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Mr Llyr Gruffydd AM
Chair of Finance Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

Dear Llyr

Public Audit (Wales) Act 2013

Thank you for your correspondence of 25 March 2019, which sets out the proposal by the Finance Committee of the National Assembly for Wales to conduct post-legislative scrutiny of the Public Audit (Wales) Act 2013. This is following on from an invitation from the Auditor General for Wales (AGW) and the Wales Audit Office (WAO) to amend the legislation and draft a new bill.

As part of this process, you have invited me to provide written evidence addressing the Committee's terms of reference with a particular focus on:

- Fee charging
- Quorum arrangements of the Wales Audit Office board
- Wales Audit Office reporting arrangements
- Issues with laying and reporting accounts

and how equivalent legislation in Northern Ireland operates in relation to the issues raised.

Taking each of these in chronological order:

Fees Charging

One of the main provisions in the draft bill is to remove the prohibition on WAO charging fees that exceed the full cost of exercising the function to which the fee relates; the intention is to introduce a fee scheme provision that seeks to ensure that the sum of the fees charged for work undertaken under specified enactments, taken together and taking one year with another, is broadly equivalent to all of its expenditure in connection with that work.

In comparison, my Office charges for some but not all of its audit work. The audit fees, which are based on charge out rates calculated by my Office on an annual basis, are the actual costs for each of the audits, and are invoiced post-audit completion.

In relation to the audit of central government, the statutory authority for charging of audit fees is within Article 7 of the Audit (Northern Ireland) Order 1987 which states:

7.—(1) Subject to paragraph (2), the Comptroller and Auditor General may charge a fee for auditing the accounts of any person or body.

(2) The Comptroller and Auditor General shall not without the consent of a Northern Ireland department charge a fee for auditing the accounts of a person or body whose functions are discharged on behalf of the Crown; and this Article shall not be construed as authorising the charging of a fee for the audit by agreement of the accounts of any other person or body unless the agreement so provides.

The audit of central government accounts therefore includes a mixture of charged and notional fees, with hard charging mainly being focused on arms-length bodies. Some of this is prescribed within the legislation of individual bodies or is by agreement.

The audit fees article applies to the financial audits of the accounts only and accordingly my Office does not charge fees for its broad swathe of other central government work including reports (Value for Money)

The NIAO also carries out the audit of local government bodies. The Local Government (Northern Ireland) Order 2005 (Article 8), as amended by the Local Government Act (Northern Ireland) 2014, provides for the charging of this work, as set out below:

8. There shall be paid to the Comptroller and Auditor General for Northern Ireland by every body whose accounts are audited by the local government auditor such fees as the local government auditor may determine.

Quorum Arrangements of the Wales Audit Office Board

The proposals include an intention to remove the requirement that the rules in relation to quoracy for WAO meetings cannot be met unless there is a majority of non-executive members.

In commenting on our arrangements, this needs to be considered within the context that the NI Audit Office Advisory Board is not a statutory Board, as in Wales. The NIAO Advisory Board is responsible for providing objective and impartial advice to me in the discharge of my functions and works in partnership with both myself and the Senior Management Team.

We are currently in the process of reviewing our Board's terms of reference. Proposals, which I have already agreed with the new Board Chair, and which will be submitted for formal adoption in their meeting on 30 May 2019 in relation to quorum are as follows:

A minimum of two non-executives and one executive member of the Advisory Board must be present for the scheduled meeting to be deemed quorate. If appropriate, a meeting may be conducted by conference call. Non-executives members will have free and confidential access to the C&AG and may also meet informally without executive members at any time outside of scheduled meetings. The Advisory Board may meet in private, if necessary.

There is no quorate requirement that NIAO Advisory Board meetings cannot be met unless there is a majority of non-executive members. Membership comprises two executives (myself and the Chief Operating Officer) and four non-executives. Therefore a meeting cannot take place with a majority of executives.

Wales Audit Office Reporting Arrangements

Under the proposed bill, there is an intention to remove the requirement for the Auditor General and the chair of the WAO to jointly prepare and lay interim reports before the National Assembly on the exercise of their functions. There is no such requirement for reporting within NIAO. Furthermore, there is no statutory requirement for the Chair of the NIAO Board to produce an annual report

Laying and Reporting Arrangements

The audit of my Office's accounts are in keeping with the examination of the resource accounts of any Northern Ireland department as set out in with the provisions of sections 10(1) and 21(2) of the Government Resources and Accounts Act (Northern Ireland) 2001.

Unlike WAO, NIAO has no requirement for either the C&AG or the Board Chairperson to lay an annual report. This responsibility clearly lies with the Department of Finance - under paragraph 4(2) of Schedule 2 to the Audit (Northern Ireland) Order 1987, *on completion of his examination the auditor [of NIAO] shall certify the resource accounts and submit them, together with his report thereon, to the Department [of Finance] for presentation to the Assembly.*

This is an anachronism and an area where our own legislation needs tidied up, as I should be able to lay my Office's audited accounts in the NI Assembly, rather than being dependent upon the Department of Finance.

The requirement to lay the annual report and account together is in keeping with section 5.1.1 of the Government's Financial Reporting Manual (FReM).

Under section 10(4) of the Government Resources and Accounts Act (Northern Ireland) 2001, there is a requirement to lay the report and accounts before the Assembly not later than 15th November of the financial year following that to which they relate. However, in reality, they are laid pre-Summer Recess, typically around the end of June.

In summary, I have considered the proposals for amending the Public Audit (Wales) Act 2013 and am supportive of these amendments.

I trust that this response addresses each of the issues raised. Nevertheless, should you require any further information, please do not hesitate in contacting me.

Yours sincerely

A handwritten signature in black ink that reads "Kieran Donnelly". The signature is written in a cursive, slightly slanted style.

KIERAN DONNELLY
Comptroller and Auditor General