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References: IG/18/005/HVT/2856/SD
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Annwyl Simon

The Public Audit (Wales) Act 2013

Thank you for your letter of 17 April 2018 in which you ask for details of the specific legislative changes needed to address the complexity of fee arrangements and other problematic aspects of the Public Audit (Wales) Act 2013. You ask in particular for details of what amending legislation might look like and examples of areas of the 2013 Act beyond fees that might benefit from change. You also ask for details of the costs of the fee arrangements and the costs of the proposed changes.

We enclose an explanatory paper that sets out these specific matters, including a draft bill and explanatory notes. The draft bill and explanatory notes have been prepared by our external legal advisers, Bates Wells Braithwaite. For ease of reference, we have included in the explanatory paper a summary of the problems that the 2013 Act presents, including in respect of fees even though this was covered in some detail in the paper *The complex audit fee regime in Wales – a case for change*.

As the legislative changes needed are a matter of fairly limited amendment of the 2013 Act, and some similarly limited consequential amendments, the draft bill is short and rather technical in character. Consequently, in order to understand the effect of the provisions of the draft bill, we think it is best to read the draft bill in conjunction with the explanatory paper, rather than on its own. We should, however, say that the explanatory paper is not an Explanatory Memorandum as required by Standing Orders, though we would hope that much of the material might be useful in preparing such a document.

We should also mention that the matters that the draft bill addresses are confined to matters that are directly problematic to the WAO. We have not sought to address such matters as inconsistency between different pieces of legislation, e.g. the differences between the restriction periods in relation to subsequent office that apply to the Auditor General under the 2013 Act and those that are to apply to the Ombudsman under the Public Services Ombudsman (Wales) Bill. (In that example, restrictions on a former Auditor General apply for two years, while those applying to a former Ombudsman apply for between a year and a day and two years, depending on the date the person ceases to be the Ombudsman.) We imagine that the Committee may have other concerns that could be addressed in an amendment bill.

While it may seem fairly obvious, we should also mention for clarity that the draft bill and explanatory paper do not address changes in fee arrangements that do not require legislation. The main example that we have in mind is replacing cash audit fees for the Welsh Government, National Assembly for Wales Commission and the Public Services Ombudsman for Wales with notional fees, as set out in *The complex audit fee regime in Wales – a case for change*. That is a parallel administrative measure, which, because it does not affect the great majority of audited bodies and fee income, does not alter the need for legislation.

You ask specifically about the internal costs arising from the administration of process relating to section 23 of the Act, and about financial benefits that might result from changing the legislation. The explanatory paper includes details to address these points, but it may helpful if we draw out key points here.

Section 23 is general provision relating to fees, not just the “no more than full cost” rule (s23(5)(b)). It is not possible to precisely identify the full cost of the current fee arrangements; for example, while a portion of the WAO’s finance department’s costs will relate to fees, identifying that portion is a matter of estimation. Overall, we estimate the annual administrative cost of the current fee arrangements to be some £342,000.

Of the above figure, we estimate that between some £20,000 and £50,000 is attributable to the “no more than full cost” rule. We have provided this estimate as a range because it is extremely hard to identify the particular effort involved in monitoring and managing time for the purposes of the “no more than full cost” as opposed to other management purposes. But while there is uncertainty as to the amount, we are clear that the “no more than full cost” rule is an exacerbating factor that leads to additional cost.


The financial benefits of amending the legislation are likely to mainly consist of the avoidance of the additional cost arising from the “no more than full cost” rule and avoiding the costs of preparing interim reports. There may also be a few thousand pounds each year on average in contributions to the Welsh Consolidated Fund arising from surpluses on agreement work. Altogether, we estimate that the financial benefits will be net savings to Welsh public finances of between £57,000 and £77,000.

We hope that this is helpful. We should be very happy to discuss the paper and the draft bill.

Yn gywir



Huw Vaughan Thomas, CBE
Auditor General for Wales



Isobel Garner
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