



Cynulliad Cenedlaethol Cymru The National Assembly for Wales

Y Pwyllgor Cyfrifon Cyhoeddus The Public Accounts Committee

**Dydd Mawrth, 1 Mai 2012
Tuesday, 1 May 2012**

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Mohammad Asghar	Ceidwadwyr Cymreig Welsh Conservatives
Mike Hedges	Llafur Labour
Darren Millar	Ceidwadwyr Cymreig (Cadeirydd y Pwyllgor) Welsh Conservatives (Committee Chair)
Julie Morgan	Llafur Labour
Gwyn R. Price	Llafur Labour
Jenny Rathbone	Llafur Labour
Aled Roberts	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Lindsay Whittle	Plaid Cymru The Party of Wales

Eraill yn bresennol
Others in attendance

Paul Brown	Swyddog Polisi, Llywodraeth Cymru Policy Official, Welsh Government
Phillip Elkin	Cynghorydd Cyfreithiol, Llywodraeth Cymru Legal Adviser, Welsh Government

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Sarah Beasley	Clerc Clerk
Dan Collier	Dirprwy Glerc Deputy Clerk

Dechreuodd y cyfarfod am 9.35 a.m.
The meeting began at 9.35 a.m.

Cyflwyniadau, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions

[1] **Darren Millar:** Good morning and welcome to today's meeting of the Public Accounts Committee, when we will take evidence on the draft Public Audit (Wales) Bill, which has been produced by the Welsh Government. I am delighted to welcome to the committee Paul Brown, a policy official in the Welsh Government, and Phillip Elkin, a legal adviser from the Welsh Government. Before we take some opening remarks from you both, gentlemen, I remind everyone that this is a bilingual institution and if people want to contribute to the meeting in either English or Welsh, they should feel free to do so. Headsets are available for translation and for sound amplification purposes. I also remind everyone that, if a fire alarm should sound during the meeting, we should all follow the advice of the ushers, who will direct us to the nearest appropriate exit.

9.36 a.m.

**Briff Technegol gan Lywodraeth Cymru ar y Bil Archwilio Cyhoeddus
(Cymru) Drafft
Technical Briefing from the Welsh Government on the Draft Public Audit
(Wales) Bill**

[2] **Darren Millar:** Welcome, both. We have received a copy of the draft Bill and have had a briefing from our own special adviser, but if one of you—Paul, I suspect—could make some opening remarks and talk us through the Bill and its constituent parts, it would be appreciated.

[3] **Mr Brown:** Thank you for your welcome. We are glad to be here. We will do our best to help the committee in any way that we can.

[4] Turn back the clock two or three years, and you may recall that there was a certain unpleasantness in the system relating to the then auditor general, which sparked off a series of investigations and reports into the Government's accountability and general running and management of the Wales Audit Office. At that time, the Welsh Government had little or no powers, under the Government of Wales Acts 1998 and 2006, to take any particular action that it thought appropriate. It therefore sought competence within a UK Bill, which was lost at the general election. However, subsequent to that, we saw an opportunity within the Budget Responsibility and National Audit Bill to bring in the powers to improve the governance and regulation arrangements, in so far as we wished to do it, for the Auditor General for Wales and the Wales Audit Office.

[5] In March and April 2011, those provisions were passed in the Budget Responsibility and National Audit Act 2011 and we secured the competence to consider legislation in relation to the Auditor General for Wales. Around 12 months ago, we started thinking about what we might need to do in relation to the auditor general and the management of the Wales Audit Office and how that could be brought within the democratic control of the Assembly. The First Minister announced that he—

[6] **Darren Millar:** Could I ask you to pause there for a moment? We need to sort your microphone out, apparently, because it is not working very well.

[7] **Mr Brown:** I do not have a great deal of luck with microphones.

[8] **Darren Millar:** Like Bernie Clifton. [*Laughter.*] It seems to be fixed now, so please continue.

[9] **Mr Brown:** As I was saying, we got these powers in the 2011 UK Act and then started to think about what we might do and how we might use those powers. About 12 months ago, we roughed out an outline of what it might be and then developed that into a bid for legislation as part of the First Minister's 2011-12 legislative programme. That went forward in June last year and, as you know, appeared in the announcement on 12 July. That gave us the amber light to get on with it, and, in early September, we put advice to the lead Minister, the Minister for Finance and Leader of the House, with a draft outline of what might be in this Bill. Subsequent to that, there were discussions with you, as Chair of the Public Accounts Committee, and similarly, in that month, with the Auditor General for Wales. We took advice from the Counsel General in early October, and put out a long submission in relation to the oversight of the AGW and how that might be developed. The main instructions, of which there were two sets, went forward for consideration by the lead Minister in October. We got those back in November and then put up another set at the back end of November, just before Christmas. Since then, we have issued seven sets of supplementary instructions as the Bill developed into the draft sections. Finally, we were able to release it after all the necessary

clearances within house and with Ministers, and we brought it forward for consultation on 15 March.

[10] I have telescoped a great deal of detail in all that, as you will appreciate. There are things going on all the time. Since the document was published, we have always been looking at the Bill, and it is a reiterative process as we have been refining it. There are little errors in the Bill that we have been finding and rubbing out and so on. To date, we have had two responses to the consultation, which closes on 15 May. Would you like me to stop there, Mr chairman?

[11] **Darren Millar:** Yes. That sets the scene nicely and we will open this up to questioning. What evidence did you take from other jurisdictions and other legislatures on the development of the Bill?

[12] **Mr Brown:** First, I put on record that your financial adviser was extremely helpful at the outset. I offered both parties an open line in the development of the ground rules for this Bill, and we also had very productive meetings with the Wales Audit Office. So, there were two strands going on as well as more widely with other jurisdictions. We looked at England obviously, and the arrangements in Scotland. We touched on the arrangements in Canada and New Zealand and, more latterly, Northern Ireland. Aside from Northern Ireland, where it is rather complex, we looked quite hard at what had been done in Scotland and England predominantly and, as I say, we picked up elements from Canada and New Zealand as well.

[13] **Darren Millar:** There is a significant difference, is there not, between the proposed governance arrangements for the Wales Audit Office in this Bill and those in the other legislatures to which you refer? At present, this Public Accounts Committee has a dual role. On the one hand, we receive value-for-money reports from the Wales Audit Office, and we have a close working relationship with the auditor general to scrutinise those reports and take evidence from accounting officers and so on. On the other hand, we have a very different relationship in respect of the governance arrangements and the accountability to this committee of the auditor general as accounting officer for the Wales Audit Office. In those other legislatures to which you have just referred, there are separate committees responsible for looking at the governance arrangements of their auditors general, and yet the proposition in the Bill is for only the one committee. What was the rationale behind the decision not to separate the functions into separate committees?

9.45 a.m.

[14] **Mr Brown:** In relation to Scotland and England, where there are two committees, there are two auditors in Scotland, but not so in England. Northern Ireland's system is a little akin to what is proposed in the Bill, but not exactly the same, I accept. On the rationale of what we call 'duality', advice went to the Minister in October, based on the options that we considered to be available in relation to how things are done in England and Scotland—the duality aspect. The advice covered whether a new body should be established, whether within the Assembly Commission, outside the Assembly, as a new committee of the Assembly, or as an advisory body. The decision was—and this is what appears in the Bill—that it was better to have this within the maw of the Public Accounts Committee and to give the PAC the armoury to exercise oversight of the AGW and the WAO, which it may not have had hitherto.

[15] **Darren Millar:** When you say 'it may not have had hitherto', we currently hold the function of holding the auditor general to account, do we not?

[16] **Mr Brown:** That is not quite my understanding of the legislation.

[17] **Darren Millar:** Well, tell me what your understanding is.

[18] **Mr Brown:** There is nothing in Schedule 8 to the Government of Wales Act 2006—and Phil will correct me if I get the technical bits a bit wonky—that enables the PAC, as far as I understand it, to look at the totality of the AGW’s current budget. There are elements of that budget that do not come before you for scrutiny. As far as I am aware, the PAC does not have an oversight role in relation to the management of the Wales Audit Office and how that is conducted.

[19] **Darren Millar:** Okay, but the breadth of what the auditor general is accountable to us for is a separate issue, is it not, from the separation of the two committees? Members may contribute on this, but I am sure that we all welcome the fact that the Bill provides for the auditor general now to be held to account by a committee of the Assembly for new elements of his work. The issue here is whether that ought to be a separate committee. I am just trying to tease this out. You seem to suggest that options were considered and put to the Minister. Was it a ministerial decision? If it was, it would be inappropriate for us to seek further information directly from you.

[20] **Mr Brown:** As I said in my opening remarks, I will try to be as helpful as possible, but the honest answer to your question is that it was a ministerial decision.

[21] **Darren Millar:** Was the decision made against your advice?

[22] **Mr Brown:** It took account of my advice.

[23] **Darren Millar:** It ‘took account’ of your advice. Okay, that is helpful. Would anyone like to ask a question at this point?

[24] **Lindsay Whittle:** I am interested in this new reconstituted Wales Audit Office as a separate legal entity. The Bill says that the board will comprise five new non-executive members, appointed by this committee along with the auditor general—and I am not sure whether that could cause a conflict of interest, so perhaps you could tell me whether I am right or wrong. How much will that cost? Will there be a cost associated with that?

[25] **Mr Brown:** Yes. At present, the cost of some of the arrangements that the auditor general has in place for governance matters is about £26,000 to £30,000 a year. If we went to a full board, along the lines that you have described with seven members, five of whom were external, the overall cost would be in the region of £120,000 or £130,000 per annum. That would include such payments as you would decide to make in relation to the chair of the board and the four other independent members, plus travel and subsistence costs and power, light and heat for their meetings and so on. That is our broad estimate of the cost. The element in relation to the prospective chair of the Wales Audit Office would come out of the Welsh consolidated fund and the other element of that £120,000 would come from the fees generated by the new Wales Audit Office: it would be self-financing in that context.

[26] **Lindsay Whittle:** May I follow up on that, because it is extremely interesting? On the self-financing and the fees charged, you may be aware that there is some resentment in local government in Wales of the fees being charged at a critical time for local government. Is this a licence to print money?

[27] **Mr Brown:** Certainly not, because the overall budget would include these costs, which would come before you for scrutiny. The totality of this year’s budget in relation to the WAO is nearly £20 million; it is rather a small element of the totality of cash already in play. I accept that there would be some redistribution of fees income into this particular entity of the new Wales Audit Office. The Welsh consolidated fund money is a little open-ended and we would have to be careful with that that we did not drain too much out of it. However,

again, these would appear in the estimates and it would be a decision, as the Bill currently says, for you and, bottom line, for the Assembly to approve the budget, which would include the estimated spend on the new Wales Audit Office.

[28] **Lindsay Whittle:** In these austere times, is this essential? Will Joe Public really appreciate this?

[29] **Mr Brown:** For what we are trying to achieve with the proper governance of a public service entity, something in the region of £120,000 would be a reasonable cost to pay.

[30] **Darren Millar:** I ask that Members confine their questions, at the moment, to the background information around the Bill. I will then ask Mr Brown and Mr Elkin to talk a little about some of the provisions in the Bill, and we will go into more detail on that basis in a few moments.

[31] **Julie Morgan:** When you started your remarks, you referred to the difficulties that were experienced with the previous auditor general. How much did those experiences determine how you decided to go about your work?

[32] **Mr Brown:** We set aside the criminality of the former AGW and did not look at that in any depth whatsoever; it is a matter of fact, and we treated it like that. We then looked at the accountancy and the governance aspects of what had been going on. We looked at your report on that and at what other people had had to say on it by way of the national audit review and the review that the auditor general had called in by way of accountability and governance. We looked at how we could remedy that in respect of making the £20 million or thereabouts more accountable to the Assembly and how the oversight could be arranged in relation to what was happening in the Wales Audit Office without diminishing the auditor general's powers to conduct audits in the way that he considered appropriate. So, we looked in detail at how money had been spent, the arrangements that had been entered into that were of a questionable nature, as I understand it, in relation to superannuation payments and pensions and the training cash that had been spent and so forth, and how they could be improved through a separation of duties from someone having sole responsibility for all those matters and being unanswerable, in a strict sense, to any other body locally. As a consequence of thinking about the separation of duties between an executive and an oversight body, we also thought about how that could be brought in while retaining the freedom of the AGW to do what he wished by way of audit planning, programming and action and then the general oversight of staff, staff payments, control of budgets and so forth.

[33] **Jenny Rathbone:** My questions are on the composition and role of the board. It is appropriate to ask them now?

[34] **Darren Millar:** We have already started the discussion, so, yes.

[35] **Jenny Rathbone:** Okay; I just wanted to follow that up.

[36] Could you tell us what the working assumption is for the hours that the non-executive board members would be expected to put in per week or per month? I think that that relates to the potential remuneration.

[37] **Mr Brown:** Yes; it relates to the cost and so on. I would say that there are two streams here, possibly three. The chair of the new prospective Wales Audit Office would probably be more heavily involved, from a time point of view, than the other members. However, the Bill would enable the Wales Audit Office to create its own committee structure, so I cannot be absolutely certain what that might be and how other independent members of the board would spend time on these committees. Broadly, overall, I would have thought that

there would be quite a lot of time involved in year one in setting these things up and getting them working and so forth. I would have thought that it could take at least 10 days a month, or thereabouts, in relation to the chair, and perhaps half that time for members. Now, those two timings are a bit of a guess, I am afraid—I could not put much more credence on it than that.

[38] It would also be affected by what the AGW himself might consider to do in advance, should this legislation go ahead—setting things up, in other words. If we were looking for enactment of the legislation, whether it is amended or not, sometime in the first quarter of next year, we would hope to take—what is it called, Phil?

[39] **Mr Elkin:** Anticipatory powers.

[40] **Mr Brown:** We would hope to take anticipatory powers to appoint the board ahead of day one of the operation.

[41] **Jenny Rathbone:** Okay. Is this the working assumption that it would be 10 days a month for the chair and five days a month for the non-executive members?

[42] **Mr Brown:** In year one.

[43] **Jenny Rathbone:** What about normal operations?

[44] **Mr Brown:** I would have thought that it would be scaled down by about half in relation to the chair, and about 80% for the members, depending on the committee structure the new board decides to take.

[45] **Jenny Rathbone:** Thank you for that. My second point is in relation to paragraphs 74 to 78, on the appointment of the employee. I want to probe the Government's thinking on that a little bit further, because we know that the concerns expressed in 2010-11 were about the auditor general and the chief operating officer. Under the structure that you are proposing, it would be perfectly possible for the auditor general to appoint the chief operating officer as the staff member, or to nominate that person, so that the non-executives would be in a difficult position if they wanted to turn that person down, unless they were already minded to enter into conflict with the auditor general. Have you considered the election of a staff member? That is what happens in the case of staff members of school governing bodies. Has that been considered as an option?

[46] **Mr Brown:** The honest answer is 'no'.

[47] **Darren Millar:** Is it not unusual to have the auditor general accountable to a corporate body, of which one of the members of the executive is going to be an employee, who is accountable to the auditor general in his day-to-day role, yet the auditor general is then accountable to him in another capacity? Is it not going to be a bit tricky to manage the relationship? Does it happen anywhere else in the public sector?

[48] **Mr Brown:** Not that I am aware of. We thought that it would be a good idea to have a work representative presence on the board. I accept that there is the possibility, as the lady said, for a potential conflict of interest in relation to the AGW and that staff member. However, the staff member would be appointed by the board and would be an employee of the Wales Audit Office, not the AGW. They may well have an operational audit function, or they may not. On the question of the chief operating officer, I understand that that post has been abolished.

10.00 a.m.

[49] **Jenny Rathbone:** Okay, but I was using that as an example. If the auditor general wanted to appoint someone with whom they were in a cosy relationship, how would that be prevented?

[50] **Mr Brown:** I would expect the five independent members to sort that out before it even got going.

[51] **Darren Millar:** It would be quite a challenge for them to refuse an appointment that was recommended to them, would it not? This is an obviously an issue that requires some more discussion.

[52] **Mohammad Asghar:** One of the main objectives of this Bill is for the Assembly to pass primary legislation to reform the governance and accountability arrangements for the AGW and the WAO.

[53] **Darren Millar:** Sorry, Oscar; is your question on this particular issue?

[54] **Mohammad Asghar:** I am talking in general.

[55] **Darren Millar:** Mike, is your question on this particular issue? Can we concentrate on this part of the Bill because it is important that we cover the corporate body in more detail? Mike is next, and I will come back to you, Oscar.

[56] **Mike Hedges:** In some corporate bodies, such as further education colleges and higher education colleges, staff representatives are elected by the staff, and the principal or the vice-chancellor also serves on the body that controls it. When I first looked at it, I thought that it was just following that model, but after listening to your answer, it does not seem to be following that model. Is there any particular reason why it cannot follow that model?

[57] **Mr Brown:** We structured it in a way so that the non-executive members of the committee could appoint this person. I agree that staff members are elected by the staff in FE and HE corporations, but the consideration here was that this was a brand new body and that we were giving as much flexibility and powers to the new non-executive members as we possibly could. We thought that bringing in a staff member on the basis of appointment by the non-executive members of the new Wales Audit Office was the better option.

[58] **Gwyn R. Price:** I have grave reservations about this conflict of interest between the auditor general and this new committee. I would be wary of that fact, Chair.

[59] **Mr Brown:** The staff member would be appointed by the non-executive members, not by the auditor general.

[60] **Darren Millar:** I want to explore this issue of a potential conflict of interest. It is important that the auditor general is not fettered in any way, shape or form in terms of being able to do his work independently, yet this new corporate body or committee that he is accountable to will presumably be able to tie his hands in terms of things such as budgets and resources to allow him to do his work. Is there not a possibility that the introduction of this committee and its role in providing resources to the auditor general to allow him or her to do his or her work could fetter the auditor general somewhere down the line? I know that that is an issue that you have tried to address through the legislation, but it is a risk, is it not?

[61] **Mr Brown:** I think that you have to look at this from the tree. The tree starts with the planning process as to what the auditor general is going to do in the coming financial year, and the budget that is scrutinised by the Public Accounts Committee, as the Bill currently

says. So, there would be a plan of work and a sum of money attached to that to do the job. The auditor general would get on and do that work and would need the resources to complete the tasks and so on. Therefore, although we are making the new board the budget holder, we are saying to the new board in the legislation that, provided the requests from the AGW are reasonable, the resources will be released in accordance with the plan of work and the budget that the PAC has approved. During the course of the year, there would be a couple of points where interim reports would be prepared for you for scrutiny to say what has been going on. I know that you will be getting reports on the activity that the AGW has been involved in during the year, but, in addition, there will be interim reports in relation to the Wales Audit Office's plan and what the AGW has been doing

[62] That will also be linked back to progress on the budget, how that is being spent and the work that is in the plan. The work plan should include all that the AGW hopes to do in that year, although there will be room for manoeuvre, contingency elements and so on, and things might crop up that mean that the plan would have to be modified. All of that will be brought to your attention in the interim reports. At the year end, there will be an annual report and a round-up of what has been achieved, what has been done and how it was controlled, and whether it was good, bad or indifferent.

[63] **Darren Millar:** It all relies on the interpretation of what is reasonable, does it not?

[64] **Mr Brown:** Within the Bill, we have thought of that. There is an objective test within the legislation, so my lawyers have advised me, and if there was discord or unhappiness with the cash not coming out to get the job done, the AGW could, in extremis, take the board to court. On the other hand, the board will be the employer of all the staff, who will be delegated to help the AGW do the job, keeping the AGW free. So, I think that that is unlikely.

[65] **Aled Roberts:** Er mwyn imi fod yn glir ynglŷn â'r cynrychiolydd staff, roeddwn yn meddwl bod yr enwebiad ynglŷn â phwy oedd yn cynrychioli'r staff yn dod oddi wrth yr archwilydd cyffredinol. A yw hynny'n iawn?

Aled Roberts: So that I am clear on the staff representative, I thought that the nomination on who represented staff came from the auditor general. Is that correct?

[66] **Mr Brown:** Yes.

[67] **Mohammad Asghar:** Given the financial constraints all over the country and the world, is there any combined work that the Wales Audit Office and Auditor General for Wales could use? The whole objective is to audit. That is one thing, giving a fair and true picture of any money spent, whether the money was spent properly, and whether true and fair value was achieved. Why are the Auditor General for Wales and the Wales Audit Office being separated? We are duplicating our work here in the Assembly because of both organisations. You say that there will be greater accountability and governance responsibilities and that there will be different angles. One name—Audit Wales—should be used and everything should be put under one umbrella. Is that possible?

[68] **Mr Brown:** It is always possible.

[69] **Mohammad Asghar:** Under the circumstances, that would be the best way forward.

[70] **Darren Millar:** Will you give us an overview of some of the other main provisions in the Bill, so that we can ask some questions on that?

[71] **Mr Brown:** If it would be helpful, Chair, and providing that the Minister is content, I would be quite happy to circulate a page and two thirds on the main provisions. I am quite

happy to read this out now, if you wish.

[72] **Darren Millar:** Yes, please.

[73] **Mr Brown:** I have to read the script. The Bill would establish the Wales Audit Office as a statutory corporate body with a board of seven members, five of whom would be non-executive members. The auditor general would automatically be a member, and there would be one employee member. Non-executive members other than the chair would be appointed by the Public Accounts Committee, and the chair would be appointed by the Assembly on a motion tabled and moved by chair of the PAC, having first consulted the Presiding Officer and the First Minister.

[74] The functions of the new board would include the corporate-type functions currently exercised solely by the AGW, such as appointing and employing staff to assist the AGW, budget holding, the release of moneys, entering into contracts for the provision of services, holding and disposing of property and keeping records and information.

[75] On monitoring and advice, the new Wales Audit Office would have a duty to monitor the AGW's functions and a power to provide advice to the AGW on those. With regard to financial estimates, the Public Accounts Committee would consider and approve, with or without modifications, the entire annual financial estimates for the Wales Audit Office, as prepared jointly by the AGW and the chair of the WAO. The PAC would lay the approved estimates before the Assembly for inclusion in the Assembly's annual budget motion—the whole lot. The budget as approved would include the anticipated maximum amount to be made available to the new Wales Audit Office for the AGW in order for the AGW to exercise his or her operational audit functions. To pick up on the point that you just mentioned, the Wales Audit Office would be the budget holder, releasing moneys to the AGW on the basis of having due regard to its annual plan and the request for resources from the AGW subject to the maximum amount of resources approved by the Assembly. The Wales Audit Office would have a duty to provide the requested resources if it considered the requests reasonable.

[76] On fees, any power or duty of the current auditor general to set, charge and recover fees would, under the draft Bill, be repealed, with the new Wales Audit Office taking on those functions in accordance with a scheme prepared by the new Wales Audit Office and approved by the Public Accounts Committee. Powers to charge fees would change so that the Wales Audit Office would be able to recover up to the full cost. In some cases at the moment it does not. In future, it would be able to recover actual costs, with no profit, in full.

[77] On planning, monitoring and reporting, the new Wales Audit Office and the new AGW would also be required to prepare, lay before the Assembly and publish an annual plan setting out the programme of audit and other work for the year. The annual plan would not be subject to the approval of the PAC or the Assembly as that could be interpreted as the PAC and/or the Assembly having the last word or veto on what the AGW planned to examine. The annual plan would set out the source and application of all funds against the work programme and be subject to regular in-year monitoring by the PAC on the progress made. As I have said, at the year end, the AGW and the WAO would jointly prepare an annual report for your consideration.

[78] Rather importantly, at the end, there is a provision in the Bill placing a duty on the new Wales Audit Office to carry out its functions efficiently and effectively. It would be held to that by you and the monitoring process.

[79] The independence and status of the auditor general has been preserved. He is entitled to carry out his work unfettered by the administration or its Executive. However, we have altered the tenure, making it up to seven years. The AGW will also be the chief executive

officer of the new Wales Audit Office and the remuneration of the new AGW would not be performance-based.

10.15 a.m.

[80] I have telescoped a great deal in the Bill into a short session here. Other elements of the Bill, Chair, cover the consolidation and simplification of existing legislation in the 1998 and 2006 Government of Wales Acts and the Public Audit (Wales) Act 2004. Most of those provisions appear around clause 28 of the Bill and thereafter.

[81] **Darren Millar:** Thank you for that. I know that Mike had a question, when we discussed this in private, about the tenure of the auditor general.

[82] **Mike Hedges:** I was confused as to why the tenure of the auditor general was moving from eight to seven years. The only reason seems to be that it is consistent with all other appointments, but it does not seem to take the auditor general into account. Am I missing something?

[83] **Mr Brown:** I am awfully sorry, but I do not understand your question.

[84] **Mike Hedges:** The auditor general is currently appointed for eight years, is he not?

[85] **Mr Brown:** Yes.

[86] **Mike Hedges:** You intend to change to it to seven years.

[87] **Mr Brown:** Yes.

[88] **Mike Hedges:** I am trying to find out the rationale for changing it to seven. The only rationale that I could find is that, in most other places, ombudsmen are appointed for seven years. I do not understand why the auditor general needs to be changed to the same number of years.

[89] **Mr Brown:** We did not copy the arrangements elsewhere; in fact, what you have just said is news to me. We are consulting, and one of the questions in the consultation is whether the tenure is long enough, too short, about right and so on. We felt, perhaps biblically, that seven good years was about right; that is how it came about. It is nothing more sophisticated than that.

<p>[90] Aled Roberts: Hoffwn ofyn cwestiwn ynglŷn â Deddf 2006 a'r ffaith bod un peth heb ei gynnwys. Ar hyn o bryd, nid oes gan y Cynulliad Cenedlaethol hawl i alw tystion o flaen y pwyllgor hwn, ac nid oes grym i wneud hynny yn y Bil hwn. A wnaethoch chi ystyried bod angen i'r pwyllgor gael hawl o'r fath?</p>	<p>Aled Roberts: I would like to ask a question about the 2006 Act and the fact that one thing has not been included. At present, the National Assembly is not able to call witnesses before this committee, and there is no power to do so in this Bill. Did you consider that this committee should have that ability?</p>
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[91] You made reference to experiences that this committee had in the previous Assembly. We recently had a discussion here regarding the fact that we cannot call a Treasury Minister, for example, before us to discuss the housing revenue account. We do not currently have the power to call witnesses before this committee. The previous auditor general, for example, had ceased in his employment at the time that this committee wanted to call him in for evidence. That was an omission in the 2006 Act. Was any consideration given to including that power in this Bill?

[92] **Mr Elkin:** If there is a gap in the 2006 Act, and it is a reasonable request to make that the committee should have the power to call evidence, that would be something that we would consider including in the Bill. At present, it is not something that we have made provision for. There are no consequential modifications currently in the Bill to give effect to its provisions, and I am sure that we could look at that issue in the context of making amendments to the Government of Wales Act 2006.

[93] **Darren Millar:** In terms of the appointment of external auditors to the Wales Audit Office, my understanding is that the provision is in the Bill because there were issues with external audit that we had to mop up as a committee last year and this year. It has always been this committee that has appointed the external auditors, but the Bill seems to suggest that the board will be responsible for appointing auditors to the Wales Audit Office, with the approval of the Public Accounts Committee. Is that right?

[94] **Mr Brown:** As currently constituted, that is what the Bill proposes, along the same lines as further education institutions and higher education corporations, which are corporate bodies, and the Wales Audit Office would be a corporate body. Other institutions and corporations appoint their own audit boards, but bearing in mind the problems in the past here, the Bill recommends that X, Y or Z auditor is appointed, but the final power on appointment rests with the Public Accounts Committee.

[95] **Darren Millar:** Is that consistent with the other legislatures that you have taken account of when preparing the draft Bill?

[96] **Mr Brown:** No.

[97] **Darren Millar:** So, what happens in those other places?

[98] **Mr Brown:** In England, for example, it is entirely up to the National Audit Office to appoint its own auditors. There is no reference to the UK Public Accounts Committee; the NAO does it. We thought that that was going too far, although, we did start out with that idea. I am uncertain of the position in Scotland and Northern Ireland, to be frank. However, looking at other entities, it seems that that has been the case where auditors are in play, and that was certainly the case here because you had the power to appoint previously, did you not, under the Government of Wales Act 2006? We just modified that by a degree. Again, if that is not considered appropriate, we would certainly look at the consultation responses with a view to modification, if at all possible.

[99] **Darren Millar:** Just in terms of the local government audit, you stated earlier that the totality of the auditor general's budget would be accountable to the board and to the Public Accounts Committee or whichever committee emerges as having responsibility for the governance arrangements. Did you indicate that the fee schedules would also be required to go to that committee?

[100] **Mr Brown:** The intention is for the rates of fees applicable to all audits, whether on a financial audit or value-for-money audit basis, to meet with the approval of the PAC. The PAC will approve them.

[101] **Darren Millar:** Are there any other questions relating to—

[102] **Mr Brown:** May I just correct myself?

[103] **Darren Millar:** Yes, of course.

[104] **Mr Brown:** My colleague has just told me that, in England, the auditor general is appointed by the Public Accounts Commission and the same system is used to appoint Scotland's auditor general. So, I am sorry, but I misinformed you.

[105] **Darren Millar:** Thank you. Just to test the split between responsibilities, because there is no reference in the consultation document to this, given the dual role of this committee at present, the time allocated to us makes it difficult for us to undertake both roles. Clearly, there will be more opportunity for scrutiny in terms of the governance arrangements of the Wales Audit Office with the auditor general making more frequent appearances before a committee of this Assembly. He or she will also give account on behalf of the Wales Audit Office and will present budgets, interim reports and so on. Do you think that there will be sufficient time for a single committee in the Assembly to look at all of that? Did you consider that when you made recommendations to Ministers?

[106] **Mr Brown:** No advice was put to Ministers in relation to the fact that you have just mentioned. Since I last gave Ministers advice on instructions pertinent to the Bill, I have of course picked up your thoughts and views on the workload of this committee. If I might hazard a view on how much time these tasks might take, then I would have thought that there will be at least three occasions in a year, for example, when the two interim reports and the annual report are published, when the committee will be required to undertake quite a bit of investigation—perhaps more than an hour. I have no feel at all as to how much initial preparation work needs to be done in terms of reading papers and so on. I would have thought that it would take some time to do the job as thoroughly as you would wish to do it. So, I have come up with a broad estimate, and please do not hang me out to dry, but it might take around four sessions.

[107] **Darren Millar:** Okay, but only four sessions.

[108] **Mr Brown:** If there are two interim reports, I cannot prejudge what those interim reports might throw up. If everything is running smoothly and so on, then it might be less onerous, but if problems are identified and something has to be done, particularly by you and the members of the committee, then it could balloon. I just do not know about that. However, assuming that things are on a relatively even keel and will be so in future, then three to four sessions each year would be about right. However, that does not factor in the preliminary work that Members do before they come to committee meetings.

[109] **Darren Millar:** Okay. Are there any further questions for our witnesses? I see not. Therefore, I thank you, Mr Brown and Mr Elkin, for your evidence today. We appreciate the briefing that you have been able to provide for us. If any more questions emerge as a result of the discussion that will take place now between members of the committee, we will relay those to you in due course. Thank you very much indeed.

[110] **Mr Brown:** Thank you very much, chairman.

10.26 a.m.

**Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd
o'r Cyfarfod**

**Motion under Standing Order No. 17.42 to Resolve to Exclude the Public
from the Meeting**

[111] **Darren Millar:** I move that

the committee resolves to exclude the public from the remainder of the meeting in accordance

with Standing Order No. 17.42(vi).

[112] I see that Members are in agreement.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 10.26 a.m.
The public part of the meeting ended at 10.26 a.m.