed, a summary of the key points raised by individual responses from stakeholders is provided below:
- 1 If having secured work through a competitive process, or by agreement, the Wales Audit Office is able to achieve a surplus, it seems logical that the net overall surplus in any year from such activities should be retained and effectively used to reduce the amount required from the Welsh Consolidated Fund.
 - 2 The proposal is reasonable as long as it is for work outside of Wales in order to avoid cross-subsidisation of charges. There must be a genuinely competitive environment for this proposal to work.
 - 3 There is the risk that competitive advantage could be unfairly gained from cross-subsidisation from the Welsh Consolidated Fund.
 - 4 Any profits should be used to lower the cost of statutory audit work.
 - 5 Having the ability to increase commercial acumen will allow Wales Audit Office to increase commercial revenues to offset the costs to the public sector. The price of commercial risks should be factored into costings.
 - 6 By realising other market opportunities it is possible to sell additional services to public bodies such as training and best practice guides which could result in lower fees due to enhanced practices and less auditing time.

Wales Audit Office recommendation having considered stakeholder views

- 48 In light of stakeholder feedback, we do want to be clear that it is not our intention to risk any form of cross-subsidisation of public sector funds. We see the key benefit of simplification in this area as being to reduce the overall cost of public audit and hence our call on the Welsh Consolidated Fund. (albeit probably marginally) and further improve value for money in our use of resources and development opportunities for our staff.
- 49 Cautions raised around the risk of cross-subsidisation are already part of our risk management arrangements when considering agreement work.
- 50 **We recommend that the legislation is amended so as to enable, for commissioned work, the Wales Audit Office through its Fee Scheme to determine appropriate levels of charging which are not subject to the ‘charge no more than cost of function’ stipulation.**

Final recommendations

51 The recommendations set out in this paper are presented in [Exhibit 2](#) for completeness:

Exhibit 2 – Recommendations to simplify the public audit fee regime in Wales

The exhibit sets out the recommendations presented through this case for change paper.

Recommendations	
R1	We recommend that the legislative is amended so as to replace the existing “no more than full cost requirement” with a duty on the Wales Audit Office to devise fee scales and calculate fees so as to seek to achieve no more than full cost of the work recovery, taking one year with another.
R2	We recommend that notional audit fees be set for bodies funded directly from the Welsh Consolidated Fund, bringing Wales into line with the arrangements in place across the rest of the UK.
R3	We recommend that the legislation is amended so as to enable, for commissioned work, the Wales Audit Office through its Fee Scheme to determine appropriate levels of charging which are not subject to the “charge no more than cost of function” stipulation.

52 Our thanks to all stakeholders who took the time to share their views with us. We now look forward to discussing these recommendations and our case for change with the Finance Committee of the National Assembly.

Appendices

Appendix 1 – Extracts of legislation governing the fee regime amongst UK audit bodies

Wales Audit Office:

Section 20 of the Public Audit (Wales) Act 2004

20 Fees in respect of functions exercised by the Auditor General for Wales

- A1 The Wales Audit Office must, in accordance with a scheme for charging fees prepared under section 24 of the Public Audit (Wales) Act 2013, charge a fee in respect of functions exercised by the Auditor General for Wales—
- a in auditing the accounts of local government bodies in Wales under this Chapter, and
 - b in undertaking studies at the request of a local government body under section 44.
- 1 The Wales Audit Office must prescribe a scale or scales of fees payable for one or more financial years in respect of the audit of accounts of local government bodies in Wales under this Chapter.
 - 2 Before prescribing a scale of fees under subsection (1) the Wales Audit Office must consult -
 - a any associations of local government bodies in Wales which appear to the Wales Audit Office to be concerned, and
 - b such other persons as the Wales Audit Office thinks fit.
 - 3 [repealed]
 - 4 A local government body in Wales must, subject to subsection (5), pay to the Wales Audit Office the fee payable in respect of the audit in accordance with the appropriate scale.
 - 5 If it appears to the Wales Audit Office that the work involved in a particular audit differed substantially from that envisaged by the appropriate scale, the Wales Audit Office may charge a fee which differs from that referred to in subsection (4).
 - 5A But a fee charged under this section may not exceed the full cost of exercising the function to which it relates.
 - 6 [repealed]

Sections 23 and 24 of the Public Audit (Wales) Act 2013

23 General provision relating to fees

- 1 Fees and other sums received by the Auditor General must be paid to the Wales Audit Office.
- 2 The Wales Audit Office may charge a fee in relation to the audit of a person's accounts or statement of accounts by the Auditor General.
- 3 The Wales Audit Office may charge a fee in relation to -
 - a an examination, certification or report under paragraph 18(3) of Schedule 8 to the Government of Wales Act 2006 (certain examinations into the economy etc with which a person has used resources);
 - b an examination under section 145 of the Government of Wales Act 1998 (examinations into the use of resources) or a study under section 145A of that Act (studies for improving economy etc in services), where undertaken at a person's request;
 - c an examination or study undertaken by the Auditor General at a person's request under section 46(4) of the Environment Act 1995;
 - d any services provided or functions exercised under section 19.
- 4 The Wales Audit Office must charge a fee in relation to -
 - a the provision of services to a body under paragraph 20 of Schedule 8 to the Government of Wales Act 2006 (certification of claims, returns etc at the request of a body);
 - b a study at the request of an educational body under section 145B of the Government of Wales Act 1998.
- 5 Fees under this section -
 - a may only be charged in accordance with a scheme prepared by the Wales Audit Office under section 24;
 - b may not exceed the full cost of exercising the function to which the fee relates;
 - c are payable to the Wales Audit Office by the person to whom the function being exercised relates.

24 Scheme for charging fees

- 1 The Wales Audit Office must prepare a scheme relating to the charging of fees by the Wales Audit Office.
- 2 The scheme must include the following -
 - a a list of the enactments under which the Wales Audit Office may charge a fee;
 - b where those enactments make provision for the Wales Audit Office to prescribe a scale or scales of fees, that scale or those scales;
 - c where those enactments make provision for the Wales Audit Office to prescribe an amount to be charged, that amount;
 - d where no provision is made for a scale or scales of fees or for an amount to be prescribed, the means by which the Wales Audit Office is to calculate the fee.
- 3 The scheme may, amongst other things -
 - a include different provision for different cases or classes of case, and
 - a provide for times at which and the manner in which payments are to be made.
- 4 The Wales Audit Office -
 - a must review the scheme at least once in every calendar year,
 - b may revise or remake the scheme at any time, and
 - c must lay the scheme (and any revision to it) before the National Assembly.
- 5 Where the Welsh Ministers prescribe a scale or scales of fees under -
 - a section 64F of the Public Audit (Wales) Act 2004 (fees for data matching), or
 - b section 27A of the Local Government (Wales) Measure 2009 (Welsh Ministers' power to prescribe a scale of fees), to have effect instead of a scale or scales prescribed by the Wales Audit Office, the Wales Audit Office must revise the scheme to include the scale or scales prescribed by the Welsh Ministers instead of those prescribed by the Wales Audit Office.

- 6 If a revision made in accordance with subsection (5) is the only revision to a scheme, it does not require the approval of the National Assembly.
- 7 The scheme takes effect when approved by the National Assembly or, in the case of a revision made in accordance with subsection (5), once it has been laid before the Assembly.
- 8 The Wales Audit Office must publish the scheme (and any revision to it) as soon as reasonably practicable after it takes effect.

**National Audit Office:
Paragraph 8 of schedule 3 to the Budget Responsibility
and National Audit Act 2011**

8 Audit fees etc

- 1 NAO may charge fees for audits carried out by the Comptroller and Auditor General.
- 2 Any fees must be charged in accordance with a scheme prepared by NAO.
- 3 The scheme (including any revision) must be approved by the Public Accounts Commission.
- 4 The agreement of a Minister of the Crown is required for the charging of a fee if the accounts to be audited are the accounts of a body or other person who acts on behalf of the Crown.
- 5 Sub-paragraphs (1) to (4) do not apply in relation to an audit carried out as part of any NAO-approved services.
- 6 The Comptroller and Auditor General may charge fees and other amounts in relation to NAO-approved services, but only in accordance with the agreement or other arrangements under which the services are provided.
- 7 Fees and other amounts received by the Comptroller and Auditor General must be paid to NAO.
- 8 Fees and other amounts received by NAO under this paragraph must be paid into the Consolidated Fund.

Northern Ireland Audit Office: Article 7 of the Audit (Northern Ireland) Order 1987

7 Audit fees

- 1 Subject to paragraph (2), the Comptroller and Auditor General may charge a fee for auditing the accounts of any person or body.
- 2 The Comptroller and Auditor General shall not without the consent of a Northern Ireland department charge a fee for auditing the accounts of a person or body whose functions are discharged on behalf of the Crown; and this Article shall not be construed as authorising the charging of a fee for the audit by agreement of the accounts of any other person or body unless the agreement so provides.
- 3 Any fee received by the Comptroller and Auditor General by virtue of this Article shall be paid by him into the Consolidated Fund.

Article 8 of the Local Government (Northern Ireland) Order 2005

8 Audit fees

There shall be paid to the Comptroller and Auditor General for Northern Ireland by every body whose accounts are audited by the local government auditor such fees as the local government auditor may determine.

Audit Scotland: Section 11 of the Public Finance and Accountability (Scotland) Act 2000

11 Audit Scotland: financial provisions

- 1 Audit Scotland may impose reasonable charges in respect of the exercise of its functions in connection with—
 - a the provision of services under arrangements made in pursuance of section 10(5),
 - b the audit under sections 21 and 22 of an account, other than one prepared in pursuance of section 19(1) to (3) or 20(1),
 - c the carrying out under section 23 of an examination, other than one in respect of an office-holder in the Scottish Administration or a body or other office-holder to whom sums are paid out of the Fund,
- ca carrying out a data matching exercise under section 26A,

- d the audit of an account in pursuance of Part VII of the Local Government (Scotland) Act 1973 (c.65),
 - e the undertaking or promotion of any study under section 97A or 105A of that Act,
 - f the giving of directions under section 1 of the Local Government Act 1992 (c.19).
- 2 Charges under subsection (1) may be determined by reference to particular cases or classes of case.
 - 3 In determining the amounts of those charges Audit Scotland must seek to ensure that the total sum received in respect of the charges is, taking one year with another, broadly equivalent to its expenditure in connection with the matters mentioned in subsection (1)(a) to (f).
 - 4 Charges under subsection (1)(b) to (f) are payable by the body or office-holder whose account is audited or, as the case may be, in respect of whom the examination is carried out, the study undertaken or promoted or the direction given.
 - 5 Where a charge under subsection (1)(c), (e) or (f) relates to an examination, study or direction in respect of more than one body or office-holder, each body or office-holder is to pay such proportion of the charge as is determined by Audit Scotland.
- 5A Charges under subsection (1)(ca) may be imposed on (either or both) -
- a persons who disclose data for a data matching exercise,
 - b persons who receive the results of such an exercise.
- 6 Sums received by Audit Scotland in respect of charges under subsection (1) are to be retained by it and applied to meet the expenditure mentioned in subsection (3).
 - 7 Any other sums received by Audit Scotland are to be paid into the Fund, subject to any provision made by any enactment for such sums to be applied for any purpose instead of being paid into the Fund.
 - 8 Any expenditure of Audit Scotland, so far as not met out of sums received and applied in accordance with subsection (6), is payable out of the Fund.
 - 9 Audit Scotland must, for each financial year, prepare proposals for its use of resources and expenditure and send the proposals to the Scottish Commission for Public Audit (constituted under section 12), which is to examine the proposals and report to the Parliament on them.

Appendix 2 – List of enactments under which the Wales Audit Office may and must charge fees

Exhibit 3 – List of enactments under which the Wales Audit Office may and must charge fees

Nature of work	Enactments
The Wales Audit Office may charge fees for the following activities:	
<ul style="list-style-type: none"> audit of accounts by the Auditor General (other than local government accounts). 	<ul style="list-style-type: none"> section 23(2) Public Audit (Wales) Act 2013
<ul style="list-style-type: none"> value-for-money studies undertaken by agreement. 	<ul style="list-style-type: none"> section 23(3)(a)-(c) Public Audit (Wales) Act 2013
<ul style="list-style-type: none"> an examination, certification or report under section 31 of the Tax Collection and Management (Wales) Act 2016 in respect of the Welsh Revenue Authority's Tax Statement. 	<ul style="list-style-type: none"> section 23(3)(ba) Public Audit (Wales) Act 2013 (Not yet commenced. Date to be appointed.)
<ul style="list-style-type: none"> an examination under section 15 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2) (examinations of public bodies for the purposes of assessing the extent to which a body has acted in accordance with the sustainable development principle). 	<ul style="list-style-type: none"> section 23(3)(ca) Public Audit (Wales) Act 2013
<ul style="list-style-type: none"> any functions of a relevant authority exercised by the Wales Audit Office or the Auditor General and undertaken by agreement, and any administrative, professional or technical services to be provided by the Wales Audit Office or the Auditor General by arrangement under section 19 of the Public Audit (Wales) Act 2013. 	<ul style="list-style-type: none"> section 23(3)(d) Public Audit (Wales) Act 2013
<ul style="list-style-type: none"> an extraordinary audit of the accounts of a local government body. 	<ul style="list-style-type: none"> section 37(8) of the Public Audit (Wales) Act 2004
<ul style="list-style-type: none"> data-matching exercises. 	<ul style="list-style-type: none"> section 64F(A1) of the Public Audit (Wales) Act 2004 a fee scale must be prescribed for this work

Nature of work	Enactments
The Wales Audit Office may charge fees for the following activities:	
<ul style="list-style-type: none"> advice and assistance provided by the Auditor General for registered social landlords. 	<ul style="list-style-type: none"> section 145D(2) of the Government of Wales Act 1998
<ul style="list-style-type: none"> work under the Local Government (Wales) Measure 2009. 	<ul style="list-style-type: none"> section 27 of the Local Government (Wales) Measure 2009 a fee scale must be prescribed for this work
<ul style="list-style-type: none"> grant certification services. 	<ul style="list-style-type: none"> section 23(4)(a) Public Audit (Wales) Act 2013
<ul style="list-style-type: none"> studies at the request of educational bodies under section 145B of the Government of Wales Act 1998. 	<ul style="list-style-type: none"> section 23(4)(b) Public Audit (Wales) Act 2013
<ul style="list-style-type: none"> auditing the accounts of a local government body and undertaking studies by agreement with a local government body. 	<ul style="list-style-type: none"> section 20(A1)(a)-(b) of the Public Audit (Wales) Act 2004 a fee scale must be prescribed for the audit of the accounts of local government bodies
<ul style="list-style-type: none"> benefit administration studies for the Secretary of State. The Auditor General may conduct or assist the Secretary of State in conducting a benefit administration study only if the Secretary of State has made arrangements for the payment to the Wales Audit Office of a fee in respect of the study. The amount of the fee must be a reasonable amount agreed between the Secretary of State and the Wales Audit Office. 	<ul style="list-style-type: none"> section 45 of the Public Audit (Wales) Act 2004
<ul style="list-style-type: none"> assisting Her Majesty's Chief Inspector of Education and Training in Wales with inspections of local authorities. The Auditor General shall not provide such assistance unless, before he does so, the Chief Inspector has agreed to pay the Wales Audit Office a fee. 	<ul style="list-style-type: none"> section 41A of the Education Act 1997

Nature of work	Enactments
The Wales Audit Office may charge fees for the following activities:	
<ul style="list-style-type: none"> programmes of studies relating to registered social landlords undertaken by agreement between the Welsh Ministers and the Auditor General. It shall be a term of every such programme that the Welsh Ministers must pay to the Wales Audit Office a sum in respect of the costs incurred. 	<ul style="list-style-type: none"> section 145C(3) of the Government of Wales Act 1998

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