

National Assembly for Wales
Public Accounts Committee

Scrutiny of Accounts 2013 -14

March 2015

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Public Accounts Committee

The Committee was established on 22 June 2011. The role of the Public Accounts Committee is to ensure that proper and thorough scrutiny is given to Welsh Government expenditure. The specific functions of the Committee are set out in Standing Order 18. The Committee will consider reports prepared by the Auditor General for Wales on the accounts of the Welsh Government and other public bodies, and on the economy, efficiency and effectiveness with which resources were employed in the discharge of public functions.

Current Committee membership:



Darren Millar (Chair)
Welsh Conservatives
Clwyd West



William Graham
Welsh Conservatives
South Wales East



Mike Hedges
Welsh Labour
Swansea East



Jocelyn Davies
Plaid Cymru
South Wales East



Sandy Mewies
Welsh Labour
Delyn



Julie Morgan
Welsh Labour
Cardiff North



Jenny Rathbone
Welsh Labour
Cardiff Central



Aled Roberts
Welsh Liberal Democrats
North Wales

The following Members were also members of the Committee during this inquiry:



Keith Davies
Welsh Labour
Llanelli



Alun Ffred Jones
Plaid Cymru
Arfon

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Chair's Foreword

There are hundreds of taxpayer-funded organisations in Wales which are required to publish annual accounts and reports, and whilst these are generally compliant with reporting requirements the information they contain may not be as well scrutinised or understood as it could be. This year the Public Accounts Committee decided to consider the accounts of a selection of such organisations as part of a package of new ways of working which we agreed earlier in the Assembly term.

In addition to the Welsh Government and the National Assembly for Wales's Commission, our focus this Autumn was on the Public Services Ombudsman, the Children's Commissioner, the Older People's Commissioner, the Welsh Language Commissioner and the Arts Council for Wales, each of which were invited to evidence sessions with the Committee. This report summarises our work and its findings, and makes a number of recommendations which seek to improve governance, make reporting more transparent, and deliver better value for money for taxpayers in the future.

The Committee will be undertaking similar work with other organisations in autumn 2015. In the meantime, I commend this report to its readers and trust that the recommendations we have made will be of use to the organisations concerned and to the wider public sector as a whole.

Recommendations

Recommendation 1. The in-coming Children’s Commissioner should consider the Older People’s Commissioner’s experience of planning and consultation on restructuring in undertaking any restructure of her own. (Page 18)

Recommendation 2. The National Assembly for Wales’s Commission should clearly identify the savings from the investment made in information technology and translation during 2013-14 in its accounts for 2014-15. (Page 21)

Recommendation 3. The Committee recommends that efforts to achieve efficiencies and greater productivity through collaboration, including integration of back-office functions, continue between the Commissioners and the Ombudsman, and that this be reported on in their 2014-15 annual reports and accounts. (Page 26)

Recommendation 4. If the current funding relationship continues, the Welsh Government should communicate its decision at an early stage on the funding available to the Commissioners. These budgets should then be protected from later in year departmental reductions. (Page 31)

Recommendation 5. The Commissioners and Ombudsman should publish clear information on the responsibilities they have delegated to their staff. (Page 34)

Recommendation 6. The Finance Committee should consider the relationship between the Public Services Ombudsman for Wales’s Audit and Risk Committee, his advisory panel, and the National Assembly for Wales and whether arrangements should be formalised. (Page 38)

Recommendation 7. The National Assembly for Wales’s Commission and Welsh Government should set out in their budgets and accounts their approach to financial management – in particular their target for underspends. (Page 42)

Recommendation 8. The three independent Commissioners should be clear in their estimates and their annual accounts on the level of reserves they seek to carry, and the types of activity that they may wish to use reserves for. (Page 44)

Recommendation 9. The Committee encourages organisations funded by public money to consider how they present information to ensure that it is readily understandable for the public, and that shows the organisation's priorities and the level of resource committed to those priorities. (Page 47)

1. Introduction

1. The scrutiny of accounts is a new piece of work for the present Public Accounts Committee, and came from the Committee's review of its ways of working in 2013-14. The Committee was keen to ensure that there was sufficient scrutiny of the way in which public money was used by the Welsh Government, the National Assembly for Wales and a number of separate bodies.

2. The bodies whose accounts were considered by the Committee were the Public Services Ombudsman for Wales (PSOW), the Older People's Commissioner for Wales (OPCW), the Children's Commissioner for Wales (CCW), the Welsh Language Commissioner (WLC) and the Arts Council for Wales (ACW). The PSOW, OPC, CCW and WLC all have an important role in representing the rights of people in Wales, which involves a degree of challenge to the Welsh Government.

3. The Welsh Government has by far the largest budget of the accounts scrutinised by the Committee, and its budget of over £15 billion is approved by the National Assembly from the Welsh Block Grant. Sir Derek Jones, Permanent Secretary, attended the Committee on 22 September 2014, accompanied by Gawain Evans, Deputy Director Financial Controls, Lynne Hamilton, Director of Finance & Commercial Services, Michael Hearty, Director General, Finance & Corporate Services,

4. The National Assembly for Wales's Commission [budget of nearly £50 million] is the corporate body which provides the support for the National Assembly in undertaking its functions, and is funded by the Welsh Block Grant, as voted for by the National Assembly. It is comprised of the Presiding Officer and four Assembly Members nominated by the main political parties represented in the National Assembly. Peter Black AM attended the Committee's meeting on 23 September 2014 on behalf of the Commission, accompanied by Claire Clancy, the Chief Executive, who heads the staff that work for the Commission, and Nicola Calllow, the Director of Finance.

5. As a member of the National Assembly's Commission, Sandy Mewies was prohibited under Standing Orders from considering issues before the Public Accounts Committee relating to the Commission. For that reason, she absented herself from the Committee's evidence session with the Commission, and has not participated in the Committee's discussions of the Commission's Accounts.

6. Sarah Rochira, the Older People's Commissioner, has a budget of around £1.7 million, funded by the Welsh Government. She attended the Committee's meeting on 7 October accompanied by Alison Phillips, her Director of Finance and Performance.

7. Nick Bennett took up post as Public Services Ombudsman for Wales in August 2014, and his office has a budget of £4 million, funded directly from the Welsh Block Grant, as voted for by the National Assembly for Wales. He attended the Committee on 7 October, accompanied by Susan Hudson, Policy and Communications Manager, Dave Meaden, Finance Officer, and Chris Vinestock, Director and Chief Officer.

8. The Children's Commissioner for Wales, Keith Towler, has a budget of around £1.7 million, provided by the Welsh Government. He attended Committee on 13 October 2014, accompanied by Tony Evans, his Head of Corporate Services.

9. While the Committee was considering the Accounts of these organisations, a review was underway of the role and functions of the Children's Commissioner for Wales, which was undertaken by Dr Mike Shooter. Some issues covered in this report corresponded to those under consideration by that review, and the Committee therefore corresponded with Dr Shooter as he undertook his review and noted his report in the preparation of this report.

10. Meri Huws, Welsh language Commissioner for Wales, has a budget of £4.3 million, which comes almost entirely from the Welsh Government. She attended the Committee on 13 October 2014, accompanied by Richard Davies, Finance Officer.

11. The Arts Council for Wales is a Welsh Government Sponsored Body, which receives grant-in-aid from the Welsh Government that it is expected to use according to its remit letter. It is also a distributor of National Lottery funds and a registered charity. The Committee discussed the Arts Council's General Activities accounts, relating to its use of grant-in-aid from the Welsh Government at its meeting on 13 October with Nick Capaldi, Chief Executive, and Hywel Tudor, Director of Finance and Resources.

12. Rather than set out the Committee's findings from each scrutiny session, this report sets out some cross-cutting issues and themes the Committee considered during the course of its scrutiny work. Some of these relate to the way in which public money was being used, some to how the

use was monitored, and some to the way its use was set out in the organisations' accounts.

13. The Committee has agreed that it will undertake this work on an annual basis, potentially with different organisations. The Committee welcomed the positive response it received from the organisations whose accounts it considered, and that Dr Shooter wrote to the Committee stating he supported the Committee's proposal to undertake scrutiny of Commissioners' accounts annually.

2. Accommodating reducing budgets

14. A common theme within the accounts the Committee considered was the reduction in public spending. This was reflected directly in lower levels of resource and spending in 2013-14, as in the accounts. A recurring theme was additional pressures on the bodies in question, as a consequence of either reduced expenditure elsewhere or increased responsibilities.

15. The Permanent Secretary to the Welsh Government was clear on this in his evidence session:¹

“It has definitely... been a year, I felt, in which some of the challenges and pressures were beginning to come through from continuing reductions in budgets. So, we had 10% less spending power in that year than in 2010-11, I think. At the same time, cost and demand pressures in some areas were increasing. There are also ambitions to extend devolution in Wales to take on new powers and responsibilities, which all have to be managed and managed well. So, I felt that it was a pretty reasonable year, looking back, but a year in which clearly some of those pressures were beginning to emerge.”

16. The Committee were keen to assure itself that the organisations it considered were meeting the challenges of greater pressures without neglecting their responsibilities to achieve value for money and use public money properly.

17. The Older People’s Commissioner set out the additional pressures created for her from general public expenditure reductions:²

“For me, the greater financial risk is actually the impact of the current financial pressures that are faced by public bodies, and then the knock-on impact that that has on older people, because, of course, what that does is drive more older people to my office and to need more support from me. So, the real risk arising from that financial risk is that the breadth of the issues that are coming to me, and the depth of them, is now phenomenally huge. There is almost not an issue that does not impact on older people now, and, for many, that impacts on them very, very significantly indeed. So, that is really the biggest impact around that financial risk—it is on the breadth of my

¹ Record of Proceedings, 22 September 2014, paragraph 5

² Record of Proceedings, 6 October 2014, paragraph 98

business, and the depth of what I need to address. The danger is that I become spread too thin within that, and that becomes quite a challenge for me. I signalled that last year, when I was in front of the Health and Social Care Committee—one of the biggest challenges that I have now is the impact of those financial changes on older people.”

18. The Children’s Commissioner for Wales had similar views on the impact of the current economic circumstances on his workload:³

“However, that does not mean that [my legacy] report will not also identify huge challenges for an in-coming commissioner, not least because of austerity, if you think about the fact that there are more children living in relative poverty in Wales now than there were when I began as commissioner.”

19. The Chief Executive of the Arts Council for Wales noted that lower budgets for local authorities was also having an impact on his organisation:⁴

“We are very concerned about the potential impact of current local authority cuts. It is the one issue that is raging red on our risk register... Just to give you some sense of the context on this particular point, going back to our portfolio of regularly funded organisations, 54 of the organisations that we fund are also in receipt of funding from a local authority. In 2012-13, the local authority funding for that portfolio was just over £10 million, while the Arts Council’s investment was £16 million—so we are already the larger funder. However, the local authority funding for 2013-14 declined by 11%; so over the course of one year, 11% in one section of our expenditure disappeared.”

20. The Arts Council was not able within its own budget to fill the gap left by reductions in local authority expenditure on the arts, but sought to assist arts organisations in adapting to a new funding environment:⁵

“We are trying to tackle that by talking to local authorities in two ways. First, we make the point, which my Council has as a point of policy, that it cannot make good the funding cuts from local authorities. Second, we work with them to explore alternative models

³ Record of Proceedings, 13 October 2014, paragraph 42

⁴ Record of Proceedings, 13 October 2014, paragraph 304

⁵ Record of Proceedings, 13 October 2014, paragraph 305

of operation... We have spent most of the last year talking to [Theatr Clwyd] about how the local authority's investment might be restructured and, indeed, reduced without adversely affecting, we hope, too much the quality of what is going on. We are simply, at the moment, going to have to replicate those kinds of conversations, I suspect, 22 times.”

21. The Public Services Ombudsman for Wales set out a picture of a reduced budget accompanied by a greater workload:⁶

“Over the last few years, we have had to do more with less. We received an 8% cut, I think, back in 2011-12, and the volume of enquiries and complaints that we have received has increased year-on-year, to the point that I would say—I am sure that we will touch on this later on—that, in terms of trying to forecast likely future pressures, certainly from 2009 we are facing a trend. I would say that the line on the graph is at around 45 degrees, which I hope gives people some impression of where we are at... Looking to the future, I think that those trends will continue...”

Additional Responsibilities

22. Before considering how organisations were responding to reducing budgets, the Committee noted that the roles and responsibilities of the organisations it was considering were not static, and therefore the committee sought to understand whether additional responsibilities may be forthcoming.

23. The Ombudsman set out that as his office became more visible and well-established, more people would be aware of its role and therefore more likely to make a complaint or enquiry to it. In addition, his office's role would be expanding with new responsibilities into private care – and accompanying publicity may remind people of the office's existing role. This was a consequence of the Social Services and Well-being (Wales) Act 2014, and the Ombudsman assured the Committee that his additional responsibilities would be accompanied by additional resource:⁷

“I think that we have received some additional funding for two posts to make sure that we are equipped to deal with that particular extension in jurisdiction.”

⁶ Record of Proceedings, 6 October 2014, paragraphs 154-5

⁷ Record of Proceedings, 6 October 2014, paragraph 178

24. This was not necessarily the case for the Welsh Government, which will be given more responsibilities over taxation under the Wales Act 2014, in particular the establishment of a Welsh Treasury. The Committee heard that these additional responsibilities would not necessarily be accompanied by additional resource in the Welsh Block grant, and would be subject to the outcome of negotiations that were on-going. On whether administering additional responsibilities would be accompanied by additional resource, Michael Hearty told the committee:⁸

“That is subject to an ongoing discussion between Welsh Government Ministers and UK Ministers. The Minister for Finance wrote to the Chief Secretary to the Treasury quite recently about that particular discussion.”

Julie Morgan: “It will be extremely difficult to do, will it not, if you do not have any extra money at all?”

Mr Hearty: “Yes. We are not served particularly well by the fact that, in Scotland, that debate is now finished and the direction of travel is that the Treasury would not provide Scotland with any funding for implementing a treasury. We take the view that that was something that the Scottish Government dealt with the Treasury over, and Wales is different. The Minister for Finance has written to the Chief Secretary to start those sorts of debates and discussions now.”

Restructuring

25. Against this context of reducing resources, the Committee heard that the organisations whose accounts it considered had undertaken some internal restructuring to face future challenges. Given the expenditure involved in restructuring a workforce, in releasing, recruiting and training staff, this was a key theme in their accounts.

26. The Welsh Government was by far the largest employer whose accounts the Commission considered. The accounts showed they had undertaken a large voluntary exit scheme, but had also increased staff numbers in this year. The Committee was keen to assure itself that this showed a re-focussing of staff resources, rather than having to replace resources that should not have been released.

⁸ Record of Proceedings, 22 September 2014, paragraphs 29 - 31

27. The Permanent Secretary told the Committee that staff numbers had not increased over a longer period of time than the year shown in these accounts. In addition, additional staff numbers were shown in the Welsh Government's accounts due to the merging of the Environment Agency Wales, Countryside Council for Wales and the Forestry Commission Wales into Natural Resources Wales and the establishment of the National Leadership and Innovation Agency for Healthcare. Where increases had occurred, this could be attributed to recruitment of apprentices and increasing capacity with specialist skills – in particular legal support for the increasing legislative workload following the assumption of full primary law-making powers from 2011. This was a key issue for the Committee, and the further detail set out by the Permanent Secretary in his letter to the Committee provided assurance.

28. Recognising that these additional pressures were likely to continue, the Permanent Secretary set out how they had been accommodated to date and in preparations for the future.⁹

“[L]ooking ahead—and I am currently discussing this with the First Minister and the Minister for finance—we will have to have a pretty tough and robust workforce strategy, because these overall budget pressures that I mentioned are not likely to go away in the foreseeable future and could well get worse, and central administration will have to make its contribution to those savings. It has done, actually. I think that, over the last couple of years, the central administration main expenditure group has returned more than £50 million from its baseline. I think that £54 million is the figure I recall. It has returned it to the centre, as it were, to help support priority front-line programmes. So, it has been okay up until now. We have stayed competent and capable and taken on new functions, but it will get even more challenging, I think, over the next few years.”

29. In the context of ensuring future challenges could be met and not increase overall headcount, the Permanent Secretary set out the Government's approach to voluntary exit schemes, which the Committee noted were double the value to those of the previous year:¹⁰

⁹ Record of Proceedings, 22 September 2014, paragraph 11

¹⁰ Record of Proceedings, 22 September 2014, paragraph 13

“I completely understand the point that the public might think, ‘Well, hang on, why is the Welsh Government paying people to leave?’, but that is the fundamental reason. However, it is a case of investing to save. My golden rule would be that I would want my money back and to be moving into profit after about 18 months. So, there will be a severance settlement but I would expect the salary saving to cover that within 18 months. Thereafter, the organisation is in profit.”

30. Noting this desire to recover the expenditure on severance settlements, the Committee sought and received assurance on some large settlements shown in the account, with four packages between £100 000 and £150 000.

31. The Older People’s Commissioner, who was appointed to a four-year term, had decided at an early stage to restructure her office:¹¹

“In terms of my restructure, there were three priorities when I was appointed. My first was to engage with older people and ask them what they wanted me to focus on. That enabled me to publish my strategic priorities, and therefore my work programmes. My third priority—and it was an imperative—was to make sure that I had the skills and competencies internally to make me deliver on what feels, and still feels at times, like a challenging agenda ... I wanted to go quickly, but not with undue haste. I implemented a root-and-branch review throughout the organisation, from the top to the bottom. It enabled me to reduce costs in relation to some of my back-office transactional costs, but also in my senior management structure... I was very conscious that I needed to use every penny to best effect to deploy and bring in new posts that would enable me to drive change for older people. It was absolutely critical that I did that. I had to go with some speed and, as I said, I hope not undue haste. I was very conscious that because I have a four-year term of office I could not spend three years working through a restructure of that process.”

32. While the structure of her office was her personal responsibility as a Corporation Sole, the Committee heard the Commissioner prepared a business case for her restructuring and took advice in her restructuring, including from the Welsh Government and the Wales Audit Office. The Committee were impressed by the way the Commissioner acted quickly and thoughtfully in the restructuring of her office. Issues relating to the

¹¹ Record of Proceedings, 6 October 2014, paragraph 53

Commissioner's role as a Corporation Sole and her relationship with the Welsh Government are discussed later in this report.

33. While the accounts was only for the second year of operation for the Welsh Language Commissioner, its accounts showed that a restructure had taken place. Similar to the discussion with the Welsh Government, the Committee sought assurance that the similar number of staff joining the organisation to the number of staff departing under a voluntary exit scheme did not reflect a wasteful process. The Commissioner set out to the Committee that this second year was when she sought to ensure the staff structure it inherited from its predecessor body was fit for the Commissioner's role:¹²

“We inherited a staffing structure and staff from an institution that already existed. As we put the strategic plan in place during our first year, it became apparent that the functions and requirements of the new office were very different to what had existed in the past. The staffing structure was not fit for purpose—it was certainly not fit for purpose in terms of the demands of the Welsh language Measure. That was the first year. During the second, before going through the restructuring process and before going through the early exit scheme, we had to bring in officials on a pro-tem basis. There is a very specific example—well, there are a lot of very specific examples—namely that we employed an information and data management officer for a year because, in operating as a regulator and in dealing with the personal and sensitive data of complainants, it was very important that we had structures in place that were robust. We brought in particular expertise to put those structures and those procedures in place. It was a temporary role to carry out specific functions.”

34. The Commissioner clarified that the temporary staff were not part of the voluntary exit scheme, and their inclusion in the figures for staff numbers may therefore give a slightly misleading impression.

35. The Children's Commissioner, who had been in post since 2008, had undertaken a similar restructuring of his office at the outset of his term:¹³

¹² Record of Proceedings, 13 October 2014, paragraph 193

¹³ Record of Proceedings, 13 October 2014, paragraph 15

“In common, I suppose, with many people who begin work of this kind, I took a look at my organisation, and I restructured things. One thing that struck me when I became the Commissioner was that I was spending about £67,000 on temporary staff. You will see in current accounts that I do not spend any money at all now on temporary staff. I introduced a less hierarchical management structure into the organisation: we had 10 people in the organisation who had managerial responsibility; we now have five. We also reduced the staffing complement from 37 members of staff down to 27 full-time equivalent members of staff. So, I took a view that I needed to review job descriptions, to align that to a corporate plan, and to be very clear about the objectives that I wanted to set, as the Children’s Commissioner.”

36. Given that a new Children’s Commissioner for Wales has been appointed and will take up her post in April, she may similarly decide to review the support provided to her by her office – indeed Dr Shooter’s review of the role and functions of the Children’s Commissioner recommended that the current structures be re-examined. The Committee would recommend the Older People’s Commissioner’s approach of setting out a business case and seeking advice externally to her, should she do so.

37. Broadly, the Committee were content that the organisations whose accounts it considered had acted effectively in undertaking restructuring that allowed them to fulfil their responsibilities more efficiently in the future. As set out succinctly by the Permanent Secretary, they entailed short-term expenditure to achieve longer-term savings.

38. The Committee will consider the issue of value-for-money of early departure schemes further in its work on the Auditor General for Wales’s report *Managing Early Departures Across Welsh Public Bodies*, published 10 February 2015.

Recommendation: The in-coming Children’s Commissioner should consider the Older People’s Commissioner’s experience of planning and consultation on restructuring in undertaking any restructure of her own.

Investing for the future

39. Unlike the other bodies considered in this process, the National Assembly for Wales’s Commission had received a larger settlement in 2013-14 than the previous year. The Committee were keen to understand how the

Commission had used its more generous settlements to ensure that more challenging settlements could be accommodated in later years.

40. There were two main areas where the Commission had undertaken such investment, relating to translation and information technology support. On translation, where the Commission had spend around £40 000 developing translation software with Microsoft the Chief Executive to the National Assembly set out:¹⁴

”We launched in February the Microsoft Translator tool and, from the beginning of this year effectively, we have been using translator tools more extensively, including in the translation by the team. We expect that to follow through into savings that can be ploughed back into enhanced services for all Members, so that we have a better range of bilingual services and, in particular, services for committees, so that they are more tailored for individual Members and can be done faster and with more options for Members. There has been a saving of about 20% because of the capacity that is freed up by using those tools, which mostly has come along since the end of the financial year that we are reporting on, but that will be ploughed back into new and additional, better services for Members.”

41. The Committee heard that this software package should allow the Commission to undertake translation more efficiently and thus reduce the level of translation work it commissioned externally. Similarly, the Commission had brought in-house the provision of information technology and support, ending an external contract.

42. In-house ICT support had meant an increase in staff numbers for the Commission, with around thirty additional people providing support. There was a significant financial commitment made to bringing ICT in-house, with the Commission suggesting a savings expenditure of £752,587 in 2013-14.¹⁵ The 2013-14 accounts showed that the Commission had had to purchase its own licences and equipment, in preparation for the ending of its external ICT service contract in 2014-15:¹⁶

Peter Black: “Although we pressed the big red button in 2014-15 to move out of that contract and bring the management of the service in-house, there were at least 12 months of running the programme

¹⁴ Record of Proceedings, 23 September 2014, paragraph 12

¹⁵ Record of Proceedings, 23 September 2014, paragraph 83

¹⁶ Record of Proceedings, 23 September 2014, paragraphs 71 and 77

and project management to get to that point. It involved taking on additional staff, purchasing additional equipment, and putting everything in place, so that when we actually exited the contract, effectively at the end of July 2014, we were able to do so straight away. Of course, the preparation costs of that exit are all reflected in the accounts that you have in front of you, and some of it will be reflected in the current year's accounts but you will also start seeing the savings of that decision in the current year's accounts as well.

"...[A]s part of the exit strategy, we have taken on a number of licences that were previously managed by Atos on our behalf. Some of those licences, we have gotten rid of and others we have renewed, and we have also taken on additional licences as part of that strategy. It is all part of the project management of that exit. Within context, of course, we have made significant savings as part of that."

43. The Commission's approach to the ICT contract reflected its efforts to identify and realise potential savings across the organisation. The National Assembly's Chief Executive set out:¹⁷

"[O]ur emphasis in recent years has been on trying to drive more value-for-money savings in other areas, and particularly through contract procurement work. We delivered £113,000 in savings, which will be recurring savings year on year, through value for money on things like the mobile phone contract. There are some very fruitful further changes of that sort, such as the move to Sharepoint, which will allow us to make other value-for-money savings. The change that we are going to be able to make to the phone system, now that we are outside of the Atos contract, is also going to deliver very significant value-for-money savings."

44. The Committee welcomed that the Commission was pro-actively seeking savings in this period, rather than responding to reduced resources. The Committee looks forward to seeing in the Commission's 2014-15 accounts the levels of savings achieved from the investment and action taken in 2013-14.

¹⁷ Record of Proceedings, 23 September 2014, paragraph 178

Recommendation: The National Assembly for Wales’s Commission should clearly identify the savings from the investment made in information technology and translation during 2013-14 in its accounts for 2014-15.

45. The National Assembly for Wales still faced some challenges as a consequence of reduced public expenditure in recent years. An issue that arose in the Committee’s discussions was the Commission’s inability to purchase Tŷ Hywel, the office on the National Assembly’s estate, on which the Commission currently has a full repair and maintenance lease:¹⁸

Ms Callow: “You have picked up on the one substantial commitment that we have, which is to do specifically with the Tŷ Hywel office blocks. We have a robust process in place with the landlord to make sure that we keep our rent and so on under regular review. So, we have that process that helps us to ensure that we have value for money and we have negotiations that enable us to talk about such things... [W]hen there have been some opportunities in the past—two that I am aware of—when we could have purchased, with the opportunity that it was going to come on to the market... the actual upfront capital costs to do that were not available to us.”

Mrs Clancy: “We did a formal business case the last time the building came on the market, which was, I think, early last year. The previous time was in about 2008 or 2009, I think, which, unfortunately, coincided with the UK-wide clampdown on capital expenditure. So, at that point, it would have been particularly good value for money to purchase the building, but the capital simply was not available. However, we did a business case at that point in, I think, 2008 or 2009, and, again, last year.”

46. In the context of the full repair and maintenance lease, the Committee noted that the Commission took a long-term plan for the maintenance of the estate:¹⁹

Mrs Clancy: “[O]ur estates and facilities management team has prepared a 10-year plan for the estate, which shows all the necessary maintenance that will have to be done on every aspect of the building—it is ever so impressive—over the next 10 years. What that

¹⁸ Record of Proceedings, 23 September 2014, paragraphs 56 and 59

¹⁹ Record of Proceedings, 23 September 2014, paragraph 137

helps us to do is to schedule our expenditure. So, the investment and resources board looks on a fortnightly basis at our spend, which is why we managed last year to steer our budget in with an underspend of £34,000 against a budget of around about £50 million. So, we have that plan always available to us and the team is able to accelerate work that is going to be necessary. So, if money becomes available in this financial year and there is work that we know is going to be required, say next year, and there is an opportunity to do it, then we can.”

47. The Committee noted this strategic approach to planning maintenance to the estate, and the ability to respond quickly to available funding. The Commission’s cash management will be discussed further below.

3. Administrative savings

48. Mindful of the tightening public purse, and the drive for greater collaboration across the public sector in Wales, the Committee were keen to explore with the Commissioners and the Public Services Ombudsman for Wales whether they could realise savings through greater collaboration, and possibly mergers of back-office functions.

49. This issue was raised by Dr Mike Shooter in his review of the role and functions of the Children's Commissioner for Wales. His report stated that separate human resources, information technology and other functions could not be justified for the four Commissioners (the Children's, Older People's, Welsh Language and Future Generations Commissioners).²⁰ He recommended:

“Negotiations should begin to amalgamate some of the back-office functions of the soon-to-be four statutory Commissioners and the Public Service Ombudsman in Wales, or to explore other cost effective options.”²¹

50. There were two main arguments for the limits of such activity: that the levels of potential savings were marginal, and the need to maintain accountability for the corporations sole. The Older People's Commissioner set out these arguments:²²

“Shared services have a very important role to play in public service and, like everyone, we look forward to seeing what follows from the Williams Commission. However, for me, there are general and specific caveats to that. Any approach to shared services must not undermine internal controls in particular, and mine are very strong in terms of my governance and my financial management. That is always a balance that must be traded off. Also, when I undertook my restructure.., I took the costs particularly out of my senior management team, but also out of what you might traditionally call back-office or transactional costs. The reality is—and Alison and I

²⁰ An Independent Review of the Role and Functions of the Children's Commissioner for Wales page 21. Provision for a Future Generations Commissioner is contained in the Well-being of Future Generations (Wales) Bill, currently being considered by the National Assembly.

²¹ An Independent Review of the Role and Functions of the Children's Commissioner for Wales page 23

²² Record of Proceedings, 6 October 2014, paragraph 113

were looking at this just recently—that I spend less than £30,000 now on transactional costs, which, if you like, are costs that could potentially be lifted out and located somewhere else. So, it is a relatively small amount for me.”

51. The Public Services Ombudsman similarly accepted the principle that savings could be secured through greater collaboration, but noted the marginal costs of back-office functions:²³

“I am aware of the fact that the argument around merging some bodies is part of the discussion on public policy at present. Of course, it is important. If there is any way that national bodies can save public money by collaborating in terms of back-office functions and so on, I think that that is vital. I have raised this issue with other commissioners. We will be meeting before Christmas to discuss this further. Of course, if there is anything that we can do, we will do it. If you look at the accounts, you will see that our back-office costs are approximately 4.5%. So, we are very effective in the way that we can create more savings. Perhaps the figure is 20% of that 4.5%. If I am right, my mathematics tells me that that would mean saving 0.9% of our budget. That is not the silver bullet, if you like, in terms of ensuring that we can be more effective. I think that it is more important for us to consider the remainder of the expenditure and how we can have a greater impact when it comes to improving public services. I am very happy to have that discussion with the other commissioners.”

52. The Children’s Commissioner for Wales agreed that there was merit in collaboration in the exercise of functions:²⁴

“I, as the Children’s Commissioner, the Older People’s Commissioner for Wales, the Welsh Language Commissioner and the Public Services Ombudsman for Wales have regular meetings and have set up a meeting later this year to see how we can collaborate even further. We have a memorandum of understanding between us and we try to assist each other whenever we can. To give you practical example of that, when the North Wales historic abuse issues arose, I made a very public call on that. As I said earlier, we have four caseworkers. There was every likelihood that we were about to be overwhelmed by calls

²³ Record of Proceedings, 6 October 2014, paragraph 229

²⁴ Record of Proceedings, 13 October 2014, paragraph 76

coming in and we saw traffic coming into the office in a way that we have not seen before, certainly in my term. I asked the Public Services Ombudsman, who was Peter Tyndall at the time, whether he would be able to provide me with some support if I needed it and he readily agreed. We did not have to draw that service down, but we do have those kinds of arrangements in place where we can assist each other. However, I think that you are right to raise this and I think that all of us as commissioners are up for looking at how we can work and collaborate even better than we have done in the past.”

53. The Older People’s Commissioner also saw that collaboration, rather than direct savings, could increase productivity and add a great deal of value to the work of organisations:²⁵

“How can we maximise our skills and knowledge and, through that, our working practices and our impact? That includes things like secondments, for example, which I have used very early on; collaborative working with a wide range of other bodies; things like joined-up scrutiny or pieces of work such as the report that I commissioned and made available to the Health and Social Care Committee on the Social Services and Well-being (Wales) Bill; and working with and through bodies like Welsh Government sponsored bodies. For me, the extra productivity comes through that collaborative working, more so than through shared services, because I took out so many costs early on in relation to that.”

54. The Welsh Language Commissioner took a similar view:²⁶

“I am very aware that, as a sole corporation, or a one-woman corporation, and as the accounting officer for the organisation, at the end of the day, the responsibilities in terms of ensuring the appropriateness of actions rest with me? So, in making any decision in terms of sharing services, I would have to assure myself that I was comfortable with the appropriateness of what we were sharing. Having said that, you have met the other commissioners and have heard them talking. A piece of work is being done at present—, looking at our back-office budgets, locations, that is, offices, presence at national events and whether we can do that jointly, and, in doing so, get more benefits by reaching more audiences. Also, we

²⁵ Record of Proceedings, 6 October 2014, paragraph 114

²⁶ Record of Proceedings, 13 October 2014, paragraphs 223-4

are looking at training at present. ... One of my directors is leading on that piece of work on behalf of the Commissioners and the Ombudsman in Wales.

“I believe that where we could strengthen and add to the value-for-money aspect is through joint scrutiny. For example, the work that we have done in the health area sits very comfortably side-by-side with the work that the older people’s commissioner is doing on care services at present. We are ensuring that that is happening as we plan work jointly, that is, that anything that we do or that other commissioners do will build on what we have done. So, I believe that it is possible for us to undertake joint research and joint scrutiny in the future, and to look at further ways of sharing experience, sharing evidence and sharing information. ... There is a memorandum of joint working between ourselves, and the ombudsman also, and, as we develop the aspect of looking at complaints. There is room to look at complaints jointly when they are to do with the Welsh language. So, there is room to offer additional value for money by doing work jointly.”

55. The Committee welcomes the fact that the Commissioners and Ombudsman were already discussing potential collaboration, and also that there was existing collaboration across the public sector – such as the use of the National Procurement Service by the Older People’s Commissioner. There are opportunities to learn from each other in both administration of their offices and the exercise of their functions.

56. Acknowledging that the potential for savings may not be substantial, the Committee is supportive of realising any efficiencies possible. It also believes that collaboration, with clear agreements and protocols, need not drastically impinge on the autonomy of the Commissioners or Public Services Ombudsman.

Recommendation: The Committee recommends that efforts to achieve efficiencies and greater productivity through collaboration, including integration of back-office functions, continue between the Commissioners and the Ombudsman, and that this be reported on in their 2014-15 annual reports and accounts.

4. Commissioners' relationship with the Welsh Government

57. A fundamental issue that arose in the Committee's discussions with the Older People's Commissioner, the Children's Commissioner and Welsh Language Commissioner was their relationship with the Welsh Government.

58. Currently, the Welsh Government funds these bodies from the budget of its relevant department, or Main Expenditure Group. Typically, around six months before the start of the financial year, Commissioners would provide an estimate to the Welsh Government for the following year, based on an indicative level of funding. Commissioners' budgets would then be finalised.

59. The issue of principle is whether organisations established to represent individuals' rights ought to be funded by the body it will often hold to account. The Welsh Language Commissioner's regulatory responsibilities are the most formal way in which this issue arises, and she was clear in her contention of the current arrangements:²⁷

"I have stated publicly, and I state publicly in this report, once again, and do question, to a certain extent, whether the Government should be the funding source for the Welsh Language Commissioner. Part of the function of the Welsh Language Commissioner will be to regulate Government to ensure that it complies with standards, and I think that there is a fundamental constitutional question, and a question of principle, as to whether a body regulated by the commissioner can also be the sole funder of the commissioner's office.

"It raises very real questions, as it did during 2014-15, that is, this year, when we saw a cut of 10% in our budget from the Government. I understand entirely—cuts are happening right across the public sector. I am not arguing that we should not be included in that process. However, a cut of 10% at such an early stage in our establishment, as we were developing new responsibilities and looking to take on the responsibility of regulator, also raises questions not only about the constitution but about the reality that the body that we regulate also funds us. I would ask, and it is something that I ask publicly, that that should be considered and that we should be funded, perhaps, through the Assembly whereby there

²⁷ Record of Proceedings, 13 October 2014, paragraphs 219-20

would be no political questions arising when there are cuts to budgets.”

60. The Commissioner also raised the advisory panel established under statute to support her, and the fact that this was appointed by the Welsh Government, and her need to supplement this with an independent Audit and Risk Committee that she appointed. This is discussed further below, as it could be inferred that a Government-appointed panel that advises a Commissioner who regulates the Government’s activity may not be entirely appropriate.

61. While no actual difficulties had occurred to date, the Children’s Commission also queried the present budgetary arrangements:²⁸

“[I]t is an interesting one for the corporation sole to receive—you know, to put that budget estimate into the Welsh Government, the very Government I attempt to hold to account. So, I was intrigued by how that worked, but it was never presented to me in the way that you describe. It was always in the back of my mind, and it came right to the front of my mind when we had the north Wales historic allegations being made, and the position that I took very publicly was: how would I deliver on what I set out to do if I could not persuade, or be part of persuading, the Government of the day to conduct independent reviews itself?

“Therefore, that has always been around for me and the relationship between me and Welsh Government has always been a really productive one. It has never attempted to interfere in my priorities or how I spend things. However, I have always thought that the relationship is not the right one; even though it probably works reasonably well, it is just not right.”

62. Aside from the issue of principle, the practical issue of relying on the Welsh Government’s decisions on yearly funding levels was also discussed, as raised by the Older People’s Commissioner:²⁹

“I have an annual allocation. So, although I have an indication for future years of what my allocation is likely to be like, I have no certainty around that. I work within a sort of a medium to longer-term financial plan internally anyway, over the four years of my strategy, so

²⁸ Record of Proceedings, 13 October 2014, paragraphs 139-40

²⁹ Record of Proceedings, 6 October 2014, paragraph 97

that I can allocate my resources and my priorities. However, it does mean that I operate within a reasonably uncertain financial environment in terms of the budget that I will have. So, within that strategy, I work on best and worst-case scenarios, and I think that it is the only way that one can manage that.”

63. While annual funding made longer-term planning difficult, the Committee heard that sometimes budgets were set close to the year they would apply to, which reduced the ability to prepare for reduced levels of funding. In addition to her concern at the level of reduction, the Welsh Language Commissioner’s accounts set out her disappointment at how late the Welsh Government confirmed her final budget, with its reduction greater than she was able to prepare for to her satisfaction in the time available. The Older People’s Commissioner was similarly conscious of this risk:³⁰

“I send an estimate each year, and, to date, that has been approved—it is laid, as you know, before the National Assembly for Wales. If my budget were to be significantly cut—and I mean significantly, as opposed to the financial constraints that everybody, as we move forward, are likely to be under—I would expect a very robust justification from Welsh Government. I would make clear the impact of that upon my work, and therefore on the lives of older people across Wales, and, if I remained unhappy about the level of that cut or why that cut was made, when my accounts budget was laid before the National Assembly for Wales, I would make sure that every single Member knew why I was unhappy and what the impact of that would be. To date it seems to work well.”

64. The Committee also noted that the accounts for the Older People’s Commissioner showed that she had received a greater pay increase than her staff, when she was responsible for the setting of her staff’s pay and the Welsh Government for hers. Responding to a question about this, the Older People’s Commissioner’s Director of Finance and Performance explained how this had come about:³¹

“As Members will be aware, there has been a pay freeze for a few years in the public sector in Wales. So, this was the first year that we were looking to provide a cost of living increase for the staff for a while. We decided upon 1% for staff in 2013-14 and another 1% in

³⁰ Record of Proceedings, 6 October 2014, paragraph 133

³¹ Record of Proceedings, 6 October 2014, paragraph 32

2014-15. So, we spread that increase over two years. Very late in the financial year, I was notified that the Commissioner was going to be awarded a 2% consolidated award. So, in effect, she had it in one lump sum and there will be nothing in 2014-15, whereas staff have had it over two years.”

65. While the Committee were assured that there had been no perceivable impact on staff morale, the relationship with the Welsh Government clearly had created an unfortunate outcome. The Welsh Language Commissioner was in a similar position: dependent on the Welsh Government’s for her own pay but able to make decisions on her staff’s pay, also using the Welsh Government to benchmark against.³²

66. The Committee’s recent work on Senior Management Pay discussed benchmarking in the public sector at some length. Should the National Assembly directly fund the Commissioners in future, the small offices that support them are likely to continue to have their pay benchmarked against the Welsh Government, as a major public sector employer in Wales.

67. Following the Committee’s scrutiny of accounts, the Chair wrote to the Minister for Finance to ask for the Welsh Government’s view of the issue surrounding its funding of the Commissioners. He also wrote to Dr Mike Shooter, who was undertaking a review of the role and functions of the Children’s Commissioner for Wales, to report that the issue of who funded the Commissioners had been raised in a wider context than just in relation to the Children’s Commissioner.

68. In her response (24 November) the Minister did not wish to comment specifically on the merits of the current arrangements, but did state that she believed “that in terms of governance and funding all three should operate in a uniform manner, unless there is a compelling reason not to do so”. Dr Shooter’s review, to which the Welsh Government had not responded at the time the Committee agreed this report, made the following recommendations on this point:³³

- There are clear principles around independence of public bodies involved in human rights. The Welsh Government should acknowledge and adhere to them by transferring the appointment and funding of the Children’s Commissioner to the NAFW;

³² Record of Proceedings, 13 October 2014, paragraph 202

³³ An Independent Review of the Role and Functions of the Children’s Commissioner for Wales, pages 4 and 17

- There should be exploration of a more consistent approach to Commissioners in Wales, their purpose, funding, accountability and governance. This could be underpinned by a single Act, the possibility of which should also be explored.

69. While the Public Accounts Committee does not wish to make a recommendation on whether Commissioners ought to be funded and appointed by the Welsh Government, it notes the strong good governance argument in favour of reform.

70. In both the setting of budgets and individual Commissioners' remuneration, it was unfortunate that organisations that were operationally independent had their autonomy impinged upon by late communication of decisions made by the Welsh Government. The Committee accepts that the Welsh Government may sometimes have its own budget amended late. However, this would be at the margins and should the current arrangements continue, the Committee would recommend that the Welsh Government make firm decisions on the funding available to the Commissioners at an early stage.

Recommendation: If the current funding relationship continues, the Welsh Government should communicate its decision at an early stage on the funding available to the Commissioners. These budgets should then be protected from later in year departmental reductions.

71. While the question of principle about being funded by the Welsh Government and holding it to account does not apply to the Arts Council for Wales, the Committee also noted from its accounts that it is similarly funded on an annual basis, by grant-in-aid. Asked in correspondence after his appearance before the Committee whether this impacted on the Arts Council's ability to plan and deliver programmes over the medium term, the Chief Executive responded (29 October):

"The annualised grant-in-aid funding basis undoubtedly does affect our ability to plan ahead. However, we have, for some years, prepared medium term financial projections, covering both main funding streams.

"In the case of our grant-in-aid, planning is informed by our annual Remit Letter which typically contains details of funding for 'year 1' along with an indication of funding for the following year (sometimes two years).

“Our arts development strategies will typically take a five year view. We believe in long term planning and value of more extended partnerships that can deepen and mature.

“We have therefore sought, with the support of our Welsh Government sponsor division, to use sensibly the year-end flexibility that does exist.

“When appropriate, we have submitted a business case to carry forward funds beyond the normal 2% limit placed on non-Lottery funds. Used judiciously, this helps us mitigate the disruption of unexpected shocks (such as an in year funding cut) and enables us to ‘smooth’ the impact of funding across two years.”

5. Commissioners as corporations sole

72. Within the context of being funded directly by the Welsh Government, the three Commissioners were autonomous in the structure and management of their organisation. As an example, the Older People's Commissioner set out how she was responsible for ensuring her organisation was structured to meet her priorities:³⁴

“One of the key functions for me, as commissioner, or in a sense as chief executive internally, is to decide how I allocate my resources across, as you say, the functions within the organisation. I thought about it very carefully, particularly when I went through the restructuring of the organisation.”

73. The Committee noted from the Children's Commissioner's accounts that he had separated his role as a Commissioner from that of a Chief Executive. The Commissioner explained how this had arisen:³⁵

“I am required to appoint a deputy, and I decided that I would do away with the assistant commissioners, and I would have a deputy children's commissioner, which we appointed through open competition; but that deputy commissioner would also be the chief operating officer and the chief executive officer for the office of the commissioner. I think, in my second term, what became clear... is that the profiling of the office and the profiling of the commissioner are actually distinct things. I am the accounting officer; the buck absolutely stops with me for how we deliver services.... I took the view that levels of awareness for the children's commissioner were quite low when I became the commissioner, and that, actually, the leadership function was quite distinct from the management function, and that I would be the leader, and I would appoint somebody to be the manager.”

74. The Committee noted the Children's Commissioner's delegation of management responsibility to his Chief Executive Officer, though it appreciated the Commissioner's acknowledgement that he was individually accountable for the public money awarded to his office. This personal responsibility is a key issue for the Committee, mindful that it is the Commissioner, and not a Chief Executive, who has the responsibility of an

³⁴ Record of Proceedings, 6 October 2014, paragraph 42

³⁵ Record of Proceedings, 13 October 2014, paragraph 30

Accounting Officer. Dr Mike Shooter's review of the role and functions of the Children's Commissioner made recommendations on these issues:

"The Children's Commissioner should continue to enjoy the independence afforded by 'corporation sole'. But this should not be at the expense of proper external accountability and internal governance.

"The appointment of the Deputy [Commissioner] should be made through the Public Appointments Process, led by the NAFW and with the involvement of the Commissioner. The status of the Deputy Commissioner, tenure, circumstances in which the powers of the Commissioner might be delegated to him and the process for removal from office should be laid down in legislation."

75. While the Committee would not wish to take a view on the policy of delegating management functions to a separate chief executive post, it would welcome full transparency on the types of decisions that are taken by the Commissioner and those taken by a chief executive on his or her behalf. This could form part of an annual report.

Recommendation: The Commissioners and Ombudsman should publish clear information on the responsibilities they have delegated to their staff.

6. Effective oversight/good governance

76. The Committee were keen to explore issues of governance with the organisations whose accounts it considered. While the organisations varied in their accountability arrangements, there was a similar commitment to effective use of separate panels to advise organisations on the conduct of their business.

77. The Committee heard that the Permanent Secretary to the Welsh Government was also able to appoint his non-executive directors, and decide their number. He was asked whether he would need to seek Ministerial approval for amending the number of non-executive directors:

“I do not think that I would require political consent to change the number, but a prudent Permanent Secretary, if wanting to move that number down, would certainly want to approach the First Minister to check that out. Three works pretty well for us. I could even envisage a circumstance of wanting more than three non-executives on the board, because they have more than one role. They are the non-executive directors who sit around my board table to provide the non-executive view, but one chairs the Corporate Governance Committee, for example, and I think that it is best practice to have a non-executive leading on corporate governance. Another chairs the Remuneration Committee; I am a member of that, but that deals with senior level pay in my organisation. It is chaired by a non-executive, with the other two non-executives as members, along with me and one other colleague. I will turn to the non-executives from time to time for ad-hoc work—to lead a review or something of that kind.”

78. The National Assembly for Wales’s Commission set out an example of how they had used their Audit and Risk Assurance Committee in considering the lessons learned from a project that got into difficulty. The Chief Executive stated:

“A specific detailed audit report has been done by the internal auditors and an independent external expert. That report will go to the audit and risk committee in November, so it will be scrutinising that report at that point. My management board is looking behind that, so that we have a very clear understanding of what went wrong. We need to understand better why it went wrong, because in an organisation where, nine times out of 10, standards are excellent, we need to understand what happened here.”

79. The three Commissioners and the Public Services Ombudsman, as corporations sole, are at liberty to determine their own governance arrangements – although the Welsh Language Commissioner has a statutory advisory panel. All four bodies had an audit and risk committee, which they used in slightly different ways, whose members they appointed. The Committee was keen to explore whether this provided meaningful support for effective governance, rather than a semblance of good governance.

80. The Older People’s Commissioner, while not required to have an audit and risk committee, involves it in major decision-making whilst maintaining her operational independence as a corporation sole:³⁶

“My Audit and Risk Assurance Committee is a very important body for me. Fundamentally, it does two things. First, it provides me with advice in respect of my governance, risk management and financial controls to ensure that those are strong, as do my internal and external auditors, who I have now ensured are part of my Audit and Risk Assurance Committee to strengthen their advice to me. They also provide me with robust, and sometimes it feels like very robust, and rightly so, challenge, strategic advice and guidance. That is critical to delivering on my business in what is a difficult operating environment. They do not hold me to account as commissioner and they do not formally monitor my performance, but they do guide my decision making and I draw very heavily on their expertise. I would just add in relation to that that, in the pursuit of openness and transparency, the minutes of my Audit and Risk Assurance Committee are published, as is its annual report to me in terms of the support that it has provided and my performance annually.”

81. The Children’s Commissioner also said that he received sufficient challenge from his Audit and Risk Committee, and that he valued its input to his decision-making:³⁷

“You would be more than welcome to come to any Audit and Risk Assurance Committee meeting, just to see it in practice. I rely very heavily on that. It is not a flippant point. The corporation sole status is unique in terms of what it feels like, and having people around you who you know will be robust in their challenge makes me sleep well.”

³⁶ Record of Proceedings, 6 October 2014, paragraph 19

³⁷ Record of Proceedings, 13 October 2014, paragraph 166

82. The Committee noted that the Welsh Language Commissioner had appointed her own Audit and Risk Panel, rather than depending on the Welsh Government-appointed advisory panel:³⁸

“Accepting that, I was very keen, given that that Panel is appointed by Welsh Government, to have an independent body that would look at my operation as a corporation sole. I wanted to appoint a group of people to work as an independent audit and risk committee, which would be there to look at my processes and to challenge where necessary, to offer advice and to look with a fine-toothed comb at our internal processes. Therefore, it was my decision to create the Audit and Risk Management Committee.

“...They work within a very specific remit to look at governance processes, financial processes and the propriety of our work across our activities. If you have seen the remit, you will know that it is very broad. They can comment and challenge in a number of different areas. Of course, our internal auditors and our external auditors are members of that committee too. For me, that puts another very important piece of the jigsaw in terms of public accountability and transparency in place, in terms of the use of public funds.”

83. The Public Services Ombudsman also appointed his Audit and Risk Committee, whose members were also members of the Advisory Panel – a parent body chaired by the Ombudsman. The Committee had some concerns whether a committee that was effectively a sub-committee of the Ombudsman’s Advisory Panel would have sufficient independence and weight to truly challenge the Ombudsman. The Ombudsman set out the value he attached to the Audit and Risk Committee, and how the system provided for external escalation:³⁹

“I am pleased that my predecessor put those measures in place and created the advisory panel and the audit and risk committee. Certainly, it is perfectly possible that a corporation sole might wish not to go down that route. Members of both committees, since I started, have been keen to tell me that I do not have to continue with this arrangement if I do not want to. I think that that would be the height of arrogance and hubris to think that I am above receiving advice or, indeed, being subject to audit and risk advice. I think that

³⁸ Record of Proceedings, 13 October 2014, paragraphs 180-1

³⁹ Record of Proceedings, 6 October 2014, paragraph 297

it is really important that we sustain both those organisations, and make sure as well that new members are invited to join, and that that is done on an independent and transparent basis. Obviously, there is this issue of challenge and how challenging they can be to the individual who appoints them... if there were any issues of public probity that were brought to me that I wished to ignore or not to act upon, they are free to approach you—I assume that it would be you, as Chair of the Public Accounts Committee. So, there are checks and balances within the system.”

84. While the Committee appreciates the Ombudsman’s openness to challenge, it sees merits in entrenching more formally the option of referral of issues to the National Assembly should the Ombudsman not be responsive.

Recommendation: The Finance Committee should consider the relationship between the Public Services Ombudsman for Wales’s Audit and Risk Committee, his advisory panel, and the National Assembly for Wales and whether arrangements should be formalised.

85. The Arts Council for Wales is effectively the board of the organisation. The Chief Executive of the Arts Council set out the board’s arrangements and the accountability of his organisation:⁴⁰

“For me, personally, I have two routes of accountability. The first is through the Council of the Arts Council, which acts as our board and, since we are also a charity, our charitable trustees. I also have personal accountability through to the Welsh Government, as the organisation’s accounting officer. Our Council has 15 members, who are appointed via a process of public recruitment, and they are appointed by the Welsh Government’s Deputy Minister for Culture, Sport and Tourism—as it now is. Underneath the council, certain responsibilities are delegated to committees. So, we have an audit committee, we have a capital committee—to look at the lottery capital funding that we give—and there is an HR and remuneration committee. They are supported by internal monitoring groups, each of which is chaired by a member of Council, and those monitoring groups look at equalities, the Welsh language and sustainability.”

⁴⁰ Record of Proceedings, 13 October 2014, paragraph 67

86. Noting that the members of the Arts Council were appointed by the Welsh Government, largely on their experience in Wales's cultural life, the Committee were keen to ensure that the members had sufficient independence from the operational decisions taken by the Arts Council that may affect them personally, and that they had sufficient capacity to undertake their role on the Arts Council. In correspondence (29 October) following the Chief Executive's appearance before the Committee, he responded to this query, stating that "*Members of Council are appointed by our Minister. They are recruited through an open appointments process conducted according to Nolan rules. Council members bring specific expertise and knowledge to the oversight and development of our activities*", "*Members of Council, as Charity Trustees, are precluded from pecuniary gain direct from the Arts Council*" and that "*Declarations and potential conflicts of interest are meticulously noted and recorded*".

87. The Committee were satisfied that the organisations whose accounts it discussed were effective in their use of their audit and risk committees, and the transparency of the accounts in setting out the remuneration of members.

7. Cash management and Reserves

88. A recurring issue that the Committee has discussed previously in the context of the appropriate use of public money has been expenditure at year end. Naturally, cash management came up in the scrutiny of accounts, and in particular whether public money was being used responsibly or because it was available. A related issue was the use of reserves.

89. The Committee found that the Welsh Government ended the year under scrutiny with £21 million of cash remaining. Described as an “incredibly low” sum, considering the overall size of the Welsh Government’s budget – equating to approximately 0.1 percent – the Committee asked the Permanent Secretary for further information about what he called a “masterly management of cash”,⁴¹ particularly if there were an urgent need for cash at year end – aside from the level of reserves they held:⁴²

“If we did, for some reason, start to run out of cash, we would turn to the Treasury for support with that and the reason why we should have it. We do have to operate to quite a tight cash management regime with estimates of cash requirements being submitted monthly to the Treasury. We are expected to comply with those estimates to a plus or minus variation of about 5%. So, it is quite a rigorous system. We are not taking a flyer on this, but it is cash management. It is not the same as our spending power in the event of a flood or something like that.

“It is a good example of financial management. It is tight. I think that I said in my opening remarks that it is a weighty accountability when you realise that through this organisation flows £15 billion-worth of the public’s money. I think that we underspent that in the year in question by 0.6%. I do not know whether anybody saw the film of HMS Duncan inching its way into Roath basin, but it sometimes feels a bit like that. There is very little space at the sides.”

90. The Committee heard that the Welsh Government was in the top ten spending ‘departments’, as determined by HM Treasury, as its monthly expenditure varied from forecasts by around 2.8%. At the end of the financial year, the central finance officers were in daily contact with departmental colleagues across the Welsh Government to monitor expenditure.

⁴¹ Record of Proceedings, 22 September 2014, paragraph 106

⁴² Record of Proceedings, 22 September 2014, paragraphs 118 and 120

Additionally, cash payments were administered centrally, further enabling the Welsh Government to monitor progress toward the year end.

91. While noting the success in ensuring it came as close as possible to exhausting its budget as much as possible without overspending, the Committee were keen to understand whether the Welsh Government had a specific target for the level of underspend it sought to achieve. The Permanent Secretary confirmed it did not:⁴³

“I do not think that we have a policy that refers to a desirable figure of underspend. However, as I say, it is the minimum that we could prudently outturn on without taking a risk of the contrary, which is an overspend.”

92. The issue of suspended European Regional Development Funds, discussed below, was a clear example of unanticipated financial requirements, and the need to allow for some flexibility in financial planning. In the incident discussed in Chapter 9, the Welsh Government was able to manage the risk in-year; but had it arisen at year end, the Welsh Government would have led to reduced spending elsewhere, or drawing on its reserves unexpectedly.

93. The National Assembly for Wales’s Commission, confirmed it had a target of spending within one per cent of its budget. The Committee asked whether this could lead to a perverse incentive to incur unnecessary expenditure, rather than recognising the opportunity to contribute to reducing the United Kingdom’s public spending deficit. The Chief Executive did not accept that public money may be being spent unnecessarily:⁴⁴

“We absolutely would never spend unnecessarily, and that, as I was saying earlier, is the job of the investment and resources board. We have the Commission’s priorities, which it set out for us—in April, it met to confirm what its priorities were for the remainder of this Assembly. We have to prioritise within that, so we are unlikely to be able to deliver—partly because we are going to be tracking the reductions in the Welsh block—absolutely everything. So, we prioritise, but, if something cannot be done for whatever reason, then there are other priorities that we are ready to deliver.

⁴³ Record of Proceedings, 22 September 2014, paragraphs 130

⁴⁴ Record of Proceedings, 23 September 2014, paragraphs 225 and 236

“Most targets have perverse incentives written into them. Most targets do. You have to rely on the integrity and the priorities of the Commission, which are to deliver high-quality services that match the needs of Assembly Members and the Assembly, and deliver, at the same time, best value for money. That is what each and every one of us is aiming to achieve. We have no interest whatsoever in spending taxpayers’ money unnecessarily.”

94. The Committee believes that the cash management of both the National Assembly for Wales’s Commission and the Welsh Government have been very successful in ensuring maximum expenditure of their budgets, as voted for by the National Assembly. That said, it also believes there is a debate to be had about the level of underspend that both the Commission and the Welsh Government seek to achieve, and that they should set out targets for their underspend in their budgets. This would allow their success in managing their resource cash to be assessed, and also a debate to be held on whether they are suitably challenged to achieve value for money and possibly contribute to deficit reduction.

Recommendation: The National Assembly for Wales’s Commission and Welsh Government should set out in their budgets and accounts their approach to financial management – in particular their target for underspends.

Reserves

95. The Committee discussed the level of reserves held by the three Commissioners and the Public Services Ombudsman. It heard that reserves were being used to different extents, and that the flexibility it provided allowed a greater degree of self-reliance, and therefore independence from the Welsh Government.

96. The Welsh Language Commissioner had used some of her reserves in undertaking her restructure, and expected to recoup this expenditure soon:⁴⁵

“So, the decision in terms of restructuring was based on implementing a strategic plan, identifying the needs for the future, looking at the structure that we had, and coming to the realisation that the structure was not fit for purpose and that we needed to go down this particular route... [T]here were, for me, a number of questions arising: Is this necessary? Yes, in order for us to comply

⁴⁵ Record of Proceedings, 13 October 2014, paragraph 195

with the legislation. Do we need to carry out top-to-bottom restructuring? Yes, Is there a budget in place to do that? At that point, there was, as we had reserves. We set out a business case, and I had anticipated that it would cost between £400,000 and £500,000 to get us into a situation where we were fit for purpose. In the business case, I set out the objective of restoring or recouping that expenditure within three years—we will have recovered it within two”.

97. The Children’s Commissioner for Wales set out how his reserve could be used should he take on a substantial unforeseen piece of work, giving him operational flexibility. This would avoid having to seek additional funding from the Welsh Government or require their agreement to undertake the work. The Commissioner gave the example of having to undertake an independent inquiry into the historic allegations of child abuse in North Wales.⁴⁶ The Chief Executive to the Children’s Commissioner explained the autonomy point in relation to the Commissioner’s reserves:⁴⁷

“[T]he cushion there allows the office, or the Commissioner, to consider what areas he might want to get involved in, rather than for him to be conscious of the fact that there is, perhaps, a potential financial barrier or that he would have to go to Welsh Government to seek additional funds if, in fact, what he was looking at was a service directly delivered by the Welsh Government and for there to be some conflict there.”

98. The Children’s Commissioner’s reserves had built up gradually over the office’s years of operation, and the 2013-14 accounts showed them as around £400 000, or approximately 25 per cent of the Commissioner’s annual budget. The Chief Executive anticipated that this would be an important part of the in-coming Commissioner’s planning for the next five years. He confirmed that there was no policy in relation to the reserves, and that the Commissioner had not received advice from him on the level of reserves that were desirable. He accepted that a policy would be desirable.

99. The Welsh Language Commissioner had a larger level of reserves, at around £600 000, though this would be compared with a markedly larger budget than the Children’s Commissioner’s. Noting that the current level of reserves was based on the anticipation of legal costs with its new

⁴⁶ Record of Proceedings, 13 October 2014, paragraphs 104-5

⁴⁷ Record of Proceedings, 13 October 2014, paragraph 106

responsibilities, the Commissioner set out the level of reserves she would normally look to carry:⁴⁸

“What is in the agreement with the Government on this issue is that there should be reasonable reserves. It is hard to define ‘reasonable’; it differs from one person to another... [W]e are looking at a sum of around £200,000 to £250,000 as being a reasonable sum. There is no formula; neither do we have experience at the moment of using those powers. It is going to be difficult to know what the cost of supporting a person going through a case will be. It would have to be a significant case—a strategically important case for us to support. However, there is no formula at present for what the cost would be. Richard, perhaps you could explain how the reserves have been set out.”

100. The Committee is keen for reserves to be used efficiently, rather than as a stockpile for public money that could serve a better purpose. The Committee believes that the three independent Commissioners should be clear on the level of reserves they seek to carry, and the types of activity that they may wish to use reserves for. This should be set out in their estimates and their annual accounts for scrutiny. The Welsh Government and Auditor General for Wales should be available to provide guidance on appropriate levels of reserve if invited.

Recommendation: The three independent Commissioners should be clear in their estimates and their annual accounts on the level of reserves they seek to carry, and the types of activity that they may wish to use reserves for.

⁴⁸ Record of Proceedings, 13 October 2014 2014, paragraph 204

8. Format of Accounts

101. The Committee was keen to use the opportunity of consideration of accounts to discuss whether accounts could be more accessible to the public, given that they set out how their money is spent.

102. The Welsh Government's accounts set out over £15 billion of expenditure, and naturally would be unable to give as great a level of detail as the other accounts considered by the Committee. The Committee were particularly keen to discuss how the accounts could be clearer to the public, in addition to how it could more clearly set out senior management pay, dealt with in some detail by the Committee's November 2014 report. The Permanent Secretary set out the action he was taking to make the accounts more helpful to the reader:⁴⁹

“We do have plans to improve the accounts, and we are actually working with the Wales Audit Office on this now. It is something that the current management letter picks up... There is a recently published command paper by the Treasury that makes proposals for new standards, I guess you would call them, for the accessibility of Government annual reports and accounts. We are working with colleagues in Whitehall on that. We have no problems with improving, but there is something of a tension between accessibility on the one hand—. I think there is a desire to have accounts being shorter, so we would consider it a success that, with one set of accounts, the latest is about 60 pages, whereas its predecessor was 80 pages. There are less copious notes so it is less of an off-putting read for the public. However, on the other hand, more transparency can also mean more information and more detail. So, I think that it will be a balanced judgment... [W]e will do our best and that includes picking up any suggestions for more detailed information, bearing in mind, as I say, that we are at the same time trying to produce shorter and more readable accounts.”

103. The Committee welcomes the Welsh Government's efforts in this regard, and believes there is potential for it to better explain to the people of Wales how the Welsh Government's expenditure reflected the delivery of its policy priorities.

⁴⁹ Record of Proceedings, 22 September 2014, paragraph 209

104. The Committee also considered whether organisations could better tell how they used public money in a way that explained the organisation's priorities. This could help set out to the public the level of resource applied to specific issues, and allow discussion of an organisation's priorities and whether it allocated resources accordingly.

105. The Older People's Commissioner set out that she sought to show her priorities and the proportion of her funding that related to each:⁵⁰

"I intend, in my impact and reach report next year, to publish [the allocation of expenditure]. So, just to give you an example, I know that, in relation to 2013-14, I spent—I will just pick one here—15% of my expenditure on my engagement with older people through a wide range of means. I know that I spent 18.29%, not be too precise, on driving up the quality and availability of health and social care. It will always vary. I know that, this year, I will spend a little bit more on safeguarding again because of the new safeguarding board and some of the changes coming in."

Julie Morgan: "So, you are able to link the specific programmes to the percentage of the budget spent."

Ms Rochira: "Yes, very much so. For the first time this year, I did it in relation to non-staff costs, but next year I will do it across all costs as well."

106. While the Children's Commissioner did set out regularly his progress against his objectives, for example with his Audit and Risk committee, he did not attribute the 80 per cent of his budget that staffing costs comprise against individual priorities or work streams.⁵¹

107. The Committee welcomes efforts to identify expenditure against priorities, while recognising that it is not an exact science. The Committee would be supportive of accounts demonstrating these allocations, to better understand the value for money achieved against organisations' objectives. Organisations should also consider showing how their spending supports wider public objectives, such as those which may arise from the Well-being of Future Generations (Wales) Bill.

⁵⁰ Record of Proceedings, 6 October 2014, paragraph 42-44

⁵¹ Record of Proceedings, 13 October 2014, paragraph 33

Recommendation: The Committee encourages organisations funded by public money to consider how they present information to ensure that it is readily understandable for the public, and that shows the organisation's priorities and the level of resource committed to those priorities.

9. Other issues

108. Some specific issues arose in the Committee's consideration of accounts. Largely, these related to individual organisations and are therefore separate from the more thematic issues discussed in this report.

109. The Committee takes seriously the proper handling of personal data, and noted that a number of accounts discussed showed breaches in the proper handling of data. Both the Older People's Commissioner and the Public Service's Ombudsman's accounts set out breaches, and the Committee discussed this with each of them.

110. In both cases, it was established that the breaches had occurred because of human error, and were mis-directed communications. The Committee was reassured by this, and in particular the action undertaken by the Public Service Ombudsman's Office to reduce the risk of future errors given the highly sensitive material it is likely to handle. The Office's Director set out:⁵²

“[W]e have had a lot of training sessions to try to reinforce that, and we have notices around the office to remind people of the importance of treating data carefully and making sure that we do look after them safely. We have also asked our internal auditors, Deloitte, to have a look at our arrangements for data security as part of the audit plan for the current year.”

111. The National Assembly for Wales's Commission's accounts showed a significant loss that was unrecoverable, and discussed in its management report an incident where it had been the victim of fraud. The Committee asked the Commission if these matters were linked:⁵³

Peter Black: “Yes, they are. You are right, there was a fraudulent incident, which is very much regrettable and which resulted in £104,000 being paid to a fraudulent bank account. Note 16, as you say, mentions losses and special payments, and page 109 is where the £71,000, affecting 2013-14, is disclosed. This fraud occurred over a period of four months and will therefore also appear in the 2014-15 accounts, because it is spread over two financial years. On becoming aware of the fraud, the Commission took action to

⁵² Record of Proceedings, 6 October 2014, paragraph 302

⁵³ Record of Proceedings, 23 September 2014, paragraph 5

introduce more stringent controls. This has included third-party verification for change requests in relation to bank accounts. Committee members are already aware that this is an ongoing police investigation, so, while an arrest warrant and subsequent arrest have been made, it is highly unlikely that we will recover any of the £104,000. The scam we fell for was part of a bigger scheme, but, hopefully, you will be reassured that we have responded appropriately, that we have had assurances that this is an isolated incident and that we have changed our processes to make sure that it will not happen again.”

112. The Committee were keen to understand how this incident of fraud had occurred, and what action had been taken by the Commission to prevent similar events from recurring. The Commission were limited in what they could discuss at the time, as there were on-going criminal proceedings. These should have concluded by the time the Committee considers the Commission’s 2014-15 accounts, when it will be able to discuss this matter in more depth.

113. The Welsh Government’s accounts also set out an incident in its management report, which had caused the Department for Education and Skills to breach its ambit. The Committee heard that this error, relating to the student loan book, meant that over £25 million of non-cash Annually Managed Expenditure was not drawn down by the Welsh Government. The Committee were keen to understand the implications for the resources available to the Welsh Government, and what lessons had been learned.

114. The Permanent Secretary set out what had occurred:⁵⁴

“Yes, of course. It was an error. When I mentioned at the beginning that I thought that the accounts showed a reasonable picture overall of governance and accountability, but that there had been mistakes, this was one of the main ones that I had in mind. It was just a processing error of putting figures into the financial model that estimates the outstanding value of the student loan book. It has been an area of some change, so the model has been changed once, and I think that it will be changed again, so there is some complexity and churn in the process. However, it was an error; I cannot excuse that. It did not create any problems with our spending power, although it sounds like a very large sum of money, because this is non-cash

⁵⁴ Record of Proceedings, 22 September 2014, paragraph 56

annually managed expenditure, and the error was spotted at a point in the financial year when it was too late to do what we would normally do in those circumstances, which is simply apply to the Treasury for the necessary cover to be transferred to our books, which would have been automatic. However, it was too late in the financial year, so we had to carry it forward as an error and an overspend... There is a sense of proportion as well in that it was a £25 million error on the model estimating the value of the student loan book, which runs into the billions, so it was relatively marginal on that item as well—but not good enough. We have examined the reasons for it, and have put changes in place. I never use the word ‘ensure’ in these circumstances, but we have put changes in place to reduce the risk of anything similar happening again.”

115. The Committee were reassured that the error did not have consequences for the level of funding available to the Welsh Government, but remained concerned that it had occurred. The Committee sought detail from the Permanent Secretary on what lessons had been learned by the Welsh Government, and received a private internal document that the Department for Education and Skills prepared as a lessons learned document. Michael Hearty had been able to set out in broad terms what remedial action had been taken.⁵⁵

“I think that the creation of the error has made us think really closely about a number of things—about process, about teams working together, and about how we pass information between different teams that might be in different parts of the organisation. Much of what we have done in order to avoid it happening again has been around creating closer joint working around teams, and putting better audit trails and processes in place. On creating groups, as a really good example, there was an assurance group that met on an ad hoc basis, usually at the time when the handle was turned on the model, but it now meets regularly, so that it can keep abreast of developments.”

116. The Committee was grateful to the Welsh Government for sharing its private lessons learned document, and was reassured by its contents. The Committee would expect that these lessons were not restricted to the

⁵⁵ Record of Proceedings, 22 September 2014, paragraph 59

Department for Education and Skills, and were applied more widely across the Government.

117. In its discussions on the Welsh Government's management of grants on 6 June 2014, the Committee discussed with the Permanent Secretary the European Commission's suspension of some European Union Regional Development Funds to Wales. At his appearance before the Committee to discuss the 2013-14 accounts, the Permanent Secretary set out why this suspension had occurred and the current situation:⁵⁶

“It occurred because the European Commission took a different view about the technicalities of the audit that it would accept on the regularity of payments, in the sense of the delivery of the outputs. An agreement had been reached with the Commission. We were operating one type of sampling. The Commission took the view that it would no longer accept that type of sampling, and we are in the process of negotiating the consequential changes to that. You can imagine that I am not terribly happy about it, but the payments are suspended in the meantime—or ‘interrupted’, as I think is the technical phrase. We have been putting a lot of work into this, with meetings over here and in Brussels. The Commission's auditors visited us recently to go through some of our paper work.

“We are still feeling confident that there is not a fundamental problem here, but as I sit in front of you, the payments are still interrupted.”

118. The Committee established in further discussions that the Welsh Government were having to provide £30 million each month, in lieu of the suspended payments. This caused the Committee some concern that, unless the suspension was ended, the Welsh Government could have had to provide significant sums. The Permanent Secretary wrote to the Committee on 21 October 2014 to confirm that the European Commission had resumed its payments.

⁵⁶ Record of Proceedings, 22 September 2014, paragraph 77-8

Annexe A - Witnesses

The following witnesses provided oral evidence to the Committees on the dates noted below. Transcripts of all oral evidence sessions can be viewed in full at www.senedd.assembly.wales/mgIssueHistoryHome.aspx?Ild=1311

Monday 22 September 2014

Sir Derek Jones	Permanent Secretary, Welsh Government
Gawain Evans	Deputy Director Financial Controls, Welsh Government
Lynne Hamilton	Director of Finance & Commercial Services, Welsh Government
Michael Hearty	Director General, Finance & Corporate Services, Welsh Government

Tuesday 23 September 2014

Peter Black AM	Member of the National Assembly for Wales's Commission
Claire Clancy	Chief Executive and Clerk to the National Assembly for Wales
Nicola Callow	Director of Finance, National Assembly for Wales

Tuesday 7 October 2014

Sarah Rochira	Older People's Commissioner for Wales,
Alison Phillips	Director of Finance and Performance, Office of the Older People's Commissioner for Wales
Nick Bennett	Public Services Ombudsman for Wales
Susan Hudson	Policy and Communications Manager, Office of the Public Services Ombudsman for Wales
Dave Meaden	Finance Officer, Office of the Public Services Ombudsman for Wales
Chris Vinestock	Director and Chief Officer, Office of the Public Services Ombudsman for Wales.

Monday 13 October 2014

Keith Towler	Children's Commissioner for Wales
Tony Evans	Head of Corporate Services, Office of the Children's Commissioner for Wales
Meri Huws	Welsh Language Commissioner
Richard Davies	Finance Officer, Office of the Welsh Language Commissioner
Nick Capaldi	Chief Executive, Arts Council for Wales
Hywel Tudor	Director of Finance and Resources, Arts Council for Wales