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Mr Huw Irranca-Davies AM
Chair of the Constitutional and
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National Assembly for Wales
Cardiff Bay
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Dear Huw

THE WALES BILL 2016-17

I am writing in response to the Committee's open request for views on the Wales Bill 2016-17, particularly as the Bill contains important provisions relating to financial control, accounts and audit. My views relate to the Bill as introduced, and are limited to those matters that affect the Auditor General and the Wales Audit Office.

First, I welcome the fact that the provisions protecting the independence of the Auditor General, currently contained in paragraph 2 of Part 2 of Schedule 7 to the Government of Wales Act 2006, have been substantively reproduced in the Bill, in paragraph 5 of the new Schedule 7B that the Bill proposes to insert into the 2006 Act. It is important that the Bill provides for these statutory protections to continue. Such protections safeguard good public scrutiny by ensuring that my work is, and is seen to be, objective, impartial and independent. Without them, the value of the financial control, accounts and audit provisions of clause 12 would be substantially reduced.

The effect of clause 12 of the Bill, by the insertion of new section 130A into the 2006 Act, is that Welsh legislation must provide for certain provisions relating to financial control, accounts and audit. The provisions required by section 130A include, among others, a requirement on the Welsh Ministers, Counsel General and Assembly Commission to prepare proper accounts, for those accounts to be audited by the Auditor General, for the Auditor General to carry out value for money examinations of those persons, and for the Auditor General to exercise control over payments from the Welsh Consolidated Fund¹. Section 130A will also require Welsh legislation to provide for access to documents reasonably required by the Auditor General or other persons exercising audit functions.

¹ Section 130A sets out that Welsh Legislation may alternatively provide for the Auditor General to ensure the exercise by other persons of these functions of the Auditor General.

It is clearly desirable and necessary for the provisions that are to be required by section 130A to exist and therefore for clause 12 to be included in the Bill to ensure that they do exist. I note, however, that the level of protection afforded clause 12 is less than is currently enjoyed by the relevant provisions of the 2006 Act that deal with these matters, as currently the Assembly is prevented from altering those provisions at all, by virtue of paragraph 5 of Part 2 of Schedule 7 to the 2006 Act.

Paragraph 3 of Schedule 6 to the Bill, together with paragraph 7 of the new Schedule 7B that the Bill proposes to insert into the 2006 Act, would appear to operate so that the Assembly will be able to alter the provisions on financial control, accounts and audit discussed in the previous paragraph from two months after the Bill is passed. This presents an opportunity for the Assembly to pass legislation consolidating provisions relating to accounts and audit and the functions of the Auditor General, which are currently spread across numerous pieces of legislation—not just the Public Audit (Wales) Acts 2004 and 2013, and the Government of Wales Acts 1998 and 2006, but also individual Acts establishing bodies, such as the Public Services Ombudsman (Wales) Act 2005. This would allow for Welsh audit legislation to be harmonised so that audit provisions are more consistent across the range of my audited bodies. It will be important, however, that when doing so the Assembly is cognisant of the need to ensure that the powers afforded by the current audit provisions are not weakened, as that would significantly undermine effective scrutiny and lessen the impact of my work.

Finally, I welcome the new definition of 'Wales public authority' set out in clause 4 of the Bill and the list of specified Wales public authorities to be included at new Schedule 9A to the 2006 Act, as this provides clarity as to which bodies are Wales public authorities. This will help ensure that there are no debates over whether particular bodies are within the remit of the National Assembly, it now not being necessary to consider whether they have functions "exercisable otherwise than in relation to Wales".

I will be keeping the passage of the Bill through Parliament under review, and will set out further views to the Committee should the relevant provisions of the Bill change substantively from those set out in the Bill as introduced. I should be happy to provide further explanation if the Committee would find that helpful.



HUW VAUGHAN THOMAS
AUDITOR GENERAL FOR WALES