

PUBLIC AUDIT (WALES) BILL COMMITTEE

Report to the National Assembly for Wales

Chair's Foreword

The proposals contained in the draft Public Audit (Wales) Bill impact on several of the subject committee portfolios. For this reason the Assembly established the ad hoc committee to examine the proposals in the Bill.

In the short time available for its work the Committee discussed the proposals with the main interested parties. We were disappointed that the NHS Confederation in Wales declined our invitation to meet with us, but we were grateful to Ann Lloyd, Director of the NHS in Wales for agreeing at short notice to advise the Committee on the impact of the proposals on the NHS.

The Committee is also grateful to Sue Essex, the Minister for Finance, Local Government and Public Services to share with us the representations she had received in response to consultation, and to Martyn Jones MP, Chair of the Select Committee on Welsh Affairs, for sharing the evidence that Committee had received.

Janet Davies AM

Introduction

1. The Committee was established on 1 July 2003. The terms of reference are to
 - i) scrutinise the provisions of the draft Bill;
 - ii) take written or oral evidence from any parties the Committee considers will assist their consideration;
 - iii) report to the Assembly by 18 July on any amendments that the Committee recommends should be made to the draft Bill.

The Committee will cease to exist on 18 July 2003.

2. Committee members are:

Janet Davies (Chair)
Leighton Andrews
Mick Bates

S Wales West
Rhondda
Montgomeryshire

Alun Cairns
Ann Jones

S Wales West
Vale of Clwyd

The Committee met on 8 and 10 July.

3. The Minister for Finance, Local Government and Public Services presented the draft Bill to the Committee. Oral submissions were received from:

The Auditor General for Wales;
The Audit Commission in Wales;
The Welsh Local Government Association;
The Director, NHS Wales; and
Representatives of the trade unions.

Copies of the minutes of the meetings are appended to the report.

4. In reaching its conclusions and recommendations the Committee concentrated mainly on those issues where there were differences of opinion between the interested parties

Recommendations on Amendments to the Draft Bill

5. The Committee recommends the following amendments to the draft Bill:

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

The Committee considered the various options for the appointment of the Auditor General that had been discussed with presenters. Members accepted that a Crown appointment was the most effective means of ensuring the independence of the Auditor General. It was noted that the House of Commons had a role in vetting the Prime Minister's nomination for the post of Comptroller and Auditor General. It was considered that in the spirit of devolution and modern government practice the process of appointment should be transparent and the National Assembly should have the opportunity of debating the suitability of the Government's nominee.

- ii. **The provisions of Clause 11 should be extended to enable the Auditor General to track public money passing from local**

government to end users, such as contractors and grant recipients, to ensure that it has been properly and appropriately spent.

The Committee agreed that the audit of all public sector bodies should enable funding to be tracked and monitored to the point of spend. The amendment would bring local government audit in line with the arrangements proposed for centrally funded bodies.

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

Only the Welsh Local Government Association objected to the proposal that the National Assembly should have a role in approving the Code of Practice. They felt that it would be inappropriate as the Auditor General was a Crown appointee. The Committee did not accept their argument and concluded that the Assembly should be able to consider the Code and any changes to it. There would not be a conflict of interest as the Code applied only to local government.

iv. Clause 50 should be deleted.

The Committee accepted the argument that the protection offered to local government under Clause 50 would inhibit transparency and be out of line with that given to other public sector bodies. The Committee agreed that it should be deleted from the Bill.

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

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

The Committee accepted the concerns of the unions. It also recommends that para 123 of the Explanatory Notes should be clarified on whether the arrangements in the Cabinet Office Guidance "*Staff Transfers in the Public Sector: Statement of Practice*" (January 2000) will apply.

vii. Terminology in the Bill should be gender neutral.

The Bill applies only to Wales and the terminology should therefore reflect the policy of the National Assembly on equality and be phrased in gender neutral terms.

Other Issues

Proposals for an Advisory Body

6. The Committee considered the arguments that had been put forward in favour of an advisory body and the role of such a body. While the Committee felt that the Auditor General should engage in a dialogue with public sector bodies, and this should be part of the job specification, it did not feel that a case had been made for a formal body. **The Committee concluded that an advisory body could undermine the Auditor General's independence and his relationship with the Audit Committee of the National Assembly.**

Clearance of Draft Reports on Local Government

7. The Committee noted that the Auditor General was not opposed to such a practice, but that Audit Commission colleagues had concerns about possible delays to publication. Some reports, such as management letters, are already sent in draft for clearance. The Committee accepted the Audit Commission's concern and **does not recommend that the Bill be amended to require clearance.**

Technical Points Raised by the Audit Commission

8. The Audit Commission's supplementary written submission of 9 July raises a number of technical drafting points. **The Committee recommends that these issues be considered by the Government in the final drafting of the bill.**

Costs

9. The Committee had some concerns that the figure of £500,000 for transitional costs was still a broad estimate. It noted that the Welsh Assembly Government, the Auditor General and the Audit Commission agreed that it was a reasonable estimate and that firmer figures should be available by October.

10. Although Members did not accept the Welsh Local Government's assertion that it was inevitable that running costs would increase, they were concerned that costs might creep up.

11. Although it is outside its remit **the Committee recommends that the running costs of the new organisation should be monitored closely and steps taken to ensure that there were not significant, consequential costs to local government.**

Terms and Conditions for Staff

12. As stated in para 5, the Committee accepted the concerns of the Trade Union representation. Although it is not within the Committee's remit **it recommends that senior management in both the National Audit Office and the Audit Commission should facilitate early and full consultation with staff about the transfer arrangements and terms and conditions of all employees.**

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