

PUBLIC AUDIT (WALES) BILL COMMITTEE 2004

Report to the National Assembly for Wales

Chair's Foreword

The proposals contained in the Public Audit (Wales) Bill impact on several of the subject committee portfolios. For this reason the Assembly established the Committee to take forward the work of the previous ad hoc Committee, which scrutinised the draft Bill, and to examine the provisions of the Bill currently before Parliament.

I am grateful to David Powell, Assembly Compliance Officer, and Elisabeth Jones, Office of the Counsel General, who are currently working with the Wales Office through an arrangement under S41 of the Government of Wales Act, for attending the Committee to advise on drafting issues.

Janet Davies AM
Chair

1. Introduction

1.1. The Committee was established under Standing Order 8.1 on 13 January 2004. Its terms of reference are to:

- Consider the Public Audit (Wales) Bill as introduced to Parliament on 27 November 2003;
- Consider the Minister for Finance, Local Government and Public Services' letter of 1 December reporting the UK Government's response to the Public Audit (Wales) Bill Committee's recommendations on the draft Public Audit (Wales) Bill;
- Report to the Assembly by 6 February on its conclusions

The Committee will cease to exist on 27 February.

1.2. The Members of the Committee are:

Janet Davies (Chair)	South Wales West
Leighton Andrews	Rhondda
Alun Cairns	South Wales West
Janice Gregory	Ogmore
Jenny Randerson	Cardiff Central

1.3. The Public Audit (Wales) Bill was introduced in the House of Lords on 27 November 2003 and, at the time the Committee met, was awaiting committee stage in the House of Lords.

1.4. The Committee met on the 22 January 2004. A copy of the minutes is appended.

1.5. The Committee considered the published Bill in the light of the recommendations of the previous Public Audit (Wales) Bill Committee and the Government's response to those recommendations as set out in the letter of 1 December from the Minister for Finance, Local Government and Public Services to the Chair.

2. The Committee's Recommendations

i. The Bill should amend s90 of the Government of Wales Act 1998 to provide that the Auditor General for Wales should be appointed after consultation with the National Assembly for Wales. The amendment should include the provision that the Assembly debate the appointment on a motion proposed by the First Minister and agreed with the Chair of the Audit Committee.

ii. Clause 54 should be deleted. If the government is not prepared to do so an early opportunity should be sought for an appropriate amendment to be made to legislation on an England / Wales basis.

3. The Committee's Consideration

3.1.1. Recommendation (i) of the previous Public Audit (Wales) Bill Committee (the previous Committee) was:

The Bill should amend s90 of the Government of Wales Act 1998 to provide that the Auditor General for Wales should be appointed after consultation with the National Assembly for Wales. The amendment should include the provision that the Assembly debate the appointment on a motion proposed by the First Minister and agreed with the Chair of the Audit Committee.

3.1.2. The Government had not accepted this recommendation and the published Bill does not amend the Government of Wales Act.

Discussion and Conclusion

3.1.3. The Committee noted the Minister's response that the Assembly is consulted on the appointment of the Auditor General. However such consultation is with the Assembly Government and the involvement of the whole Assembly is based on the goodwill of the Government.

3.1.4. The Committee concluded that the appointment of the Auditor General for Wales should be on the nomination of the National Assembly for Wales.

Recommendation

3.1.5. *The Bill should amend s90 of the Government of Wales Act 1998 to provide that the Auditor General for Wales should be appointed after consultation with the National Assembly for Wales. The amendment should include the provision that the Assembly debate the appointment on a motion proposed by the first Minister and agreed with the Chair of the Audit Committee.*

3.2.1 Recommendation (ii) of the previous Committee was:

The provisions of Clause 11 should be extended to enable the Auditor General to track public money passing from local government to end users, such as contractors and grant recipients, to ensure that it has been properly and appropriately spent.

Discussion and Conclusion

3.2.2. The Government had accepted this recommendation and the Committee was content with the drafting in the published Bill.

3.3.1. Recommendation (iii) of the previous Committee was:

Clause 16 should be amended to require that the Code of Practice prepared or revised under Clause 16(1) should be debated by the National Assembly.

Discussion and Conclusion

3.3.2. The Government had accepted this recommendation and the Committee was content with the drafting in the published Bill.

3.3.3 Recommendation (iv) of the previous Committee was:

Clause 50 should be deleted.

Discussion and Conclusion

3.3.4. The Government had not accepted this recommendation. The Committee considered the reasons given in the Minister's letter of 1 December. The Committee took the view that the Bill provided for a separate Auditor General for Wales heading a single public audit body. It did not accept that Wales should not have different provisions on the disclosure of information from England. The Committee upheld the view of the previous Committee that the protection offered to local government under clause 54 of the published Bill (clause 50 of the draft Bill) would inhibit transparency and be out of line with that given to other public sector bodies in Wales. The Committee did not accept the argument that there would be potential for the disclosure of the same information being treated inconsistently for the purposes of the criminal law in Wales and England.

Recommendation

3.3.5. *Clause 54 should be deleted. If the government is not prepared to do so an early opportunity should be sought for an appropriate amendment to be made to legislation on an England / Wales basis.*

3.4.1. Recommendation (v) of the previous Committee was:

Schedule 3 paragraph 3 should be strengthened to protect the pension rights of the staff of both organisations.

3.4.2. Recommendation (vi) of the previous Committee was:

Schedule 3 paragraph 4 should be amended to give staff the option of remaining with their current employer, without detriment to their current terms and conditions of service, after the transfer date.

Discussion and Conclusion

3.4.3. The Government had not accepted recommendation (v) or (vi) on the grounds that it was more appropriate for these issues to be covered in the statutory transfer schemes. The Committee accepted this.

3.5.1. Recommendation (vii) of the previous Committee was:

Terminology in the bill should be gender neutral.

Discussion and Conclusion

3.5.2. The Committee noted with regret that the Government had not accepted this recommendation.

Other Recommendations of the Previous Committee

3.6.1. The Committee noted, without comment, the response of the Minister to the other recommendations of the previous Committees.

January 2004

MINUTES

Date: Thursday, 22 January 2004
Time: 9.00am to 9.15am
Venue: Committee Room 1, National Assembly for Wales

Attendance: Members of Public Audit (Wales) Bill Committee

Janet Davies (Chair)	South Wales West
Leighton Andrews	Rhondda
Alun Cairns	South Wales West
Janice Gregory	Ogmore
Jenny Randerson	Cardiff Central

Officials In Attendance

David Powell	Assembly Compliance Officer
Elisabeth Jones	Office of the Counsel General

Secretariat:

Jane Westlake	Committee Clerk
Claire Morris	Deputy Committee Clerk

Item 1: Apologies and Substitutions and Declarations of Interest

- 1.1 There were no apologies.
- 1.2 There were no declarations of interest.

Item 2: Scrutiny of Public Audit (Wales) Bill

2.1 The Chair welcomed David Powell and Elisabeth Jones, who were working with the Wales Office through an arrangement under s41 of the Government of Wales Act during the passage of the Bill through Parliament.

2.2 Paper PA(W)B2004(2)-01-04(p.1) set out the main changes that had been made to the published Bill following consultation on the draft Bill in the summer 2003. The Committee worked through Annex 2 of the paper, which set out the recommendations of the Assembly's previous ad hoc committee, the Public Audit (Wales) Bill Committee and the Welsh Assembly Government's response to them.

i. The Bill should amend s90 of the Government of Wales Act 1998 to provide that the Auditor General for Wales should be appointed after consultation with the National Assembly for Wales. The amendment should include the provision that the Assembly debate the appointment on a motion proposed by the First Minister and agreed with the Chair of the Audit Committee.

This recommendation had not been accepted. Members considered that the issue of consultation went further than the appointment of the Auditor General and felt very strongly that consultation should take place with the Assembly as a whole, not just the Assembly Government. This should be statutory requirement, not on a goodwill basis alone as was the current practice.

ii. The provisions of Clause 11 should be extended to enable the Auditor General to track public money passing from local government to end users, such as contractors and grant recipients, to ensure that it has been properly and appropriately spent.

The Committee accepted the Welsh Assembly Government's response, and the drafting in the published Bill.

iii. Clause 16 should be amended to require that the Code of Practice prepared or revised under Clause 16(1) should be debated by the National Assembly.

David Powell confirmed Clause 16(4) had been amended to include approval by the National Assembly for Wales.

The Committee accepted the Welsh Assembly Government's response.

iv. Clause 50 should be deleted.

The Committee was unhappy that this recommendation had not been accepted. Members cited cases where local authorities had delayed publication of District Audit reports and it was felt by some Members that this clause could strengthen their powers to do so. The Chair took the view that the clause left the position as it was currently. The UK Government's view that any future consideration of the disclosure issue should be on an England and Wales basis was not accepted. Devolution should mean that things could be done differently in Wales. The Assembly had powers which could include differences in the criminal law between England and Wales.

The Committee agreed that this amendment was essential and should be pursued. If it was not accepted in Parliament it should be taken forward in an appropriate Bill where it would apply to England and Wales, as it was unacceptable that local government should be treated differently from other public bodies.

v. Schedule 3 para 3 should be strengthened to protect the pension rights of the staff of both organisations.

The Committee accepted the Welsh Assembly Government's response.

vi. Schedule 3 para 4 should be amended to give staff the option of remaining with their current employer, without detriment to their current terms and conditions of service, after the transfer date.

The Committee accepted the Welsh Assembly Government's response.

vii. Terminology in the Bill should be gender neutral.

The Committee noted with regret the Welsh Assembly Government's response.

2.3 A report of the Committee's conclusions would be prepared for debate by the Assembly on 4 February. The Chair would write to the Minister for Finance, Local Government and Public Services; the Secretary of State for Wales; and the Welsh Affairs Committee setting out its recommendations and enclosing a copy of its report.