
Bil Archwilio Cyhoeddus (Diwygio) (Cymru) drafft Ymatebion i'r ymgynghoriad

Mawrth 2020



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Cynnws | Contents

* Saesneg yn unig | English only

** Cymraeg yn unig | Welsh only

Rhif Number	Sefylliad	Organisation
PAAW 01*	Bwrdd Iechyd Prifysgol Hywel Dda	Hywel Dda University Health Board
PAAW 02	Estyn	Estyn
PAAW 03	Comisiwn y Cynulliad	Assembly Commission
PAAW 04*	Comisiwn Ffiniau a Democratiaeth Leol Cymru	Local Democracy and Boundary Commission for Wales
PAAW 05*	Cyngor y Gweithlu Addysg	Education Workforce Council
PAAW 06*	Cyngor Bwrdeistref Sirol Wrecsam	Wrexham County Borough Council
PAAW 07	Ombwdsmon Gwasanaethau Cyhoeddus Cymru	Public Services Ombudsman for Wales
PAAW 08*	Bwrdd Iechyd Prifysgol Aneurin Bevan	Aneurin Bevan University Health Board
PAAW 09*	Bwrdd Iechyd Prifysgol Betsi Cadwaladr	Betsi Cadwaladr University Health Board
PAAW 10	Swyddfa Archwilio Cymru	Wales Audit Office
PAAW 11*	Cyngor Bwrdeistref Sirol Conwy	Conwy County Borough Council
PAAW 12	Cyngor Celfyddydau Cyru	Arts Council of Wales



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Bwrdd Iechyd Prifysgol
Hywel Dda
University Health Board

Ein cyf/Our ref: C428
Gofynnwch am/Please ask for: Rachel Davies
Rhif Ffôn /Telephone: 01267 239866
Dyddiad/Date: 13th January 2020

Swyddfeydd Corfforaethol, Adeilad Ystwyth
Hafan Derwen, Parc Dewi Sant, Heol Ffynnon Job
Caerfyrddin, Sir Gaerfyrddin, SA31 3BB

Corporate Offices, Ystwyth Building
Hafan Derwen, St David's Park, Job's Well Road,
Carmarthen, Carmarthenshire, SA31 3BB

Committee Clerk
Finance Committee
National Assembly for Wales
Cardiff
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13 January 2020

Dear Committee Member

Many thanks for the opportunity to respond to the consultation document on the Draft Public Audit (Amendment) (Wales) Bill.

Following my attendance at the Finance Committee on 11 July 2019, I am pleased to have received your consultation document and note my responses on behalf of Hywel Dda University Health Board below.

Question 1: We agree with the proposal, recognising it is important to demonstrate that the provision of the WAO's services as a whole needs to demonstrate value for money in undertaking its duties. While we as a Health Board have not needed to escalate any decisions on fee setting arrangements, an escalation or dispute process on fees may be a prudent additional requirement.

Question 2: Yes, but consideration may need to be given to the response to Question 1.

Question 3: Agreed, again cognisant of the response to Question 1.

Question 4: Agreed, again please see the response to Question 1.

Question 5: Agreed.

Swyddfeydd Corfforaethol, Adeilad Ystwyth,
Hafan Derwen, Parc Dewi Sant, Heol Ffynnon Job,
Caerfyrddin, Sir Gaerfyrddin, SA31 3BB

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Cadeirydd /Chair
Miss Maria Battle

Prif Weithredwr/Chief Executive
Mr Steve Moore

Bwrdd Iechyd Prifysgol Hywel Dda yw enw gweithredol Bwrdd Iechyd Lleol Prifysgol Hywel Dda
Hywel Dda University Health Board is the operational name of Hywel Dda University Local Health Board

Mae Bwrdd Iechyd Prifysgol Hywel Dda yn amgylchedd di-fwg Hywel Dda University Health Board operates a smoke free environment



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Hywel Dda
University Health Board

Question 6: We believe that the question is inconsistent with the proposal in the draft Bill. It is important that all Executive members be allowed to vote in a Board meeting. For instance, it would be improper if the Director of Finance of the WAO were not allowed to vote.

Question 7: Section 13 may require further guidance to be provided on the means by which an employee member is asked to excuse themselves from voting. While this may be usually non-contentious, there may be instances where the selection of an employee member who is asked not to vote could be itself challenging.

Question 8, 9, 10, 11, 12, 13, 14, 15: We have no issues to raise in relation to these questions.

Question 16 and 17: It may be prudent to provide guidance on who is required to assess acceptable performance for Board members and the Chair.

Question 18, 19, 20, 21, 22, 23: We have no issues to raise in relation to these questions.

Question 24: The questions relating to assessing central government bodies and overlapping laying requirements are not applicable to the NHS, and consequently we do not have an issue to raise. We do not have sufficient information to respond to the question on Welsh data matching powers and how these compare with those of other UK nations.

Question 25: We believe that the financial implications of these proposals for us as an audited entity will be marginal.

Question 26: We have no further observations to make.

I am very grateful for the opportunity to respond to your consultation document. Should you require further clarification, please do not hesitate to contact me directly.

Yours sincerely

Huw Thomas

Director of Finance

Swyddfeydd Corfforaethol, Adeilad Ystwyth,
Hafan Derwen, Parc Dewi Sant, Heol Ffynnon Job,
Caerfyrddin, Sir Gaerfyrddin, SA31 3BB

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Arolygiaeth Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru

Her Majesty's Inspectorate for Education and Training in Wales

Ymateb i Ymgynghoriad / Consultation Response

Enw / Name:	Meilyr Rowlands
Rôl / Role:	Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru
E-bost / Email:	ChiefInspector@estyn.llyw.cymru
Rhif Ffôn / Tel No:	02920 446 446
Dyddiad / Date:	7 Chwefror 2020
Pwnc / Subject:	Ymgynghoriad ar y Bil Archwilio Cyhoeddus (Diwygiad) (Cymru) Drafft

Gwybodaeth gefndir am Estyn

Estyn yw Swyddfa Arolygiaeth Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru. Fel corff y Goron, mae Estyn yn annibynnol ar Lywodraeth Cymru.

Prif nod Estyn yw codi safonau a gwella ansawdd addysg a hyfforddiant yng Nghymru. Caiff hyn ei nodi yn Neddf Dysgu a Sgiliau 2000 a Deddf Addysg 2005 yn bennaf. Wrth gyflawni ei swyddogaethau, mae'n rhaid i Estyn ystyried:

- Ansawdd addysg a hyfforddiant yng Nghymru;
- Y graddau y mae addysg a hyfforddiant yn bodloni anghenion dysgwyr;
- Y safonau addysgol a gyflawnir gan ddarparwyr addysg a hyfforddiant yng Nghymru;
- Ansawdd arweinyddiaeth a rheolaeth y darparwyr addysg a hyfforddiant hynny;
- Datblygiad ysbrydol, moesol, cymdeithasol a diwylliannol dysgwyr; a'r
- Cyfraniad a wneir at les dysgwyr.

Mae cylch gwaith Estyn yn cynnwys (ond nid yn unig) meithrinfeydd a lleoliadau nas cynhelir, ysgolion cynradd, ysgolion uwchradd, ysgolion annibynnol, unedau cyfeirio disgyblion, addysg bellach, dysgu oedolion yn y gymuned, gwasanaethau addysg llywodraeth leol, dysgu yn y gwaith, ac addysg a hyfforddiant athrawon.

Gall Estyn roi cyngor i'r Cynulliad ar unrhyw fater sy'n gysylltiedig ag addysg a hyfforddiant yng Nghymru. Er mwyn cyflawni rhagoriaeth i ddysgwyr, mae Estyn wedi pennu tri amcan strategol:

- Darparu atebolrwydd i ddefnyddwyr gwasanaeth ar ansawdd a safonau addysg a hyfforddiant yng Nghymru;
- Llywio datblygiad polisi cenedlaethol gan Lywodraeth Cymru;
- Meithrin gallu i wella'r system addysg a hyfforddiant yng Nghymru.

Nid yw'r ymateb hwn yn gyfrinachol.

Cwestiwn 1

Cytuno

Cwestiwn 2

Cytuno.

Rydym yn cefnogi newid a nodwyd gan y darparwr gwasanaeth fel un â'r potensial i wella effeithlonrwydd a helpu osgoi cynnydd mewn cyfraddau ffioedd, yn enwedig ar adeg pan fo cyfyngiadau cyllidebol ar wasanaethau cyhoeddus. O fewn fframwaith ffioedd sy'n seiliedig ar adfer costau, mae angen craffu priodol er mwyn darparu sicrwydd bod y darparwr gwasanaeth yn gweithredu'n effeithlon ac yn effeithiol.

Mae disgwyliad y bydd y sail ffioedd (amcangyfrif o weithgareddau archwilio a chyfraddau sy'n berthnasol) yn parhau i fod yn dryloyw ac yn agored i her resymol.

Cwestiwn 3

Cytuno

Bydd rheolaeth Bwrdd dros waith lefel y cytundeb yn bwysig i sicrhau bod buddion gwaith o'r fath, e.e. datblygiad sefydliadol a datblygiad staff, wedi'u nodi'n glir ac nad yw'r cyfryw waith yn peryglu gweithgareddau craidd a chyfrifoldebau statudol.

Cwestiwn 4

Cytuno

Cwestiwn 5

Ddim yn cytuno. Ymddengys bod cydbwysedd yr aelodaeth yn briodol, ond mae achos dros hyblygrwydd mewn perthynas â gofynion cworwm.

Cwestiwn 6

Cytuno. Mae hon yn ymddangos yn ymagwedd bragmatig.

Cwestiwn 7

Cytuno. Mae hon yn ymddangos yn ymagwedd bragmatig.

Cwestiwn 8

Cytuno. Mae'r dystiolaeth ar ddiddordeb yn yr adroddiad interim yn awgrymu ei fod yn faich diangen ac yn gost y gellid ei hosgoi i bwrs y wlad.

Cwestiwn 9

Cytuno. Mae hyn yn dileu'r rhwymedigaeth ond yn rhoi opsiwn i adroddiad interim gael ei gynhyrchu.

Cwestiwn 10

Cytuno. Mae'n osgoi dyblygu.

Cwestiwn 11

Cytuno.

Cwestiwn 12

Cytuno. Mae'n annhebygol yr eir ymhellach na'r terfyn amser pedwar mis cyfredol mewn llawer o achosion, ac, yn y cyfryw achosion, bydd eglurhad yn cael ei roi.

Cwestiwn 13

Cytuno.

Cwestiwn 14

Cytuno. Mae'n lleihau cymhlethdod a dylai fod yn broses fwy effeithlon.

Cwestiwn 15

Cytuno

Cwestiwn 16

Cytuno. Mae'r trefniant hwn yn rhoi hyblygrwydd i gadw gwybodaeth ac arbenigedd a gall helpu i gynnal sefydlogrwydd y bwrdd.

Cwestiwn 17

Cytuno.

Cwestiwn 18

Cytuno. Mae'n cefnogi annibyniaeth y sefydliad.

Cwestiwn 19

Cytuno. Mae'n briodol i ddarparu mwy o hyblygrwydd.

Cwestiwn 20

Cytuno. Mae'n briodol i ddarparu mwy o hyblygrwydd.

Cwestiwn 21

Cytuno.

Cwestiwn 22

Cytuno.

Cwestiwn 23

Cytuno.

Cwestiwn 24

Na. Rydym yn cytuno gyda barn y Pwyllgor Cyllid y byddai hyn yn golygu bod rhaid creu darn o waith sylweddol. Awgrymwn fod Archwilydd Cyffredinol Cymru yn parhau â'r arfer o roi barn reoleiddio, er nad oes unrhyw ddarpariaethau penodol mewn statud, a'i fod yn annog yr holl sefydliadau yng Nghymru sy'n derbyn arian cyhoeddus i gymryd rhan yn y Fenter Twyll Genedlaethol.

Cwestiwn 25

Ni ragwelir unrhyw oblygiadau ariannol, ond byddai gostyngiad yn ein ffi archwilio flynyddol yn cael ei groesawu'n fawr.

Cwestiwn 26

Na.

Llyr Gruffydd AC
Cadeirydd y Pwyllgor Cyllid
Cynulliad Cenedlaethol Cymru
Tŷ Hywel
Bae Caerdydd
CF99 1NA

29 Ionawr 2020

Annwyl Llyr

Bil Archwilio Cyhoeddus (Diwygio) (Cymru)

Rwy'n ysgrifennu mewn ymateb i'ch llythyr dyddiedig 18 Rhagfyr 2019 yn cyngori'r Comisiwn bod eich Pwyllgor wedi cyhoeddi ei adroddiad a'i fod bellach yn ymgynghori ar Fil Archwilio Cyhoeddus (Diwygio) (Cymru) drafft.

Mae eich llythyr yn nodi y byddech yn croesawu barn y Comisiwn ar gynigion drafft y Bil.

Yn y gorffennol, rydym wedi llunio dau ymateb i'ch Pwyllgor, dyddiedig **9 Mai 2019** a **27 Mehefin 2019**. Hefyd, darparodd swyddogion y Comisiwn dystiolaeth i'ch Pwyllgor ar 17 Gorffennaf 2019 mewn sesiwn breifat.

Nid oes gennym unrhyw sylw pellach i'w ddarparu ar y materion yr ymdriniwyd â hwy eisoes yn y ddau lythyr ac yn ystod y sesiwn dystiolaeth.

Ers mis Gorffennaf 2019, mae dau fater ychwanegol wedi codi, yn ymwneud â'r treuliau a dalwyd i Gadeirydd Swyddfa Archwilio Cymru a nodi'r treuliau a dalwyd i Archwilydd Cyffredinol Cymru yn rhinwedd ei swydd fel Archwilydd Cyffredinol Cymru ac ar wahân fel Prif Weithredwr Swyddfa Archwilio Cymru. Ceir rhagor o wybodaeth yn Atodiad 1.

Yn ôl yr arfer, cofiwch roi gwybod os hoffai eich Pwyllgor gael unrhyw wybodaeth bellach.



Yn gywir

Suzy Davies

Suzy Davies

copi at Gomisiynwyr y Cynulliad, Manon Antoniazzi, Nia Morgan



Atodiad 1

Nodyn ar dreuliau

Cadeirydd Swyddfa Archwilio Cymru

1. Gall y Cynulliad wneud trefniadau ar gyfer taliadau Cadeirydd Swyddfa Archwilio Cymru ("y Cadeirydd"), a gall y trefniadau hynny wneud darpariaeth ar gyfer "cyflog, lwfansau, rhoddion ariannol, a buddion eraill i dalu treuliau" (paragraff 7 o Atodlen 1 i Ddeddf 2013). Mae'r symiau hyn i'w codi ar Gronfa Gyfunol Cymru (paragraff 7(3) o Atodlen 1 i Ddeddf 2013).
2. Yn ystod 2019-20, yn dilyn newid gan CThEM yn ymwneud â'r amseriad ar gyfer casglu treth ar dreuliau, achubodd Comisiwn y Cynulliad a Swyddfa Archwilio Cymru (SAC) y cyfle i adolygu'r broses ar gyfer talu treuliau Cadeirydd SAC. Mae opsiynau yn cael eu hystyried ar hyn o bryd.
3. Efallai yr hoffai'r Pwyllgor ystyried unrhyw newidiadau ac unrhyw ofynion sydd eu hangen i sicrhau lefel barhaus o dryloywder wrth gyllidebu ac adrodd ar y treuliau hyn.

Archwilydd Cyffredinol Cymru

4. Dylai'r Cynulliad wneud trefniadau ar gyfer taliadau i Archwilydd Cyffredinol Cymru cyn i rywun gael ei benodi i'r swydd. Gall y trefniadau hynny "wneud darpariaeth ar gyfer cyflog, lwfansau, arian rhodd, trefniadau ar gyfer pensiwn a buddion eraill" (adran 7 o Ddeddf Archwilio Cyhoeddus (Cymru) 2013 (Deddf 2013)). Mae'r symiau hynny i'w codi ar Gronfa Gyfunol Cymru (adran 7(6) o Ddeddf 2013).
5. Ar wahân, "caiff SAC wneud darpariaeth i daliadau ychwanegol gael eu gwneud i'r Archwilydd Cyffredinol drwy lwfansau a buddion eraill i dalu treuliau yr aed iddynt yn briodol ac o anghenraid gan yr Archwilydd Cyffredinol yn rhinwedd ei swydd fel aelod o SAC a phrif weithredwr arni" (paragraff 13 o Atodlen 1 i Ddeddf 2013).
6. Mae'r gwahaniaeth rhwng taliadau sy'n daladwy wrth weithredu yn rhinwedd ei swydd fel Archwilydd Cyffredinol Cymru ac ar wahân fel prif weithredwr ac aelod o Swyddfa Archwilio Cymru yn ei gwneud yn ofynnol i Archwilydd Cyffredinol Cymru ddyrannu eitemau penodol i'r lwfansau ar wahân fel mai dim ond lwfansau sy'n deillio o weithredu yn rhinwedd swydd fel Archwilydd Cyffredinol Cymru sy'n cael eu codi ar Gronfa Gyfunol Cymru.



7. Mewn blynyddoedd ariannol blaenorol ac yn ystod 2019-20, mae'r holl dreuliau a dalwyd i Archwilydd Cyffredinol Cymru wedi cael eu gwneud gan Swyddfa Archwilio Cymru. Ni chodwyd unrhyw dreuliau ar Gronfa Gyfunol Cymru drwy Gomisiwn y Cynulliad. Mae'r holl dreuliau'n cael eu trin fel pe baent yn cael eu hysgwyddo gan Archwilydd Cyffredinol Cymru yn rhinwedd ei swydd fel aelod a phrif weithredwr Swyddfa Archwilio Cymru.
8. Efallai y bydd y Pwyllgor am ystyried y driniaeth gyfredol hon o dreuliau ac ystyried yr angen, o fewn y ddeddf, i wahaniaethu rhwng dwy ran y rôl.



I am responding to the consultation on the Draft Public Audit (Amendment) (Wales) Bill on behalf of the Members of the Local Democracy and Boundary Commission for Wales.

Question 1 - Do you agree that the Wales Audit Office should be given flexibility in how it charges and administers its fees by allowing it to broadly breakeven, taking one year with another?

The Commission has no objection to the proposed change unless it results in a significant increase in audit fees.

Question 24 - Do you feel the Draft Bill should include provisions relating to:

- the lack of a value for money conclusion duty on the Auditor General for Wales and central government bodies;
- the absence of explicit provisions in statute for regularity opinions among many central government bodies;

The Commission has no objection to the proposed changes to include provision within the Local Government (Democracy) (Wales) Act 2013 for a regularity opinion and to a duty to be satisfied as to the arrangements for securing value for money.

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Committee Clerk
Finance Committee
National Assembly for Wales
Cardiff Bay
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3rd February 2020

Dear Sir/Madam

Consultation on the Draft Public Audit (Amendment) (Wales) Bill

We are writing in response to the above National Assembly consultation.

Role of our organisation

The Education Workforce Council (EWC) is an independent regulator, established by the Education (Wales) Act 2014. We came into being on 1 April 2015 and work with education professionals, in teaching and support roles, from the foundation phase through to further education, youth work and work-based learning. The EWC's role as a regulator and strategic leader in the education sector in Wales and the obligations that we have to registrants, learners, parents and the public is formally prescribed within the Education (Wales) Act 2014.

Proposed amendments in relation to the WAO functions and responsibilities

We have no comments to make in relation to the consultation questions contained within sections 1-9 of the consultation document.

Section 10: Issues with wider public audit legislation in Wales

EWC are listed under paragraph 64 as one of the bodies where legislation would need to be amended to include a provision for the requirement to have a regularity opinion from the Auditor General for Wales (AGW) as part of our annual audit opinion. Even though there is no explicit provision for this opinion in legislation, this is already provided by the AGW on an annual basis as part of the EWC annual audit opinion and is included in our audit Annual Report and Accounts.

EWC **would not** support for legislation to be amended to include this requirement for the following reasons:

The EWC is an independent professional body. It is not a Welsh Government sponsored body, does not have a sponsoring department within government and does not receive an annual remit letter. The Council's primary role is to regulate the education workforce professions in Wales. This regulatory model, like most other professions is one of "self-regulation" rather than one which is controlled and funded by central government.

The Council sets its own strategic / operational plans and its own budget. The Welsh Government does not exercise any control of the day to day running of the EWC in discharging its statutory functions and EWC resources are not 'voted' through the National Assembly.

Finally, EWC is currently challenging our public body classification with Welsh Government and the ONS. Therefore whilst this challenge is ongoing, it would be improper for any changes to our legislation to be made.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Hayden Llewellyn', written in a cursive style.

Hayden Llewellyn
Chief Executive

Consultation on the Draft Public Audit (Amendment) (Wales) Bill

Question 1

Do you agree that the Wales Audit Office should be given flexibility in how it charges and administers its fees by allowing it to broadly breakeven, taking one year with another?

Yes, but only subject to the prior agreement of the fee structure and basis for charging together with ongoing monitoring of costs incurred. The WAO must continue to manage its costs effectively and should look to obtain value for money wherever possible whilst still maintaining the quality of its services. Local authorities must be given a clear description of the work to be undertaken in advance of the work starting including outcomes, outputs, including KPIs and the method of service delivery i.e. staff to be used. Local authorities should retain the right to challenge fees and where objectives etc. have not been met then a reimbursement / reduction in fees should be allowed as with any other service contract.

Question 2

If so, do you agree with the approach taken in sections 3 and 4 of the Draft Bill?

Yes

Question 3

Do you agree that the Wales Audit Office should be allowed to set its own terms and conditions for agreement work?

Yes. The examples quoted here equate to £30,000 over the four year period so are not material in the scope of benefiting the Welsh public sector to any great extent. However, the requirement to give a refund to the client as a result of the “no more than full cost rule” needs to be removed especially if the contract was won in a competitive exercise.

Question 4

If so, do you agree with the approach taken in section 2 of the Draft Bill?

Yes

Question 8

Do you agree that the Auditor General for Wales and the Chair of the Wales Audit Office should no longer be required to produce an interim report at least once a year, but a requirement to produce an interim report upon the Assembly's request should be included in legislation?

Yes subject to adequate performance information being made available to the Assembly to allow it to make an informed decision as to whether to request the WAO to produce an Interim Report.

Question 9

Yes

Question 12

Do you agree that existing legislation requiring the Auditor General for Wales to certify and lay an audited body's accounts and report within four months should be amended to:

- allow the Auditor General for Wales to lay a copy of the certified accounts and report after the four month deadline,
- require the Auditor General for Wales to explain to the Assembly why the four month deadline cannot be met, and
- require the Auditor General for Wales to lay the certified accounts and report as soon as reasonably practicable?

No. The document does not provide a valid enough reason for amending the four month target

Question 13

If so, do you agree with the approach taken in section 17 and Schedule 1 of the Draft Bill?

Yes

Question 24

Do you feel the Draft Bill should include provisions relating to:

- the lack of a value for money conclusion duty on the Auditor General for Wales and central government bodies;
- the absence of explicit provisions in statute for regularity opinions among many central government bodies;
- the overlapping laying requirements;
- Welsh data matching powers?

Yes, especially in relation to Welsh data matching powers

Question 25

Will any of the proposals included in the Draft Public Audit (Amendment) (Wales) Bill lead to any financial implications (for example, costs or benefits) for you or your organisation?

If you have identified financial implications for you or your organisation can you describe what these could be and provide an estimated cost (if possible).

It is unclear at this stage whether there would be any additional costs and the final outcome would probably be dependent upon how Question 1 is implemented.



**Ymateb gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru
i ymgynghoriad y Pwyllgor Cyllid
ar y Bil Archwilio Cyhoeddus (Diwygio) (Cymru) drafft**

Rwy'n falch o gael y cyfle i ymateb i ymgynghoriad y Pwyllgor Cyllid ar y Bil Archwilio Cyhoeddus (Diwygio) (Cymru) drafft.

Fel Ombwdsmon Gwasanaethau Cyhoeddus Cymru (OGCC), rwy'n ymchwilio i gwynion a wnaed gan aelodau o'r cyhoedd sydd wedi dioddef caledi neu anghyfiawnder drwy gamweinyddiaeth neu fethiant gwasanaeth gan gorff o fewn fy awdurdodaeth, sydd yn ei hanfod yn cynnwys yr holl sefydliadau sy'n darparu gwasanaethau cyhoeddus sydd wedi'u datganoli i Gymru. Mae'r rhain yn cynnwys:

- llywodraeth leol (cynghorau sir a chynghorau cymuned)
- y Gwasanaeth Iechyd Gwladol (gan gynnwys Meddygon Teulu a deintyddion)
- landlordiaid cymdeithasol cofrestredig (cymdeithasau tai)
- Llywodraeth Cymru, ynghyd â'i chyrrff nodedig.

Rwyf hefyd yn gallu ystyried cwynion am ofal cymdeithasol a drefnwyd yn breifat neu ofal cymdeithasol a ariennir, yn ogystal â gwasanaethau gofal lliniarol ac, o dan amgylchiadau penodol, agweddau o ofal iechyd a ariennir yn breifat.

Sylwadau cyffredinol

Yn gyffredinol, cefnogaf y cynigion a amlinellwyd yn y ddogfen ymgynghori. Er na fyddai hi'n briodol i mi fynegi barn ar drefniadau llywodraethant Swyddfa Archwilio Cymru (SAC), gwelaf yn sicr y manteision o alluogi SAC i fabwysiadu'r dull mwy hyblyg o godi ffioedd a threfnu gwaith cytundeb. Croesawaf yn enwedig y cynigion i newid y gofynion a osodir ar y Cynulliad gan y ddeddfwriaeth bresennol i ymgynghori â'r Prif Weinidog o ran:

- penodi Cadeirydd SAC;
- y trefniadau o ran tâl cydnabyddiaeth y Cadeirydd ac Archwilydd Cyffredinol Cymru (ACC); a
- dod â phenodiad y Cadeirydd i ben.

Credaf y bydd y newidiad arfaethedig yn cryfhau annibyniaeth y rolau hyn a'i fod yn addas o ystyried perthynas atebolrwydd agos rhwng ACC a'r Cynulliad Cenedlaethol Cymru.

Sylwadau cloi

Rwy'n hyderu y byddwch chi yn gweld fy sylwadau yn ddefnyddiol. Os dymunwch drafod unrhyw un o'r pwyntiau a wneuthum, mae croeso i chi gysylltu ag Ania Rolewska, Pennaeth Polisi (ania.rolewska@ombudsman.wales).



Nick Bennett

Ombwdsmon Gwasanaethau Cyhoeddus Cymru

Chwefror 2020

Consultation on the Draft Public Audit (Amendment) (Wales) Bill – Aneurin Bevan University Health Board response.

Email to: seneddfinance@assembly.wales.

Question	Question	Response
1	Do you agree that the Wales Audit Office should be given flexibility in how it charges and administers its fees by allowing it to broadly breakeven, taking one year with another?	We do not support cross subsidisation between bodies. No more than full cost should be charged to a body as a whole and refunds, if appropriate should be given. “Broadly breakeven, taking one year with another” should be defined more closely.
2	If so, do you agree with the approach taken in sections 3 and 4 of the Draft Bill?	See above
3	Do you agree that the Wales Audit Office should be allowed to set its own terms and conditions for agreement work?	We see no reasons why full cost plus a surplus margin should not be charged to bodies outside Wales and these surpluses used to benefit the public sector in Wales.
4	If so, do you agree with the approach taken in section 2 of the Draft Bill?	See above
5	Do you agree that the current Wales Audit Office Board quorum requirement for a majority of non-executive members should be retained in legislation?	Yes
6	Do you agree that if the majority of members present at a meeting of the Wales Audit Office Board are not non-executive members, an executive member should be allowed to continue in a non-voting capacity in order to satisfy the quorum requirement?	This appears a reasonable response
7	If so, do you agree with the approach taken in section 13 of the Draft Bill?	As above
8	Do you agree that the Auditor General for Wales and the Chair of the Wales Audit	Good practice should be followed. A report once a year does seem reasonable. Perhaps ways

	Office should no longer be required to produce an interim report at least once a year, but a requirement to produce an interim report upon the Assembly's request should be included in legislation?	could be looked at how to do this more cheaply, using a highlight report etc.
9	If so, do you agree with the approach taken in section 16 of the Draft Bill?	See above
10	Do you agree that the requirement to lay the annual report (on the exercise of functions of the Auditor General for Wales and Wales Audit Office) in paragraph 3(1) of Schedule 2 of the Public Audit (Wales) Act 2013 should be amended to require the external auditor to lay the report as part of the laying of the annual report and accounts?	This doesn't seem unreasonable
11	If so, do you agree with the approach taken in section 15 of the Draft Bill?	See above
12	Do you agree that existing legislation requiring the Auditor General for Wales to certify and lay an audited body's accounts and report within four months should be amended to: <ul style="list-style-type: none"> ▪ allow the Auditor General for Wales to lay a copy of the certified accounts and report after the four month deadline, ▪ require the Auditor General for Wales to explain to the Assembly why the four month deadline cannot be met, and ▪ require the Auditor General for Wales to lay the certified accounts and report as soon as reasonably practicable? 	This doesn't seem unreasonable
13	If so, do you agree with the approach taken in section 17 and Schedule 1 of the Draft Bill?	See above
14	Do you agree that engagement of the auditor of the Wales Audit Office should be a contractual matter between the Wales Audit	Yes

	Office and the auditor, with the appointment (and associated terms and conditions) being subject to the approval of the Assembly?	
15	If so, do you agree with the approach taken in section 14 of the Draft Bill?	See above
16	Do you agree that the Public Audit (Wales) Act 2013 should be amended to allow the appointment of a serving non-executive member to be extended for a second term of up to four years, subject to acceptable performance?	Yes
17	If so, do you agree with the approach taken in sections 7, 8 and 9 of the Draft Bill?	See above
18	Do you agree that the requirement for the Assembly to consult the First Minister on the following should be removed: <ul style="list-style-type: none"> ▪ the appointment of the Chair of the Wales Audit Office; ▪ the remuneration arrangements for the Chair and the Auditor General for Wales; and ▪ the termination of the Chair's appointment? 	Yes
19	Do you agree that the requirement for the Assembly to consult an appropriate person with oversight for public appointments on remuneration arrangements and other terms of appointment should be removed?	No strong view
20	Do you agree that a general provision should be included, permitting the Assembly to consult with any persons it deems appropriate before exercising any functions in relation to the Auditor General for Wales or the Wales Audit Office?	Yes
21	If so, do you agree with the approach taken in sections 6, 10 and 11 of the Draft Bill?	See above
22	Do you agree that section 5(3) of the Public Audit (Wales) Act 2013 should be amended to require the Assembly to publish a list of	No strong view

	restricted offices, positions or arrangements, which a former Auditor General for Wales would need to consult with the Assembly before accepting or entering into after leaving office, only if any such restrictions are identified?	
23	If so, do you agree with the approach taken in section 5 of the Draft Bill?	See above
24	Do you feel the Draft Bill should include provisions relating to: <ul style="list-style-type: none"> ▪ the lack of a value for money conclusion duty on the Auditor General for Wales and central government bodies; ▪ the absence of explicit provisions in statute for regularity opinions among many central government bodies; ▪ the overlapping laying requirements; ▪ Welsh data matching powers? 	Yes
25	Will any of the proposals included in the Draft Public Audit (Amendment) (Wales) Bill lead to any financial implications (for example, costs or benefits) for you or your organisation? If you have identified financial implications for you or your organisation can you describe what these could be and provide an estimated cost (if possible)?	Potentially if the provision to remove the full cost recovery per organisation is removed.
26	Do you have any other observations or general comments on the Public Audit (Wales) Act 2013 or the Committee's Draft Public Audit (Amendment) (Wales) Bill?	No

Consultation Document – Draft Public Audit (Amendment) (Wales) Bill

Proposal

To amend the Public Audit (Wales) Act 2013 to:

- remove the requirement that fees must not exceed the full cost of the function to which they relate, and
- enable the Wales Audit Office to ensure that the sum of the fees charged for all of the work undertaken is broadly equivalent to all of its expenditure in connection with that work, taking one year with another.

To retain the requirement for fees to be paid by the body to which the function relates in order to ensure transparency for audited bodies, effective engagement in the audit and to maintain the relationship between the auditor and audited body.

Question 1

Do you agree that the Wales Audit Office should be given flexibility in how it charges and administers its fees by allowing it to broadly breakeven, taking one year with another?

Whilst the Health Board broadly agrees with the proposed changes in how Wales Audit Office charges and administers fees, transparency of any new arrangements will be essential for audited bodies.

Question 2

If so, do you agree with the approach taken in sections 3 and 4 of the Draft Bill?

The Health Board agrees with the approach taken in sections 2 and 4 of the Draft Bill

Proposal

To amend the Public Audit (Wales) Act 2013 to remove the link between agreement work and the fee scheme to allow Wales Audit office to set its own terms and conditions. This would enable the Wales Audit Office to earn additional reasonable fees to reinvest in the organisation or surrender to the Welsh Consolidated Fund, subject to sufficient safeguards being in place to protect its statutory work and prevent conflicts of interests.

Question 3

Do you agree that the Wales Audit Office should be allowed to set its own terms and conditions for agreement work?

The Health Board agrees that the Wales Audit Office should be able to set its own terms and conditions for services provided to other public bodies including bodies outside of Wales (“agreement work”) rather than exercising the “no more than full cost rule”.

Question 4

If so, do you agree with the approach taken in section 2 of the Draft Bill?

The Health Board agrees with the approach taken in section 2 of the Draft Bill

Proposal

To retain the requirement for a non-executive member majority to ensure independent oversight and provide constructive challenge to the executive directors, but amend paragraph 28(3) of Schedule 1 of the Public Audit (Wales) Act 2013 to allow executive members to remain at the meeting in a non-voting capacity when there is not a majority of non-executive Members present.

Question 5

Do you agree that the current Wales Audit Office Board quorum requirement for a majority of non-executive members should be retained in legislation?

The Health Board agrees that the quorum requirement for a majority of non-executive members should be retained in legislation to ensure independent oversight and provide constructive challenges to the executive directors

Question 6

Do you agree that if the majority of members present at a meeting of the Wales Audit Office Board are not non-executive members, an executive member should be allowed to continue in a non-voting capacity in order to satisfy the quorum requirement?

The Health Board recognises the problem that the quorum provision can cause as non-executive members only have a majority of one on the board and agrees with the proposal that, where necessary, an executive member should adopt a non-voting role in order to satisfy the quorum requirement and allow meetings to proceed.

Question 7

If so, do you agree with the approach taken in section 13 of the Draft Bill?

The Health Board agrees with the approach taken in section 13 of the Draft Bill

Proposal

To replace the requirement in paragraph 3(3) of Schedule 2 of the Public Audit (Wales) Act 2013, to produce an interim report at least once a year, with a provision requiring the production of an interim report (as currently defined) if requested by the Assembly.

Question 8

Do you agree that the Auditor General for Wales and the Chair of the Wales Audit Office should no longer be required to produce an interim report at least once a year, but a requirement to produce an interim report upon the Assembly's request should be included in legislation?

The Health Board recognises that the routine production of interim reports appears to be disproportionately resource consuming and agrees that this requirement should cease as the Assembly can request that the AGW and Chair of the WAO produce interim reports at any time during a financial year.

Question 9

If so, do you agree with the approach taken in section 16 of the Draft Bill?

The Health Board agrees with the approach taken in section 16 of the Draft Bill

Proposal

To simplify the provisions in the Public Audit (Wales) Act 2013 to enable:

- the Auditor General for Wales and the Chair of the Wales Audit Office to provide the external auditor of the Wales Audit Office with their annual report no later than five months after the end of the financial year; and
- subsequently require the external auditor to lay the report as part of the laying of the annual accounts.

Question 10

Do you agree that the requirement to lay the annual report (on the exercise of functions of the Auditor General for Wales and Wales Audit Office) in paragraph 3(1) of Schedule 2 of the Public Audit (Wales) Act 2013 should be amended to require the external auditor to lay the report as part of the laying of the annual report and accounts?

The Health Board agrees with the proposal from the Wales Audit Office for their annual report to be laid by their external auditor as part of the laying of their annual report and accounts.

Question 11

If so, do you agree with the approach taken in section 15 of the Draft Bill?

The Health Board agrees with the approach taken in section 15 of the Draft Bill

Proposal

To amend enactments that specify a four month deadline for the Auditor General for Wales to certify and lay a copy of an audited body's accounts and report to:

- allow the Auditor General for Wales to lay a copy of the certified accounts and report after the four month deadline;
- require the Auditor General for Wales to explain to the Assembly why the four month deadline cannot be met; and
- require the Auditor General for Wales to lay the certified accounts and report as soon as reasonably practicable.

Question 12

Do you agree that existing legislation requiring the Auditor General for Wales to certify and lay an audited body's accounts and report within four months should be amended to:

- allow the Auditor General for Wales to lay a copy of the certified accounts and report after the four month deadline,
- require the Auditor General for Wales to explain to the Assembly why the four month deadline cannot be met, and
- require the Auditor General for Wales to lay the certified accounts and report as soon as reasonably practicable?

The Health Board agrees with the proposal to amend the deadline for certifying and laying accounts where the AGW needs to provide the audited body with sufficient time to comment on audit findings.

Question 13

If so, do you agree with the approach taken in section 17 and Schedule 1 of the Draft Bill?

The Health Board agrees with the approach taken in section 17 and Schedule 1 of the Draft Bill

Proposal

To amend the Public Audit (Wales) Act 2013 to allow the Wales Audit Office to appoint its external auditors, subject to the Assembly's approval of:

- the appointment,
- the terms of appointment, and
- the method of procurement.

Question 14

Do you agree that engagement of the auditor of the Wales Audit Office should be contractual matter between the Wales Audit Office and the auditor, with the appointment (and associated terms and conditions) being subject to the approval of the Assembly?

The Health Board agrees with proposals to simplify the appointment process for appointment of the auditors of the Wales Audit Office accounts.

Question 15

If so, do you agree with the approach taken in section 14 of the Draft Bill?

The Health Board agrees with the approach taken in section 14 of the Draft Bill

Proposal

To amend the Public Audit (Wales) Act 2013 to allow the appointment of a serving non-executive member to be extended for a second term of up to four years, subject to acceptable performance.

Question 16

Do you agree that the Public Audit (Wales) Act 2013 should be amended to allow the appointment of a serving non-executive member to be extended for a second term of up to four years, subject to acceptable performance?

The Health Board agrees with the proposal that, subject to acceptable performance, the Assembly should be able to reappoint serving non-executive directors of the Wales Audit Office for a second term of office.

Question 17

If so, do you agree with the approach taken in sections 7, 8 and 9 of the Draft Bill?

The Health Board agrees with the approach taken in sections 7 8 and 9 of the Draft Bill

Proposals

To remove the requirements placed on the Assembly to consult the First Minister on:

- the appointment of the Chair of the Wales Audit Office,
- the remuneration arrangements for the Chair and the Auditor General for Wales, and
- the termination of the Chair's appointment

in the interest of protecting the independence of those roles.

To remove the requirement to consult "an appropriate person with oversight for public appointments" on remuneration arrangements and other terms of appointment for WAO non-executive members and the Chair and replace it with a general provision permitting the Assembly to consult with any persons it deems appropriate.

To amend section 5(3) of the Public Audit (Wales) Act 2013 to require the Assembly to publish a list of restricted offices, positions or arrangements, which a former Auditor General for Wales would need to consult with the Assembly before accepting or entering into after leaving office, only if any such restrictions are identified.

Question 18

Do you agree that the requirement for the Assembly to consult the First Minister on the following should be removed:

- the appointment of the Chair of the Wales Audit Office;
- the remuneration arrangements for the Chair and the Auditor General for Wales; and
- the termination of the Chair's appointment?

The Health Board agrees with the proposal from the AGW, WAO, Assembly Commission and Welsh Government that the requirement to consult the First Minister on matters of appointments and remuneration should be removed.

Question 19

Do you agree that the requirement for the Assembly to consult an appropriate person with oversight for public appointments on remuneration arrangements and other terms of appointment should be removed?

The Health Board agrees with the proposal to replace the requirement to consult an appropriate person with oversight for public appointments with a general provision permitting the Assembly to consult with persons that it deems appropriate.

Question 20

Do you agree that a general provision should be included, permitting the Assembly to consult with any persons it deems appropriate before exercising any functions in relation to the Auditor General for Wales or the Wales Audit Office?

As per response to question 19 above

Question 21

If so, do you agree with the approach taken in sections 6, 10 and 11 of the Draft Bill?

The Health Board agrees with the approach taken in sections 6, 10 and 11 of the Draft Bill

Question 22

Do you agree that section 5(3) of the Public Audit (Wales) Act 2013 should be amended to require the Assembly to publish a list of restricted offices, positions or arrangements, which a former Auditor General for Wales would need to consult with the Assembly before accepting or entering into after leaving office, only if any such restrictions are identified?

The Health Board agrees with the proposal that a list of restricted offices should only be published when, and if, any such restrictions are identified.

Question 23

If so, do you agree with the approach taken in section 5 of the Draft Bill?

The Health Board agrees with the approach taken in section 5 of the Draft Bill

Other Questions

Question 25

Will any of the proposals included in the Draft Public Audit (Amendment) (Wales) Bill lead to any financial implications (for example, costs or benefits) for you or your organisation?

The Health Board does not anticipate that there will be any financial implications arising from the proposals included in the Draft Public Audit (Amendment) (Wales) Bill.

If you have identified financial implications for you or your organisation can you describe what these could be and provide an estimated cost (if possible).

Question 26

Do you have any other observations or general comments on the Public Audit (Wales) Act 2013 or the Committee's Draft Public Audit (Amendment) (Wales) Bill?

The Health Board does not have any other observations or general comments to make on the Public Audit (Wales) Act 2013 or the Committee's Draft Public Audit (amendment) (Wales) Bill.



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Dyddiad cyhoeddi: 7 Chwefror 2020

Annwyl Llŷr

Ymgynghoriad ar y Bil Archwilio Cyhoeddus (Diwygio) (Cymru) Drafft

Diolch i chi am eich llythyr dyddiedig 18 Rhagfyr 2019 yn ein hysbysu bod y Pwyllgor wedi cyhoeddi ei adroddiad ar ei waith craffu ôl-ddeddfwriaethol ar Ddeddf Archwilio Cyhoeddus (Cymru) 2013 (PAWA 2013). Rydym yn croesawu'n fawr gasgliad y Pwyllgor bod angen diwygio PAWA 2013, ac rydym yn ddiolchgar iawn bod y Pwyllgor wedi cynhyrchu bil drafft ar gyfer ymgynghori.

Atodwn ein hatebion i gwestiynau eich ymgynghoriad, a gobeithiwn y byddant o gymorth i chi. Byddem yn hapus iawn i drafod y materion hyn ymhellach.

Yn gywir

Adrian Crompton
Archwilydd Cyffredinol Cymru

Isobel Everett
Cadeirydd, Swyddfa Archwilio
Cymru

Atodiad: Ymateb i ymgynghoriad ar Fil Archwilio Cyhoeddus (Diwygio) (Cymru) Drafft

C1. A ydych yn cytuno y dylid rhoi hyblygrwydd i Swyddfa Archwilio Cymru o ran sut y mae'n codi ac yn gweinyddu ei ffioedd drwy ganiatáu iddi adennill costau yn fras, gan gymryd un flwyddyn gydag un arall?

- (a) Ydym. Bydd disodli'r rheol gaeth "dim mwy na chost lawn" yn adran 23 o Ddeddf Archwilio Cyhoeddus (Cymru) 2013 â'r hyblygrwydd i adennill costau gan gymryd un flwyddyn gydag un arall yn dileu anghymhelliad sylweddol i wella effeithlonrwydd archwilio. Fel y soniwyd yn ein llythyr, dyddiedig 3 Mai 2018, mae'r rheol dim mwy na chost lawn yn golygu bod rhaid ad-dalu o fewn y flwyddyn unrhyw arbedion a wneir drwy fod yn fwy effeithlon, ac mae hynny'n atal ailddyrrannu archwilydd i gyflawni gwaith arall. Gyda'r gofyniad i adennill costau'n fras ar draws blynnyddoedd, yn hytrach nag yn union gysylltiedig â phob swyddogaeth ym mhob corff bob blwyddyn, gellir cadw arbedion yn y tymor byr i'w gwneud yn bosibl datblygu dulliau archwilio ymhellach ynghyd â datblygu gwerth ychwanegol mewn mannau eraill. Byddai'r gallu i fabwysiadu dull ychydig mwy hirdymor yn ei gwneud yn bosibl cyflawni newidiadau ym maint a setiau sgiliau'r gweithlu mewn ffordd fwy pwyllog a chynlluniedig ac yn lleihau'r risg o fesurau diswyddo drud.
- (b) O ran y cymhlethdod gweinyddol a achosir gan y rheol, fel yr amlinellwyd gennym yn ein llythyr dyddiedig 3 Mai 2018, mae'r rheol dim mwy na chost lawn yn arwain at gost weinyddol i SAC a chyrrff a archwilir o ran prosesu newidiadau bychain ac at gwynion ynghylch amrywiadau mewn ffioedd o flwyddyn i flwyddyn. Mae ymdrin â chwynion o'r fath yn llyncu swm sylweddol ac anghymesur o amser. Bydd cymryd un flwyddyn gydag un arall yn ei gwneud yn bosibl llyfnhau i raddau rhwng blynnyddoedd ac felly leihau'r amrywiad yn y ffioedd. Dylai hyn arwain at lai o gwynion a hefyd rhoi'r fantais i'r cyrrff a archwilir o gael ffioedd fydd yn haws eu rhagweld, ac felly eu cynorthwyo i gyllido'n fwy effeithiol.

C2. Os felly, a ydych yn cytuno â'r dull a gymerwyd yn adran 3 ac adran 4 o'r Bil Drafft?

- (a) Rydym yn credu y gall y dull cyffredinol fod yn gymorth i fynd i'r afael â rhai o'r problemau a achosir gan y rheol bresennol o ddim mwy na chost lawn, ond awgrymwn fod yna rai materion i'w clirio.
- (b) Mae'r ddarpariaeth cywerthedd bras yn y Bil Drafft yn fwy caeth na'r dull a awgrymwyd gennym ni ym mis Mehefin 2018 am ei fod yn gofyn am gydgasglu o ran swyddogaethau penodol ym mhob corff yn hytrach nag o ran gwaith ar draws y cyrrff i gyd. (Mae hefyd yn fwy caeth na deddfwriaeth yr Alban, lle y gosodir y ffin gydgasglu fel "dosbarthiadau o achosion", a ddehonglir fel pob sector yn hytrach na chyrrff unigol). Bydd hyn yn osgoi trawsgymhorthdal rhwng

cyrff. Byddai trawsgymhorthdal o'r fath yn aml yn deg ac yn briodol hefyd, megis lle mae technegau archwilio newydd wrthi'n cael eu cyflwyno. (Yn aml, bydd ar y cyrff cyntaf, fydd yn destun datblygiadau o'r fath, angen mwy o amser archwilio na chyrff diweddarach. Gyda chydgasglu'r costau yn cael ei gyfyngu i bob corff bydd y cyrff cyntaf, heb ddim bai arnynt hwy, yn wynebu ffioedd uwch na'r rhai diweddarach.)

- (c) Nodwn fod tudalen 5 y dogfennau ymgynghori yn esbonio barn y Pwyllgor "[y dylid cadw'r] gofyniad i ffioedd gael eu talu gan y corff y mae'r swyddogaeth yn ymwneud ag ef er mwyn sicrhau tryloywder i gyrrff a archwilir...". Rydym yn deall bod cydgasglu o ran pob corff yn angenrheidiol i gefnogi gofyniad tâl o'r fath ac rydym yn gweld rhinweddau'r farn hon. Er hynny, rydym yn meddwl nad yw'r rhinweddau hynny yn gorbwyso manteision mwy o symlrwydd a thegwch ein cynigion ym mis Mehefin 2018.
- (d) Wedi ystyried y mater hwn ymhellach, rydym o'r farn y gellid mynd i'r afael yn ddigonol â thegwch ac, i ryw raddau, â chymhlethdod drwy addasu'r gofyniad cydgasglu fel bod gwariant sy'n cael ei ariannu gan gyflenwad o Gronfa Gyfunol Cymru mewn perthynas â gwaith mewn corff yn cael ei ddiystyru i ddibenion cyfrifo ffioedd. Yn amodol ar gymeradwyaeth y Cynulliad, wrth gwrs, byddai hyn yn golygu bod modd i'r gwaith o gychwyn defnyddio technegau newydd yn gynnar gael ei ariannu gan Gronfa Gyfunol Cymru yn hytrach na chan y cyrff fydd y rhai cyntaf i fod yn ddarostyngedig i dechnegau o'r fath. Byddai hefyd yn galluogi parhad, er enghraifft, ein dull presennol o annog cyfranogiad gwirfoddol mewn paru data drwy bennu ffi nil.
- (e) Mae gennym hefyd y pryderon a ganlyn ynghylch adrannau 3 a 4 o'r Bil Drafft, y gobeithiwn y gellir mynd i'r afael â hwy drwy fireinio'r darpariaethau:
- i. Mae adran 23 o Ddeddf 2013 fel y câi ei diwygio gan y Bil Drafft yn ymddangos fel pe na bai'n berthnasol ond i'r pwerau a'r dyletswyddau i godi tâl, y cyfeirir atynt yn benodol yn yr adran honno (yn is-adrannau (3) a (4)). Ond mae'r is-adran (6) newydd yn cyfeirio'n effeithiol at yr holl ddeddfiadau hynny, y caiff SAC godi ffi danynt (gweler adran 24 (2) (a)), sy'n lletach na phwerau adran 23 i godi tâl). Ymddengys bod hyn yn gadael rhai ffioedd pwysig, megis ffioedd archwilio llywodraeth leol, y tu allan i gwmpas adran 23. Er mwyn cysondeb ac i osgoi cymhlethdod diangen, hoffem i bob ffi (ar wahân i ffioedd gwaith cytundeb) gael ei chwmpasu yn y gofyniad cywerthedd bras.
 - ii. Byddai adran 3 o'r Bil Drafft yn diwygio adran 23 (5) (b) o Ddeddf 2013 fel ei bod yn darparu "y *gall* (ffioedd) gael eu cydgasglu a'u codi ar sail cywerthedd bras (gweler is-adran (6))". Yna, mae'r is-adran newydd (6) yn darparu bod "*rhaid* i SAC geisio sicrhau bod cyfanswm y ffioedd a godir" yn cael ei godi ar sail cywerthedd bras. Nid ydym yn glir a fwriedir cael disgresiwn o ran y sail y codir ffioedd arni, e.e. y caiff SAC godi ffioedd am swyddogaethau unigol heb ystyried cywerthedd bras.

- iii. Yn ein hawgrym ym mis Mehefin 2018, defnyddiasom y term "*gwaith*", ond mae'r Bil Drafft presennol yn defnyddio'r gair "*swyddogaethau*". Rydym yn bryderus nad yw "*swyddogaethau*" efallai'n cwmpasu'r pwerau a'r dyletswyddau sydd ymhlyg. Efallai nad yw hyn yn wir, ond byddem yn croesawu eglurder.

C3. A ydych yn cytuno y dylid caniatáu i Swyddfa Archwilio Cymru bennu ei thelerau a'i hamodau ei hun ar gyfer *gwaith* cytundeb?

Ydym. Fel y nodwyd yn y ddogfen ymgynghori, mae cyfyngiad presennol y rheol dim mwy na chost lawn yn golygu na all Swyddfa Archwilio Cymru gadw gwargedau sy'n deillio o waith cytundeb. Ni cheir defnyddio gwargedau o'r fath i ariannu gweithgareddau a datblygiadau prif ffrwd, na hyd yn oed eu hildio i Gronfa Gyfunol Cymru. Y canlyniad yw colli cyfleoedd (er mai rhai gweddol fychain) i gyfrannu at gyllid cyhoeddus Cymru. At hynny, mae'r angen i weinyddu ad-daliadau yn dasg ychwanegol nad yw'n rhoi fawr ddim budd, os o gwbl, i gyrff cyhoeddus Cymru.

C4. Os felly, a ydych yn cytuno â'r dull a gymerwyd yn adran 2 o'r Bil Drafft?

Ydym. Ymddengys bod darpariaethau adran 2 yn cael gwared yn effeithiol ac yn briodol ar gyfyngiad y rheol dim mwy na'r gost lawn mewn perthynas â *gwaith* cytundeb.

C5. A ydych yn cytuno y dylid cadw gofyniad presennol Bwrdd Swyddfa Archwilio Cymru o ran cworwm mewn deddfwriaeth, sef y gofyniad am fwyafrif o aelodau anweithredol?

Na. Nid ydym yn credu bod cael y gofyniad hwn mewn deddfwriaeth yn angenrheidiol nac yn ddefnyddiol. Fel y nodwyd yn y papur ymgynghori, mae'r gofyniad cworwm statudol o fwyafrif anweithredol yn gwneud SAC yn dueddol i fod heb gworwm. Fodd bynnag, gyda newidiadau yn y darpariaethau i ganiatáu i aelod sy'n gyflogai (gan gynnwys aelod sy'n gyflogai etholedig) barhau i fod yn bresennol fel sylwedydd, credwn y dylai cadw gofyniad y cworwm fod yn llai o broblem nag y bu hyd yma.

C6. Os na fydd mwyafrif yr aelodau sy'n bresennol mewn cyfarfod o fwrdd Swyddfa Archwilio Cymru yn aelodau anweithredol, a ydych yn cytuno y dylid caniatáu i aelod gweithredol barhau'n bresennol mewn cyfarfod, ond heb yr hawl i bleidleisio, er mwyn bodloni'r gofyniad o ran cworwm?

Ydym. Byddai hyn yn helpu i fynd i'r afael â'r broblem bresennol, sef bod cyfraniad aelodau sy'n gyflogeion, gan gynnwys aelodau etholedig, yn cael ei leihau gan reol y mwyafrif anweithredol statudol pan fydd aelod anweithredol yn methu â bod

yn bresennol. Fel y dywedasom yn ein llythyr dyddiedig 3 Mai 2018, mae'r broblem hon yn groes i gefnogaeth ddatganedig y Llywodraeth i aelodau sy'n gyflogeion etholedig.

C7. Os felly, a ydych yn cytuno â'r dull a gymerwyd yn adran 13 o'r Bil Drafft?

Yn fras, ydym. Er ei bod yn ddefnyddiol bod y Nodiadau Esboniadol yn dweud na fyddai angen i aelod sy'n gyflogai adael cyfarfod i sicrhau bod yna gworwm, mae gennym, fodd bynnag, rai ymholiadau ynghylch eglurder y darpariaethau drafft. Credwn y gallai fod yn ddefnyddiol pe bai paragraff presennol 28 (3) o Atodlen 1 i Ddeddf 2013 yn cael ei ddiwygio i gydnabod ei fod yn ddarostyngedig i baragraff newydd 28 (4) ac i ystyried nad yw aelod sy'n gyflogai, sy'n bresennol fel sylwedydd, yn "bresennol" i ddibenion penderfynu a oes yna gworwm.

C8. A ydych yn cytuno na ddylai fod yn ofynnol mwyach i Archwilydd Cyffredinol Cymru a Chadeirydd Swyddfa Archwilio Cymru lunio adroddiad interim o leiaf unwaith y flwyddyn, ond y dylid cynnwys gofyniad mewn deddfwriaeth i lunio adroddiad interim ar gais y Cynulliad?

Ydym. Nid ydym yn credu bod angen gwneud darpariaeth mewn deddfwriaeth ar gyfer unrhyw adroddiadau interim. Ni allwn ragweld sefyllfa lle na fyddem yn darparu adroddiad ar gais (a, phe bai'n mynd i hynny, mae adran 37 o Ddeddf Llywodraeth Cymru 2006 yn rhoi pŵer i'r Cynulliad alw am wybodaeth), ac ystyriwn fod darpariaeth ar gyfer adrodd ar gais, yn hytrach nag o leiaf unwaith y flwyddyn, yn ddatblygiad synhwyrol. Fel y nodwyd gennym yn ein llythyr ar 3 Mai 2018, mae'r ystyriaeth gyfyngedig a gaiff adroddiadau interim yn dangos bod y gofyniad i'w cynhyrchu o leiaf unwaith y flwyddyn yn anghymesur.

C9. Os felly, a ydych yn cytuno â'r dull a gymerwyd yn adran 16 o'r Bil Drafft?

Ydym. Mae adran 16 yn ymddangos yn briodol.

C10. A ydych yn cytuno y dylid newid y gofyniad i osod yr adroddiad blynyddol (ar arfer swyddogaethau Archwilydd Cyffredinol Cymru a Swyddfa Archwilio Cymru) ym mharagraff 3(1) o Atodlen 2 i Ddeddf Archwilio Cyhoeddus (Cymru) 2013 i'w gwneud yn ofynnol i'r archwilydd allanol osod yr adroddiad wrth osod yr adroddiad blynyddol a'r cyfrifon?

Ydym. Mae hwn yn ateb synhwyrol i'r sefyllfa anfoddhaol braidd lle mae'n rhaid, oherwydd y gofynion adrodd statudol cyfochrog, i'r un adroddiad gael ei osod ddwywaith: unwaith gan yr Archwilydd Cyffredinol ar y cyd â Chadeirydd SAC, ac

unwaith gan archwilydd allanol SAC. Nid yw dyblygu a chymhlethdod o'r fath yn gymorth o ran eglurder cyfrifoldeb.

C11. Os felly, a ydych yn cytuno â'r dull a gymerwyd yn adran 15 o'r Bil Drafft?

Ydym. Mae adran 15 yn ymddangos yn briodol.

C12. A ydych yn cytuno y dylid diwygio'r ddeddfwriaeth bresennol sy'n ei gwneud yn ofynnol i Archwilydd Cyffredinol Cymru ardystio a gosod cyfrifon ac adroddiad corff a archwilir o fewn pedwar mis:

- ✦ i ganiatáu i Archwilydd Cyffredinol Cymru osod copi o'r cyfrifon ardystiedig a'r adroddiad ar ôl y terfyn amser o bedwar mis,
- ✦ i'w gwneud yn ofynnol i Archwilydd Cyffredinol Cymru esbonio i'r Cynulliad pam na ellir bodloni'r terfyn amser o bedwar mis, ac
- ✦ i'w gwneud yn ofynnol i Archwilydd Cyffredinol Cymru osod y cyfrifon ardystiedig a'r adroddiad cyn gynted ag y bo'n rhesymol ymarferol?

Ydym. Bydd darparu ar gyfer gweithdrefn frys o'r fath yn caniatáu digon o gyfle i gyrff a thrydydd partiön ymateb i feirniadaeth mewn adroddiadau ar gyfrifon cyn iddynt gael eu gosod a'u cyhoeddi (h.y. cyfiawnder naturiol), heb dorri'r terfyn amser statudol. Ni fydd hyn yn esgus hawdd a pharod am oedi, gan y bydd angen i'r Archwilydd Cyffredinol esbonio ym mhob achos pam na ellir bodloni'r terfyn amser.

C13. Os felly, a ydych yn cytuno â'r dull a gymerwyd yn adran 17 ac Atodlen 1 i'r Bil Drafft?

Ydym. Ymddengys y byddai darpariaethau'r Bil Drafft yn gweithredu'r cynnig uchod yn foddhaol.

C14. A ydych yn cytuno y dylai penodiad archwilydd Swyddfa Archwilio Cymru fod yn fater cytundebol rhwng Swyddfa Archwilio Cymru a'r archwilydd, ac y dylai'r penodiad (a'r telerau a'r amodau cysylltiedig) fod yn amodol ar gymeradwyaeth y Cynulliad?

- (a) Ydym. Mae cael contract rhwng Swyddfa Archwilio Cymru a'i harchwilydd yn symleiddio trefniadau mewn ffordd ddefnyddiol drwy wneud rhwymedigaethau yn uniongyrchol. Ar hyn o bryd, mae angen cytundeb cydlythyr i amddiffyn Comisiwn y Cynulliad rhag hawliadau gan ei gontractwr (yr archwilydd), er

enghraifft, am fethiant ar ran Swyddfa Archwilio Cymru i dalu ffioedd archwilio. Yn yr un modd, mae angen trefniant o'r fath i ddiogelu Swyddfa Archwilio Cymru rhag difrod (e.e. i systemau TG) a achoswyd gan archwilydd esgeulus a benodwyd gan y Cynulliad. Mae gwneud trefniadau o'r fath yn ychwanegu cymhlethdod sylweddol, sy'n faich ychwanegol ar staff caffael Comisiwn y Cynulliad a Swyddfa Archwilio Cymru hefyd.

- (b) Dylai gwneud y penodiad yn amodol ar gymeradwyaeth y Cynulliad fod o gymorth i sicrhau nad yw SAC yn contractio gydag archwilydd anaddas, megis un nad yw'n meddu ar gymwysterau neu adnoddau addas. Mae trefniant cymeradwyo o'r fath yn cadw'r fantais hon o benodiad gan y Cynulliad (a chontract gyda Chomisiwn y Cynulliad), heb barhau anfantais yr angen am gytundeb cydlythyr.

C15. Os felly, a ydych yn cytuno â'r dull a gymerwyd yn adran 14 o'r Bil Drafft?

Ydym. Ymddengys bod adran 14 y Bil Drafft yn rhoi'r cynnig uchod ar waith yn foddhaol.

C16. A ydych yn cytuno y dylid diwygio Deddf Archwilio Cyhoeddus (Cymru) 2013 i'w gwneud yn bosibl ymestyn penodiad aelod anweithredol sy'n gwasanaethu ar y Bwrdd am ail dymor o hyd at bedair blynedd?

Ydym. Byddai hyn yn symleiddio'r trefniadau penodi ac yn eu rhesymoli. Mae'r gofyniad presennol i aelodau anweithredol sydd yn y swydd fod yn destun proses gystadlu lawn er mwyn gwasanaethu ail dymor yn ddianghenraid o feichus i'r aelodau anweithredol ac i'r Cynulliad. Mae hefyd yn tueddu i dynnu oddi wrth lefel briodol o barhad ar y Bwrdd.

C17. Os felly, a ydych yn cytuno â'r dull a gymerwyd yn adran 7, adran 8 ac adran 9 o'r Bil Drafft?

Ydym. Ymddengys bod adrannau 7, 8 a 9 o'r Bil Drafft yn gweithredu'r cynigion i ddiwygio penodi yn foddhaol.

C18 A ydych yn cytuno y dylid dileu'r gofyniad i'r Cynulliad ymgynghori â'r Prif Weinidog ynghylch y materion a ganlyn:

- ✦ penodi Cadeirydd Swyddfa Archwilio Cymru;
- ✦ y trefniadau o ran tâl y Cadeirydd ac Archwilydd Cyffredinol Cymru; a
- ✦ dod â phenodiad y Cadeirydd i ben?

Ydym, rydym yn cytuno y dylid dileu'r gofynion hyn i ymgynghori â'r Prif Weinidog ynghylch penodi, talu a therfynu cyfnod Cadeirydd Swyddfa Archwilio Cymru. Mae'r gofynion yn creu'r risg o ganfyddiad, os nad perygl gwirioneddol, fod corff a archwilir yn cael dylanwad amhriodol ar ddewis person allweddol sy'n gyfrifol am fonitro a chynghori ei archwilydd. Yn yr un modd, mae'r gallu i ddylanwadu ar y gydnabyddiaeth a roddir i'r Archwilydd Cyffredinol yn bygwth tanseilio annibyniaeth yr Archwilydd Cyffredinol.

C19. A ydych yn cytuno y dylid dileu'r gofyniad i'r Cynulliad ymgynghori â pherson priodol sydd â goruchwyliaeth dros benodiadau cyhoeddus ynglŷn â threfniadau talu cydnabyddiaeth a thelerau eraill sy'n ymwneud â phenodiad?

Ydym, rydym yn cytuno y dylid dileu'r gofyniad hwn. Nid yw'n glir pwy sy'n berson priodol sydd â goruchwyliaeth dros benodiadau cyhoeddus, mewn perthynas â chydabyddiaeth a thelerau eraill penodi aelodau anweithredol o Swyddfa Archwilio Cymru a'r Archwilydd Cyffredinol.

C20. A ydych yn cytuno y dylid cynnwys darpariaeth gyffredinol sy'n caniatáu i'r Cynulliad ymgynghori ag unrhyw berson sy'n briodol yn ei farn ef cyn arfer unrhyw swyddogaethau mewn perthynas ag Archwilydd Cyffredinol Cymru neu Swyddfa Archwilio Cymru?

Ydym. Dylai darpariaeth o'r fath sicrhau y caiff y Cynulliad, heb unrhyw amheuaeth, ymgysylltu â phersonau sydd â gwybodaeth a phrofiad perthnasol i gynorthwyo'r Cynulliad. Er enghraifft, byddai'n ei gwneud yn glir y gallai Cadeirydd SAC gynorthwyo gyda safbwyntiau ynghylch perfformiad a chydbwysedd sgiliau'r swyddogion anweithredol presennol. Dylai hyn fod o gymorth i alluogi'r Cynulliad i benodi bwrdd cydlynol i SAC, gydag Aelodau â sgiliau cydategol, ac felly helpu i sicrhau ei fod yn effeithiol.

C21. Os felly, a ydych yn cytuno â'r dull a gymerwyd yn adran 6, adran 10 ac adran 11 o'r Bil Drafft?

Ydym. Ymddengys bod adrannau 6, 10 ac 11 o'r Bil Drafft yn gweithredu'r rhesymoli ar y gofynion ymgynghori uchod yn foddhaol.

C22. A ydych yn cytuno y dylid diwygio adran 5(3) o Ddeddf Archwilio Cyhoeddus (Cymru) 2013 i'w gwneud yn ofynnol i'r Cynulliad gyhoeddi rhestr o swyddi neu drefniadau cyfyngedig, y byddai angen i gyn-

Archwilydd Cyffredinol Cymru ymgynghori â'r Cynulliad yn eu cylch cyn eu derbyn neu ymrwymo iddynt ar ôl gadael y swydd, ond dim ond os bydd unrhyw gyfyngiadau o'r fath wedi'u nodi?

Ydym, rydym yn cytuno mai dim ond pan gaiff swyddi o'r fath eu nodi y dylid cyhoeddi rhestr o swyddi a threfniadau y byddai angen i gyn-Archwilydd Cyffredinol ymgynghori yn eu cylch. Mae rhestrau'r swyddi a'r gweithgareddau cyfyngedig a nodir yn adran 5 (5) i (7) o Ddeddf 2013 mor helaeth fel ei bod yn anodd gweld y byddai angen rhestru rhagor.

C23. Os felly, a ydych yn cytuno â'r dull a gymerwyd yn adran 5 o'r Bil Drafft?

Ydym. Ymddengys bod adran 5 o'r Bil Drafft yn rhesymoli gofynion Deddf 2013 mewn ffordd synhwyrol.

C24. A ydych yn teimlo y dylai'r Bil Drafft gynnwys darpariaethau sy'n ymwneud â'r materion a ganlyn:

- ✦ **y diffyg dyletswydd ar Archwilydd Cyffredinol Cymru i gyrraedd casgliad gwerth am arian mewn cyrff llywodraeth ganolog;**
- ✦ **absenoldeb darpariaeth benodol mewn statud ar gyfer barn rheoleidd-dra ymhlith llawer o gyrff llywodraeth ganolog;**
- ✦ **gofynion gosod sy'n gorgyffwrdd;**
- ✦ **pwerau paru data Cymru?**

Ydym, ym mhob un o'r pedwar achos:

- (a) **Diffyg dyletswydd i ddod i gasgliad gwerth am arian mewn cyrff llywodraeth ganolog** — fel y nodwyd yn y ddogfen ymgynghori, mae diffyg dyletswydd o'r fath yn golygu bod craffu ar gyrff llywodraeth ganolog yn gyffredinol yn llai helaeth i raddau na'r craffu ar y GIG a llywodraeth leol. Efallai y byddai o gymorth pe baem yn ychwanegu, er bod digonolrwydd rhai trefniadau ar gyfer sicrhau gwerth am arian yn digwydd cael ei archwilio fel rhan o archwiliad cyfrifon, megis digonolrwydd rheolaethau cyflogres, na fydd eraill, megis cadernid trefniadau caffael, yn cael eu harchwilio ond os bydd astudiaeth benodol yn cael ei chynnal neu os bydd pryderon penodol ynghylch rheoleidd-dra yn codi sy'n gorgyffwrdd â threfniadau gwerth am arian, megis diffyg proses gyfreithlon. Mae hyn yn golygu bod yna fylchau wrth ystyried y trefniadau ar gyfer sicrhau gwerth am arian yn y llywodraeth ganolog.
- (b) Dylid nodi, er bod yna orgyffwrdd rhwng gofynion rheoleidd-dra a gofynion gwerth am arian, nad yw'r gofynion hyn yr un peth. Nid yw'r gofyniad i'r

Archwilydd Cyffredinol ddarparu barn ynghylch rheoleidd-dra yn darparu casgliad gwerth am arian. Er bod Rheoli Arian Cyhoeddus Cymru a memoranda Swyddogion Cyfrifyddu yn cynnwys gofyniad i Swyddogion Cyfrifyddu gymryd cyfrifoldeb personol am:

"Werth am arian, gan sicrhau bod prosesau caffael, prosiectau a phrosesau'r sefydliad yn cael eu gwerthuso a'u hasesu'n systematig i roi hyder ynghylch addasrwydd, effeithiolrwydd, doethineb, ansawdd, gwerth da, a fernir ar gyfer y sector cyhoeddus yn ei gyfanrwydd",

mae hwn yn ofyniad ar wahân i'r cyfrifoldeb am:

"Reoleidd-dra a phriodoldeb ... gan gynnwys ceisio cymeradwyaeth ar gyfer unrhyw wariant y tu allan i'r dirprwyaethau arferol neu o bosibl y tu allan i'r cwmpas perthnasol ... "

(gweler paragraff 3.3.3 o Rheoli Arian Cyhoeddus Cymru).

- (c) Yn unol â hynny, ni allai methiant corff i ddangos gwerthusiad systematig o effeithiolrwydd gwariant, ynddo'i hun, arwain at farn amodol ar reoleidd-dra, ond fe allai, mewn rhai amgylchiadau, e.e. gyda phrosiectau mawr, fod yn destun casgliad gwerth am arian.
- (d) Mae hefyd yn werth nodi, gan fod asesiad o reolaeth fel rhan o archwiliad cyfrifon yn darparu llawer o dystiolaeth berthnasol ar gyfer casgliad gwerth am arian, a chan fod ymagwedd yr Archwilydd Cyffredinol at y casgliad yn seiliedig ar risg, mai gweddol ychydig yw swm y gwaith ychwanegol sydd ei angen i'w ddarparu, os oes trefniadau cyffredinol da yn eu lle. Mae hyn yn arbennig o wir am gyrff bach a chyrrff â diben penodol. Mae archwiliadau cynaliadwyedd (dan adran 15 o Ddeddf Llesiant Cenedlaethau'r Dyfodol (Cymru) 2015), lle maent yn berthnasol, hefyd yn darparu tystiolaeth berthnasol ar gyfer barn ynghylch gwerth am arian, gan leihau ymhellach yr angen am waith ychwanegol i gefnogi'r casgliad.
- (e) **Abseoldeb darpariaeth benodol mewn statud ar gyfer barnau rheoleidd-dra ymhlith llawer o gyrff llywodraeth ganolog** — fel y nodwyd yn y ddogfen ymgynghori, golyga hyn fod elfen sylfaenol o reolaeth y Cynulliad ar wariant llywodraeth ganolog ar goll o statud mewn perthynas â rhai cyrrff. Er mai arferiad yr Archwilydd Cyffredinol yw rhoi barn reoleidd-dra ar holl gyfrifon llywodraeth ganolog, hyd yn oed lle mae statud yn hepgor y darpariaethau perthnasol, nid yw'r anghysondeb hwn mewn deddfwriaeth yn gymorth, gan ei fod yn arwain at ddryswch a'r risg o her pan fydd yn rhoi barn anffafriol. Er nad yw'n debygol, gallai her o'r fath fod yn gostus iawn o ran amser staff a chostau cyfreithiol.
- (f) **Gofynion gosod sy'n gorgyffwrdd** — yr un sefyllfa anfodddhaol yn y gwraidd yw hon â'r un a grybwyllwyd yn C10 (sef oherwydd gofynion adrodd statudol cyfochrog bod rhaid gosod yr un adroddiad ddwywaith) ond ar gyfer amrywiol gyrff llywodraeth ganolog yn hytrach na SAC. Nid yw'r dyblygu a'r cymhlethdod yn gymorth i sicrhau eglurder cyfrifoldeb.

- (g) **Pwerau paru data Cymru ar ei hôl hi** — fel y nodwyd yn y ddogfen ymgynghori, mae hyn yn peri risg:
- (i) na fydd yn bosibl yng Nghymru cynnal ymarferion paru data cyflawn ledled y DU;
 - (ii) na fydd buddiannau ariannol posibl ar gael i Gymru o ran paru data, er mwyn nodi camgymeriadau a gwallau a chynorthwyo i adfer dyledion;
 - (iii) na fydd y potensial i sicrhau arbedion ychwanegol, drwy gynnwys cyfranogwyr gorfodol newydd, yn cael ei wireddu.
- (h) Er ei bod yn anodd iawn rhoi ffigur cadarn ar faint ariannol y risgiau hyn, dyfaliad deallus yw y byddant yn gyfystyr â nifer o filiynau o bunnoedd y flwyddyn. Hefyd gallai bod ar ôl yn y meysydd hyn annog ymddygiad troseddol neu ymddygiad anfuddiol arall, yn enwedig gan fod rhywfaint o gymorth ariannol, fel ar gyfer myfyrwyr, yn fwy hael yng Nghymru nag yn Lloegr.

C25. A fydd unrhyw rai o'r cynigion sydd wedi'u cynnwys yn y Bil Archwilio Cyhoeddus (Diwygio) (Cymru) Drafft yn arwain at unrhyw oblygiadau ariannol (er enghraifft, costau neu fanteision) i chi neu i'ch sefydliad? Os felly, a allwch ddisgrifio'r goblygiadau ariannol posibl i chi neu'ch sefydliad a rhoi amcangyfrif o'r gost (os yw'n bosibl i chi wneud hynny)?

- (a) Byddant. Rydym yn ofni y bydd y cyfeiriad parhaus at "swyddogaethau" yn adran 23 o Ddeddf 2013, a'r anghysondeb y byddai'r Bil Drafft yn ei gyflwyno rhwng adrannau 23 a 24 (gweler C3), yn golygu y bydd angen o hyd am ddadansoddiad manwl o'r amser a dreulir ar swyddogaethau penodol. Mae'n anodd rhagweld yn union pa effaith a gaiff y darpariaethau hyn, ond credwn y byddant yn lleihau'r arbedion cost a amcangyfrifwyd gennym yn 2018 (gweler tablau 2 a 3 o'n papur ym Mehefin 2018).
- (b) Gan gymryd y bydd y Bil Drafft yn cael ei ddiwygio i roi cysondeb rhwng adrannau 23 a 24, bydd cydgasglu yn darparu goddefgarwch defnyddiol fydd yn ei gwneud yn bosibl defnyddio llai o ymdrech i fonitro a rheoli amser — gan haneru'r swm efallai, a hynny'n arwain at arbedion o £10,000 i £20,000 y flwyddyn. Yn yr un modd, dylai goddefgarwch olygu bod angen rhywfaint llai o ymdrech gan gyfarwyddwyr ymgysylltu a rheolwyr archwilio i drafod ffioedd, ond nid cymaint ag a amcangyfrifwyd gennym yn 2018. Fodd bynnag, dylai ei gwneud yn bosibl osgoi'r rhan fwyaf o'r gwaith gweinyddol mewn perthynas â gordaliadau, ac felly dylai'r rhan fwyaf o'n hamcangyfrif yn 2018, o ryw £5,000 o arbedion yn amser yr adran gyllid, ddal i fod yn wir.
- (c) I grynhoi, o ran costau sy'n ymwneud â darpariaethau ffioedd, rydym yn amcangyfrif arbedion o £15,000 i £25,000 y flwyddyn yn hytrach na thua £28,000 i £48,000 y flwyddyn.

- (d) Mae ein hamcangyfrif o gyfraniad o wargedau ar waith cytundeb (a ganiateir gan y diwygiadau a ddarperir gan adran 2 o'r Bil Drafft) yn parhau'n £7,500.
- (e) Mae'r dull gwahanol yn y Bil Drafft o ymdrin ag adroddiadau interim hefyd yn effeithio ar ein hamcangyfrifon yn 2018 o ran cost yr adroddiadau interim a fyddai'n cael ei hosgoi (sef arbediad o £20,000 y flwyddyn). Collir yr arbediad blynyddol bob tro y bydd y Pwyllgor yn gofyn am adroddiad. Ni allwn ragweld pa mor aml, ond os, dyweder, y bydd y Pwyllgor yn gofyn am adroddiad bob yn ail flwyddyn, bydd yr arbediad yn gostwng i £10,000. Fodd bynnag, pe gwneid ceisiadau o'r fath bob wyth mlynedd, byddai ffigur yr arbedion yn gyfartaledd blynyddol o tua £17,500.
- (f) Rydym yn credu y bydd yna arbedion o ran y broses ar gyfer penodi archwilydd SAC o £2,000 o leiaf ar gyfer pob penodiad, ar ôl caniatáu ar gyfer gorfod paratoi dogfennau i'w cymeradwyo gan y Cynulliad mewn perthynas â'r broses gaffael a phob penodiad. Gan fod y penodiadau fel arfer am bedair blynedd, yr arbediad cyfartalog blynyddol fydd £500. (Mae hyn yn ychwanegol at yr arbedion cyffredinol a nodwyd gennym ym mis Mehefin 2018 gan na wnaethom ymdrin â hyn yn ein hawgrymiadau drafftio penodol.)
- (g) Efallai hefyd y bydd rhai arbedion i SAC, yn ogystal â'r Comisiwn, yn sgil diwygio darpariaethau penodi aelodau SAC — yn enwedig penodi'r Cadeirydd. Mae'n anodd mesur yr arbedion hyn, gan ei bod yn anochel y caiff amser ei dreulio hefyd ar drafod yn gyffredinol ynghylch yr angen i lenwi swyddi gwag.
- (h) Dylai'r diwygiadau i ddyddiadau cau ar gyfer gosod yn adran 17 o'r Bil Drafft arwain at arbedion bob tro y bydd mater sylweddol iawn yn codi ar archwiliad, y mae angen amser ychwanegol ar ei gyfer. Mae profiad o fod angen ymdrin â mater o'r fath yn awgrymu gwariant y gellid ei osgoi (sef arbedion) o ryw £4,000 yr achos ar ôl caniatáu ar gyfer y gwaith ychwanegol sy'n gysylltiedig â gosod esboniad. Ar sail y dybiaeth fod achosion o'r fath yn codi unwaith bob wyth mlynedd, amcangyfrifwn arbediad cyfartalog blynyddol o £500.
- (i) Os caiff y Bil Drafft ei ddiwygio i ddarparu cysondeb rhwng adrannau 23 a 24, amcangyfrifwn y bydd y costau gweithredu untro ar gyfer SAC yn llai na £1,000 fwy na thebyg. Bydd hyn yn bennaf yn amser ar gyfer newidiadau i weithdrefnau'r tîm cyllid a chyfarwyddiadau i staff.
- (j) Ar sail yr uchod, rydym yn amcangyfrif y dylai arbedion blynyddol cyffredinol o tua £40,000 i £50,000 ddeillio o'r Bil Drafft.

C26 A oes gennych unrhyw beth arall i'w nodi neu unrhyw sylwadau cyffredinol eraill o ran Deddf Archwilio Cyhoeddus (Cymru) 2013 neu Fil Archwilio Cyhoeddus (Diwygio) (Cymru) Drafft y Pwyllgor?

Mae adran 1 (b) o'r Bil Drafft yn cyfeirio at "waith" (sydd orau gennym ni), ond nid yw hyn yn cyfateb i adrannau 3 a 4, sy'n cyfeirio at "swyddogaethau". Mae adran 1 (b) hefyd yn cyfeirio at fynnu bod SAC "yn cynnwys mewn cynllun ffioedd ddarpariaeth sy'n ceisio sicrhau ... [cywerthedd bras]" (sydd eto orau gennym ni am ei fod yn ei gwneud yn bosibl cynnwys yr holl ffioedd yn rhwydd, ar wahân i

ffioedd gwaith cytundeb). Fodd bynnag, gwneir darpariaeth o'r fath yn adran 3 yn hytrach na bod yn ofynnol ei chynnwys mewn cynllun.

Y Pwyllgor Cyllid | Finance Committee

Bil Archwilio Cyhoeddus (Diwygio) (Cymru) drafft | Draft Public Audit (Amendment) (Wales) Bill

PAAW 11 Cyngor Bwrdeistref Sirol Conwy | Conwy County Borough Council

National Assembly for Wales
Finance Committee

Consultation Document

Draft Public Audit (Amendment) (Wales) Bill

Date of issue: 18 December 2019

Closing date: 7 February 2020

Conwy County Borough Council's Response – February 2020

Consultation Question	Yes / No	Commentary
FEE CHARGING		
Proposal:		
<p>To amend the Public Audit (Wales) Act 2013 to: - remove the requirement that fees must not exceed the full cost of the function to which they relate, and - enable the Wales Audit Office to ensure that the sum of the fees charged for all of the work undertaken is broadly equivalent to all of its expenditure in connection with that work, taking one year with another. To retain the requirement for fees to be paid by the body to which the function relates in order to ensure transparency for audited bodies, effective engagement in the audit and to maintain the relationship between the auditor and audited body.</p>		
<p>1. Do you agree that the Wales Audit Office should be given flexibility in how it charges and administers its fees by allowing it to broadly breakeven, taking one year with another?</p>	<p>Yes</p>	<p>All public sector organisations need flexibility to enable them to balance their books. However this has to be balanced with an obligation to make efficiencies, and not to pass this cost onto other public sector organisations who are facing year on year budget cuts.</p>
<p>2. If so, do you agree with the approach taken in sections 3 and 4 of the Draft Bill?</p>	<p>Yes</p>	<p>It will be of great importance to consult on the fees.</p>
AGREEMENT WORK		
Proposal:		
<p>To amend the Public Audit (Wales) Act 2013 to remove the link between agreement work and the fee scheme to allow the Wales Audit Office to set its own terms and conditions. This would enable the Wales Audit Office to earn</p>		
<p>3. Do you agree that the Wales Audit Office should be allowed to set its own terms and conditions for agreement work?</p>	<p>Yes</p>	<p>If this enables a reduction in unnecessary bureaucracy and unnecessary costs.</p>
<p>4. If so, do you agree with the approach taken in section 2 of the Draft Bill?</p>		
QUORUM ARRANGEMENTS		
Proposal:		
<p>To retain the requirement for a non-executive member majority to ensure independent oversight and provide constructive challenge to the executive directors, but amend paragraph 28(3) of Schedule 1 of the Public Audit (Wales) Act 2013 to allow executive members to remain at the meeting in a non-voting capacity when there is not a majority of non-executive Members present.</p>		

Consultation Question	Yes / No	Commentary
5. Do you agree that the current Wales Audit Office Board quorum requirement for a majority of non-executive members should be retained in legislation?	No	Clearly this is proving problematic and therefore more practical arrangements should be considered.
6. Do you agree that if the majority of members present at a meeting of the Wales Audit Office Board are not non-executive members, an executive member should be allowed to continue in a non-voting capacity in order to satisfy the quorum requirement?6.	yes	
7. If so, do you agree with the approach taken in section 13 of the Draft Bill?		
INTERIM REPORTS Proposal: To replace the requirement in paragraph 3(3) of Schedule 2 of the Public Audit (Wales) Act 2013, to produce an interim report at least once a year, with a provision requiring the production of an interim report (as currently defined) if requested by the Assembly.		
8. Do you agree that the Auditor General for Wales and the Chair of the Wales Audit Office should no longer be required to produce an interim report at least once a year, but a requirement to produce an interim report upon the Assembly's request should be included in legislation?	Yes	It is clear that it is not being widely read and therefore adding little value.
9. If so, do you agree with the approach taken in section 16 of the Draft Bill?	yes	
LAYING REPORTS AND ACCOUNTS Proposal: To simplify the provisions in the Public Audit (Wales) Act 2013 to enable: - the Auditor General for Wales and the Chair of the Wales Audit Office to provide the external auditor of the Wales Audit Office with their annual report no later than five months after the end of the financial year; and - subsequently require the external auditor to lay the report as part of the laying of the annual accounts.		
10. Do you agree that the requirement to lay the annual report (on the exercise of functions of the Auditor General for Wales and Wales Audit Office) in paragraph 3(1) of Schedule 2 of the Public Audit (Wales)	Yes	It is also important that all public accountability reports also have an accessible summary version for the general public.

Consultation Question	Yes / No	Commentary
Act 2013 should be amended to require the external auditor to lay the report as part of the laying of the annual report and accounts?		
11. If so, do you agree with the approach taken in section 15 of the Draft Bill?	yes	
CERTIFICATION DEADLINES Proposal: To amend enactments that specify a four month deadline for the Auditor General for Wales to certify and lay a copy of an audited body's accounts and report to: - allow the Auditor General for Wales to lay a copy of the certified accounts and report after the four month deadline; - require the Auditor General for Wales to explain to the Assembly why the four month deadline cannot be met; and - require the Auditor General for Wales to lay the certified accounts and report as soon as reasonably practicable.		
12. Do you agree that existing legislation requiring the Auditor General for Wales to certify and lay an audited body's accounts and report within four months should be amended to: ▪ allow the Auditor General for Wales to lay a copy of the certified accounts and report after the four month deadline, ▪ require the Auditor General for Wales to explain to the Assembly why the four month deadline cannot be met, and ▪ require the Auditor General for Wales to lay the certified accounts and report as soon as reasonably practicable?	yes	
13. If so, do you agree with the approach taken in section 17 and Schedule 1 of the Draft Bill?		
APPOINTMENT OF THE AUDITORS OF THE WAO'S ACCOUNTS Proposal: To amend the Public Audit (Wales) Act 2013 to allow the Wales Audit Office to appoint its external auditors, subject to the Assembly's approval of: - the appointment, - the terms and the method of procurement.		
14. Do you agree that engagement of the auditor of the Wales Audit Office should be a contractual matter between the Wales Audit Office	yes	

Consultation Question	Yes / No	Commentary
and the auditor, with the appointment (and associated terms and conditions) being subject to the approval of the Assembly?		
15. If so, do you agree with the approach taken in section 14 of the Draft Bill?		
APPOINTMENT OF NOJ-EXECUTIVE MEMBERS OF THE WAO AND THE CHAIR OF THE WAO Proposal: To amend the Public Audit (Wales) Act 2013 to allow the appointment of a serving non-executive member to be extended for a second term of up to four years, subject to acceptable performance.		
16. Do you agree that the Public Audit (Wales) Act 2013 should be amended to allow the appointment of a serving non-executive member to be extended for a second term of up to four years, subject to acceptable performance?	yes	This should be reviewed however, if there is significant interest from external candidates who wish to be considered for a position on the Board.
17. If so, do you agree with the approach taken in sections 7, 8 and 9 of the Draft Bill?		
REQUIREMENT TO CONSULT ON CERTAIN ASPECTS OF THE APPOINTMENT PROCESS Proposal: To remove the requirements placed on the Assembly to consult the First Minister on: - the appointment of the Chair of the Wales Audit Office, - the remuneration arrangements for the Chair and the Auditor General for Wales, and - the termination of the Chair's appointment in the interest of protecting the independence of those roles. To remove the requirement to consult "an appropriate person with oversight for public appointments" on remuneration arrangements and other terms of appointment for WAO non-executive members and the Chair and replace it with a general provision permitting the Assembly to consult with any persons it deems appropriate. To amend section 5(3) of the Public Audit (Wales) Act 2013 to require the Assembly to publish a list of restricted offices, positions or arrangements, which a former Auditor General for Wales would need to consult with the Assembly before accepting or entering into after leaving office, only if any such restrictions are identified.		
18. Do you agree that the requirement for the Assembly to consult the First Minister on the following should be removed: ▪ the appointment of the Chair of the Wales Audit Office; ▪ the remuneration	yes	

Consultation Question	Yes / No	Commentary
arrangements for the Chair and the Auditor General for Wales; and ▪ the termination of the Chair's appointment?		
19. Do you agree that the requirement for the Assembly to consult an appropriate person with oversight for public appointments on remuneration arrangements and other terms of appointment should be removed?	yes	
20. Do you agree that a general provision should be included, permitting the Assembly to consult with any persons it deems appropriate before exercising any functions in relation to the Auditor General for Wales or the Wales Audit Office?	yes	
21. If so, do you agree with the approach taken in sections 6, 10 and 11 of the Draft Bill?		
22. Do you agree that section 5(3) of the Public Audit (Wales) Act 2013 should be amended to require the Assembly to publish a list of restricted offices, positions or arrangements, which a former Auditor General for Wales would need to consult with the Assembly before accepting or entering into after leaving office, only if any such restrictions are identified?	yes	
23. If so, do you agree with the approach taken in section 5 of the Draft Bill?		

Consultation Question	Yes / No	Commentary
ISSUES WITH THE WIDER PUBLIC AUDIT LEGISLATION IN WALES		
<p>24. Do you feel the Draft Bill should include provisions relating to: ▪ the lack of a value for money conclusion duty on the Auditor General for Wales and central government bodies; ▪ the absence of explicit provisions in statute for regularity opinions among many central government bodies; ▪ the overlapping laying requirements; ▪ Welsh data matching powers?</p>		
Other Matters		
<p>25. Will any of the proposals included in the Draft Public Audit (Amendment) (Wales) Bill lead to any financial implications (for example, costs or benefits) for you or your organisation? If you have identified financial implications for you or your organisation can you describe what these could be and provide an estimated cost (if possible).</p>		
<p>26. Do you have any other observations or general comments on the Public Audit (Wales) Act 2013 or the Committee's Draft Public Audit (Amendment) (Wales) Bill?</p>		

Response to the consultation 'Draft Public Audit (Amendment) (Wales) Bill' dated
18 December 2019

[REDACTED]

Organisation: Arts Council of Wales

Contact: Rebecca Nelson, Director of Finance and Business Services

Email: rebecca.nelson@arts.wales

About our organisation

Established by Royal Charter on 30 March 1994, the Arts Council of Wales exists to support and develop the arts in Wales for the benefit of people throughout Wales, and to support Welsh arts internationally.

We are a Welsh Government Sponsored Body, a National Lottery distributor and a registered charity (number 1034245).

Our Royal Charter sets our objectives. They are to:

- Develop and improve the knowledge, understanding and practice of the arts;
- Increase the accessibility of the arts to the public;
- Work through the Welsh and English languages; and
- Work with other public bodies in Wales, and with other Arts Councils in the UK, to achieve these aims.

Consultation Questions

Question 1

Do you agree that the Wales Audit Office should be given flexibility in how it charges and administers its fees by allowing it to broadly breakeven, taking one year with another.

As a public sector body, audited by the Wales Audit Office, we welcome the focus on fees and value for money. We note some of the complexities outlined in the consultation.

The spirit of the Wales Audit Office is that it is not a profit making organisation. At the same time we recognise that it needs to embody a high regulatory standard of audit quality, as expected by the Financial Reporting Council of other auditing bodies (or private audit firms).

The consultation outlines the proposal to remove the requirements for fees to be capped at full cost and endorses that total fees charged across Wales is 'broadly equivalent to all of its expenditure in relation to that work'.

At an individual audited body level there is a concern about how transparent the 'offsetting' of audit costs across Wales is, and how fair this system would be in its impact on individual audited bodies. The challenge here is whether this change would militate against the efficient organisation. In other words, a smooth trouble-free audit of a well-managed organisation could end up in subsidising an inefficient organisation with a problematic and time-consuming audit.

Question 2

If so, do you agree with the approach taken in section 3 and 4 of the draft bill?

See comments above.

Question 3

Do you agree that the Wales Audit Office should be allowed to set its own terms and conditions for agreement work?

We note that under section 19 of the Public Audit Wales Audit 2013, the WAO can agree to provide services to other public bodies outside Wales, including recently audits in the Caribbean and Mediterranean.

The wider question here is whether a resource-limited organisation that is publicly funded should be providing those services in the first place.

Furthermore, this section discusses making a surplus with the ambition to ‘earn additional reasonable fees to reinvest in the organisation or surrender to the Welsh Consolidated Fund’. Again, we would suggest that the purpose of the Wales Audit Office is not to generate surpluses for the Welsh Government. Whether right or wrong, an assumption could be made here that the full costing method was originally included into the legislation precisely to prevent such profit making activities.

Question 4

If so, do you agree with the approach taken in section 2 of the Draft Bill?

See comments above.

Question 5

Do you agree that the current Wales Audit Office Board quorum requirement for a majority of non-executive members should be retained in legislation?

Agreed.

Question 6

Do you agree that if the majority of members present at a meeting of the Wales Audit Office Board are not non-executive members, an executive member should be allowed to continue in a non-voting capacity in order to satisfy the quorum requirements?

We are broadly in agreement with this proposal but advise some practical consideration needs to be taken when issues arise that may raise a potential conflict of interest. remuneration and pay would be an obvious example.

Question 8

Do you agree that the Auditor General for Wales and the Chair of the Wales Audit Office should no longer be required to produce an interim report at least once a year, but a requirement to produce an interim report upon the Assembly's request should be included in legislation?

We have no comment in respect of this proposal.

Question 9

If so, do you agree with the approach taken in section 16 of the Draft bill?

See answer in Question 8.

Question 10

Do you agree that the requirement to lay the annual report (on the exercise of function of the Auditor General for Wales and Wales Audit Office) in paragraph 3 (1) of Schedule 2 of the Public Audit (Wales) Act 2013 should be amended to require the external auditor to lay the report as part of the laying of the annual report and accounts?

Agreed.

Question 11

If so, do you agree with the approach taken in section 15 of the Draft Bill?

Agreed.

Question 12

Do you agree that existing legislation requiring the Auditor General for Wales to certify and lay an audited body's accounts and report within four months should be amended to:

- *Allow the Auditor General for Wales to lay a copy of the certified accounts and report after the four month deadline;*

- *Require the Auditor General for Wales to explain to the Assembly why the four month deadline cannot be met; and*
 - *Require the Auditor General for Wales to lay the certified accounts report as soon as reasonably practicable?*
-

Agreed.

Question 13

If so, do you agree with the approach taken in section 17 and Schedule 1 of the Draft Bill?

See our comment in respect of Question 12.

Question 14

Do you agree that engagement of the auditor of the Wales Audit Office should be a contractual matter between the Wales Audit Office and the auditor, with the appointment (and associated terms and conditions) being subject to the approval of the Assembly?

Agreed.

Question 15

If so, do you agree with the approach taken in section 14 of the Draft Bill?

Agreed.

Question 16

Do you agree that the Public Audit Wales Act 2013 should be amended to allow the appointment of a serving non-executive member to be extended for a second term of up to four years, subject to acceptable performance?

We recognise the challenges outlined in the consultation regarding the Chair and the fact that the Chair's post can be extended, he/she would need to reapply for a second term.

Nevertheless, we still think that there is merit in having a competitive process every 4 years. This would ensure that the make-up of the panel remains fresh and reflective of a diverse and vibrant Wales.

Question 17

If so, do you agree with the approach taken in section 7, 8 and 9 of the Draft Bill?

See above.

Question 18

Do you agree that the requirement for the Assembly to consult the First Minister on the following should be removed:

- *The appointment of the Chair of the Wales Audit Office;*
 - *The remuneration arrangements for the Chair and the Audit General for Wales;*
 - *The termination of the Chair's appointment*
-

We draw the Committee's attention to the fact that, similar provisions are incorporated into the Budget Responsibility and National Audit Act 2011, which is relevant to the Comptroller and Auditor General of the National Audit Office:

"Remuneration arrangements

(1) Before a person is appointed as Comptroller and Auditor General, remuneration arrangements are to be made in relation to the person jointly by the Prime Minister and the person who chairs the Committee of Public Accounts."

Remaining with the status quo arrangements would ensure a consistent approach nationally. In addition, as the Auditor General is appointed by HM Queen, it seems logical that the First Minister should undertake the appointment duties.

Question 19

Do you agree that the requirement for the Assembly to consult an appropriate person with oversight for public arrangements and other terms of appointment should be removed?

Please see our answer to Question 18.

Question 20

Do you agree that a general provision should be included, permitting the Assembly to consult with any persons it deems appropriate before exercising any functions in relation to the Auditor General for Wales or the Wales Audit Office?

Agreed.

Question 21

If so, do you agree with the approach taken in section 6, 10 and 11 of the Draft Bill?

Please see our answer to Question 18.

Question 22

Do you agree that section 5(3) of the Public Audit (Wales) Act 2013 should be amended to require the Assembly to publish a list of restricted offices, positions or arrangements, which a former Auditor General for Wales would need to consult with the Assembly before accepting or entering into after leaving office, only if any such restrictions are identified?

Agreed.

Question 23

If so, do you agree with the approach taken in section 5 of the Draft Bill?

Agreed.

Question 24

Do you feel the Draft Bill should include provisions relating to:

- *The lack of value for money conclusion duty on the Auditor General for Wales and central government bodies;*
 - *The absence of explicit provisions in statute for regularity opinions among many central government bodies;*
 - *The overlapping laying requirements;*
 - *Welsh data matching powers?*
-

In order to include a regularity opinion for central government bodies, the consultation is proposing additional legislative changes to the relevant Acts (as outlined on page 29 of the consultation). In paragraph 65 of the consultation, it is noted that “The Arts Council and Sports Council are also affected as relevant provisions are not included in the Royal Charters that established them.”

The complication here for the Arts Council of Wales is that to amend our Royal Charter, there would need to be approval of HM The Queen and the Privy Council. This is a complex and time-consuming process. We would therefore wish to draw to your attention that there are a number of additional practical hurdles in respect of this proposal.

In addition, the Arts Council of Wales’ audit opinion is addressed to the Trustees, as we are a charity and regulated by the Charity Commission. Even though much of our funding comes from taxpayers via Welsh Government, our Trustees are bound to act independently - see Charity Commission publication [RR7](#) (Independence of Charities from the State). The Auditor General for Wales reporting to Welsh Government instead of, or as well as, the Trustees is incompatible with Charity Commission guidelines and potentially charity law.

A practical alternative to changing the legislation for all entities included in page 29 of the consultation, would be for the Wales Audit Office to undertake ‘agreed-upon-procedures’, an alternative form of audit work used commonly in other areas of audit work, in respect of regularity and the use of public funds.

In terms of the overlapping laying of requirements (as outlined on page 31), we wish to draw your attention to the following point not included in the consultation document.

In addition to receipt of grant in aid from Welsh Government, the Arts Council of Wales is a National Lottery distributor. Under the National Lottery Act 1993, we prepare financial statements relating to our Lottery activity. Our accounts for our Grant in Aid are laid before the Assembly and audited by the Wales Audit Office. However, our accounts for lottery are audited by the Wales Audit Office on a sub-contracted basis from the National Audit Office and then laid before UK Parliament, with a copy (not formally laid) at the National Assembly.

Our Scottish counterpart, Creative Scotland, lays its Lottery accounts at Parliament. The difference in their case is that the Auditor General for Scotland audits both sets of accounts without reference to the C&AG. Our preference for consistency purposes would be for both sets of our accounts to be audited by the Wales Audit Office and signed by the Auditor General for Wales, as is the Scottish model. We would welcome the opportunity for this process to consider whether such amendments are feasible.

Question 25

Will any of the proposals included in the Draft Public Audit (Amendment)(Wales) Bill lead to any financial implications (for example, costs or benefits) for you or your organisation?

If you have identified financial implications for you or your organisation can you describe what these could be and provide an estimated cost (if possible).

We note the following potential financial implication for the Arts Council of Wales:

- Increase in audit fees – as outlined in our response to Question 1, as a highly efficient audited body we have concerns we may see an increase in fees to offset those organisations with problematic and time-consuming audits;
- Any changes to the Royal Charter will require additional time, resource and legal advice which would be very costly to our organisation;
- Amendment the audit requirement to ensure our Lottery accounts are audited by the Wales Audit Office instead of the National Audit Office would be of financial benefit in terms of time and resource to both us as an Arts Council and the Wales Audit Office as auditors.

Question 26

Do you have any other observations or general comments on the Public Audit (Wales) Act 2013 or the Committee's Draft Public Audit (Amendment) (Wales) Bill?

No further comments. We are happy to be contacted directly for any further information or clarification of our responses.

Appendix 1

The principles and purpose of Royal Charter status

Royal Charters, granted by the sovereign on the advice of the Privy Council, have a history dating back to the 13th century. The Arts Council of Wales' Royal Charter status is not just a matter of arcane constitutional curiosity. Its origins are in the legal establishment of fundamental principles that underpin the way that a Royal Charter body operates.

Their original purpose was to create public or private corporations and to define their privileges and purpose. Charters are normally reserved for bodies that work in the public interest and which can demonstrate pre-eminence, stability and permanence in their particular field.

The importance of the Royal Charter to the Arts Council is the protection that it is designed to offer. A Royal Charter is an instrument of incorporation, granted by The Queen, which confers independent legal personality on an organisation. It defines its objectives, constitution and powers to govern its own affairs.

The key principle outlined above is “independent legal personality”.

Enshrined within this independent legal status are the defining principles of artistic freedom and freedom of expression.

The Human Rights Act 1998 (incorporating Article 10 of the European Convention on Human Rights) provides that everyone has the right to freedom of expression, though this right brings duties and responsibilities. Public authorities, including the Welsh Government, may not act in any way incompatible with this.

Royal Charter status protects these freedoms.

Appendix 2



Wed 05/02/2020 08:52

Finance Committee | Y Pwyllgor Cyllid <SeneddFinance@Assembly.Wales>

RE: (All_Ext) - FW: Ymgynghoriad ar y Bil Archwilio Cyhoeddus (Diwygio) (Cymru) drafft / Consultation on the Draft Public Audit (Amendment) (Wales) Bill

To Rebecca Nelson

Cc Finance Committee | Y Pwyllgor Cyllid

Hi Rebecca,

We are happy to extend the deadline for you, we look forward to receiving your response next week.

Best Wishes



Rachel Powell

Swyddog Cefnogi Pwyllgor, Y Pwyllgor Cyllid, Cynulliad Cenedlaethol Cymru
Committee Support Officer, Finance Committee, National Assembly for Wales

0300 200 7258

