

# Fifth Senedd Legacy Report

March 2021



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# **Fifth Senedd Legacy Report**

March 2021



# About the Committee

The Committee was established on 22 June 2016. Its remit can be found at:  
[www.senedd.wales/SeneddFinance](http://www.senedd.wales/SeneddFinance)

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## Committee Chair:



**Llyr Gruffydd MS**  
Plaid Cymru

## Current Committee membership:



**Alun Davies MS**  
Welsh Labour



**Siân Gwenllïan MS**  
Plaid Cymru



**Mike Hedges MS**  
Welsh Labour



**Mark Isherwood MS**  
Welsh Conservatives



**Rhianon Passmore MS**  
Welsh Labour



**Mark Reckless MS**  
Abolish the Welsh Assembly Party

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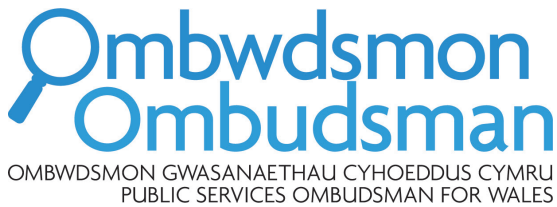
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# Finance Committee

## Budget scrutiny during the Fifth Senedd

..... DURING THE FIFTH SENEDD THE COMMITTEE SCRUTINISED .....



**5** ESTIMATES BY THE  
PUBLIC SERVICE  
OMBUDSMAN  
FOR WALES



**5** WELSH GOVERNMENT  
DRAFT BUDGETS

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**5** ESTIMATES BY THE AUDITOR GENERAL  
FOR WALES AND THE  
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**5** SENEDD COMMISSION  
DRAFT BUDGETS

..... THE COMMITTEE MADE A TOTAL OF .....



**271**

RECOMMENDATIONS TO  
THESE ORGANISATIONS



## Chair's foreword

Our role, as the Finance Committee is primarily to scrutinise the use of resources and expenditure from the Welsh Consolidated Fund – a process which has quickly evolved over the course of this Senedd, following the Wales Act 2014.

Fiscal devolution has meant that approximately 20 per cent of the Welsh Government's spending is now funded from tax revenues, increasing the accountability of the Welsh Government to the people of Wales.

Following our inquiry into the budget process in Wales, we believe a new process for passing the annual budget is required. Any legislative process should be guided by the principles of simplicity, transparency and accountability – a process that meets the needs and reflects the maturity of the Senedd. The Welsh Government said it would be open to considering establishing a joint review group of the Government and the Senedd, with invited independent experts, to review the Budget process. We believe the next Committee should pursue this work with the next Finance Minister.

Brexit and the COVID-19 pandemic have had significant impacts on Welsh finances. Brexit was a major constitutional change and many uncertainties still remain, whilst the financial response to the pandemic has also raised serious concerns over the funding mechanism for Wales. The Committee has explored these issues and this legacy report provides a commentary on these important areas of our work. We hope the next Committee can build on this work whilst working towards its own aims over the course of the Sixth Senedd.

An important achievement for the Committee has been developing a Committee Bill – the only Committee Bill to date. The Public Services Ombudsman (Wales) Bill passed through the Senedd's four stage scrutiny process and received Royal Assent in May 2019. This Act represents a significant amount of hard work undertaken over a number of years and a rigorous scrutiny process. It was a privilege for me as Chair of the Committee to be the Member in Charge of this important legislation.

The Committee is responsible for the oversight of the Wales Audit Office (WAO) and the Auditor General for Wales. As part of our post-legislative scrutiny of the Public Audit (Wales) Act 2013 we concluded that revisions to the Act are required in order to improve the efficiency of functions carried out by both the WAO and the Senedd. We have consulted on a draft Bill and recommend that the next Committee should introduce the Bill into the Senedd.

The devolution of fiscal powers has been a new consideration for the Senedd and it is vital that we receive expert support in our consideration of these issues. Whilst the Committee has been supported by the invaluable advice of our expert advisors, we have found there to be a small pool of fiscal/tax expertise in Wales and a number of experts already sit on various Welsh Government groups/forums.



We would urge the next Committee to think about advisors at the start of the term.

I would like to extend my thanks to the stakeholder organisations and individuals that have taken the time to engage with the Committee over the course of the Senedd and thus enhanced our scrutiny of the Welsh Government. We are grateful to the Finance Minister and her predecessor, with whom we have been able to have an open and receptive relationship. I sincerely hope that this constructive relationship is maintained between the Committee and the Finance Minister in the next Senedd.

I also extend my thanks to past and present Members of the Committee for their contribution to our work, and to Senedd Commission staff for the professionalism displayed which has been truly appreciated by all Members of the Committee.

Finally, our friend and colleague Steffan Lewis was a Member of this Committee during his time at the Senedd, and I would like to end this foreword by acknowledging the contribution Steffan made to the work of the Finance Committee.

**Llyr Gruffydd,  
Chair**

## Recommendations

**Recommendation 1.** The Committee recommends that the responsible committee of the Sixth Senedd works with the Welsh Government to ensure the maximum possible time is available for budget scrutiny prior to the Senedd’s approval of the final budget. .... Page 15

**Recommendation 2.** The Committee recommends that the responsible committee of the Sixth Senedd considers how it can work with the relevant policy Committees to improve budget scrutiny. .... Page 15

**Recommendation 3.** The Committee recommends that the responsible committee of the Sixth Senedd builds on the more strategic approach that the Committee has taken this Senedd term..... Page 15

**Recommendation 4.** The Committee recommends that the responsible committee of the Sixth Senedd continues:

- to hold an annual stakeholder event, and
- utilises this stakeholder information to inform a budget priorities debate in the chamber. ....Page 17

**Recommendation 5.** Whilst the ideal time for scheduling a budget stakeholder event and priorities debate is pre summer recess, the Committee recommends that the responsible committee of the Sixth Senedd considers the best time for these events approaching the 2022-23 draft budget..... Page 17

**Recommendation 6.** The Committee recommends that the responsible committee of the Sixth Senedd works with the Welsh Government to secure an annual budget priorities debate in the formal budget cycle. .... Page 17

**Recommendation 7.** The Committee notes the improved level of detail provided by the Welsh Government in the Budget documentation, the information provided in the Chief Economist’s and tax policy reports has been particularly useful. The Committee recommends that the next Welsh Government builds on these improvements in future Budgets, particularly in areas such as the strategic integrated impact assessments, budget improvement plan and work on gender budgeting..... Page 19

**Recommendation 8.** The Committee reiterates its recommendation on the need for a legislative budget process and recommends that the responsible committee of the Sixth Senedd works with the next Finance Minister to establish an

independent group to review the existing process for agreeing the budget in Wales as a matter of priority..... Page 21

**Recommendation 9.** The Committee recommends that the responsible committee of the Sixth Senedd works closely with counterparts in other devolved institutions to collectively press the UK Government to attend Committee sessions to enable effective scrutiny of fiscal arrangements ..... Page 28

**Recommendation 10.** The Committee recommends that the responsible committee of the Sixth Senedd liaises with the UK Welsh Affairs Committee to investigate whether there is a possibility of joint working to scrutinise the UK Government on the devolution of fiscal powers. .... Page 28

**Recommendation 11.** The Committee recommends that the responsible committee of the Sixth Senedd undertakes further work to consider whether the Standing Orders in relation to supplementary budgets should be reviewed. .... Page 37

**Recommendation 12.** The Committee recommends that the responsible committee of the Sixth Senedd continues to regularly review the Statement of Principles for directly funded bodies..... Page 38

**Recommendation 13.** The Committee recommends that the responsible committee of the Sixth Senedd undertakes further work to improve the quality of the financial information contained in Regulatory Impact Assessments. .... Page 44

**Recommendation 14.** The Committee recommends that the Business Committee of the Sixth Senedd reviews the Standing Orders relating to the referral of Committee Bills for Stage 1 committee consideration..... Page 47

**Recommendation 15.** The Committee recommends that early engagement with the Welsh Government is sought during the development of a draft Committee Bill and accompanying explanatory memorandum, in order to maximise the opportunity to resolve issues prior to introduction and to improve the efficiency of the legislative process..... Page 48

**Recommendation 16.** The Committee recommends that the responsible committee of the Sixth Senedd pursues additional scrutiny of any significant changes to the financial estimates accompanying future Bills, making representations to the Member in charge to delay the financial resolution, or undertaking additional scrutiny at a later stage in the legislative process if necessary..... Page 52

**Recommendation 17.** The Committee recommends that the Business Committee of the Sixth Senedd reviews the process for bringing forward Members Bills to ensure that it maximises the opportunity presented to Members selected by ballot, facilitates effective scrutiny and utilises the Senedd’s time efficiently..... Page 53

**Recommendation 18.** In considering its ways of working, the Committee recommends that the responsible committee of the Sixth Senedd reviews the approach taken to scrutinising the various publications laid by the Auditor General for Wales and Wales Audit Office throughout the year to confirm that this approach remains suitable.....Page 55

**Recommendation 19.** The Committee recommends that the responsible committee of the Sixth Senedd considers the employment of a recruitment consultant with wide-ranging networks of professionals, to assist in sourcing and identifying suitably qualified candidates to meet the requirements for the position of Auditor General for Wales. ....Page 56

**Recommendation 20.** In setting the remuneration arrangements for future appointments, the Committee recommends that the responsible committee of the Sixth Senedd avoids linking the remuneration of the Auditor General for Wales to a pay scale agreed by an external body..... Page 57

**Recommendation 21.** The Committee recommends that the responsible committee of the Sixth Senedd works to develop a positive and effective working relationship with the future Finance Minister.....Page 65

**Recommendation 22.** The Committee recommends that the responsible committee of the Sixth Senedd continues to seek and closely monitor developments in improving Welsh-specific data and research to support fiscal policies.....Page 65

**Recommendation 23.** The Committee recommends that the responsible committee of the Sixth Senedd considers the position in relation to Welsh funding following Brexit, working with the Welsh Government to ensure that Wales receives funding that is at least equivalent to funding that has been received under EU schemes in previous years. .... Page 74

**Recommendation 24.** The Committee recommends that the responsible committee of the Sixth Senedd considers the impact in terms on accountability of the different structures being put in place by the UK to deliver and distribute funding due to replace previous EU funding to public bodies in Wales and how

this interacts with priorities and funding provided by the Welsh Government.

..... Page 74

**Recommendation 25.** The Committee recommends that recovery from COVID-19 is a central Budget scrutiny theme for the responsible committee of the Sixth Senedd throughout the next parliamentary term. .... Page 79

# 1. Budget Process

## Background

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- 1.** The Committee's remit includes a number of statutory and Standing Order responsibilities, most notably Budget scrutiny of the Welsh Government and Directly Funded Bodies' Budgets (this is explored further in Chapter 3).
- 2.** Following the Wales Act 2014, which gave the Senedd powers over stamp duty land tax, landfill tax, and the power to vary the rate of income tax in Wales by up to 10 per cent, the Committee and the Welsh Government worked together to change the budget process, which included changes to Standing Orders and agreeing a **budget protocol** for the principles underpinning the budget process.
- 3.** The Wales Act also gave the Welsh Government wider short-term borrowing powers and new powers to borrow for capital expenditure.
- 4.** The Welsh Government's annual budget is currently authorised by the annual budget motion and the Welsh Rates of Income Tax are agreed by resolution of the Senedd.

## The Budget process

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- 5.** The Minister welcomed the work of the Committee in scrutinising the budget:

"I think that there have been great changes over the course of this Senedd in terms of our budget processes, and I think that many of those have been a direct result of the scrutiny provided by the Finance Committee and other scrutiny committees in the Senedd ... I think that the work that the committee has done and the relationships that we've positively established with committees have been very useful in that."<sup>1</sup>

- 6.** She continued:

"... the Finance Committee has been invaluable in focusing our minds on how we can improve what we do. So, when Finance Committee reports come out, the first thing we do is grab those recommendations and see if there are things there that we can learn from and what we can agree to. I have to say, almost all of the recommendations that Finance Committee comes forward with we are able to agree, because

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<sup>1</sup> Finance Committee, RoP, 10 March 2021, paragraph 5

they genuinely do move us forward, in terms of what I think we both want to achieve, and that is a budget that meets the needs of people in Wales, but also is understandable and transparent and drives forward the kinds of things that we talk about in our budget improvement plan.”<sup>2</sup>

### **The time available for scrutiny**

**7.** Standing Order 20.5 provides that the Committee should normally have eight weeks to report on the Welsh Government’s outline budget proposals, but must be given a minimum of five weeks to report (along with the policy committees).

**8.** Over the last few years there has been uncertainty regarding the amount of funding that was to be available to the Welsh Government. The UK Government have not provided a multi-year Spending Review and has delayed fiscal events due to Brexit and the COVID-19 pandemic. Delays in UK fiscal events have resulted in delays to the planning and publication of the Welsh Government’s Draft Budget and in turn reduced the Committee’s time for scrutiny. In the Committee’s report on the [Welsh Government’s Draft Budget 2021-22](#), the Committee recommended that:

“... the Welsh Government continues to seek commitments from the UK Government that UK fiscal events will normally take place by a specified date to ensure devolved administrations have sufficient time to carry out meaningful budget setting and scrutiny.”

**9.** Reflecting on the time available for scrutiny, the Minister said:

“I think the fact that we have been able to move in such an agile and flexible way this year is a positive reflection on the protocol that we have, and it hasn’t been unduly affected in terms of the increase that we made to the eight weeks of scrutiny, although I appreciate that when you’re having several of those weeks across Christmas recess, for example, it’s not ideal by anybody’s standards. But I think the protocol has served us well thus far.”<sup>3</sup>

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<sup>2</sup> Finance Committee, RoP, 10 March 2021, paragraph 29

<sup>3</sup> Finance Committee, RoP, 10 March 2021, paragraph 13

## Two part budgetary process

**10.** The Committee has continued to use the following four objectives when undertaking scrutiny of the Welsh Government Budget::

- **Affordability** – Is the big picture of total revenue and expenditure appropriately balanced?
- **Prioritisation** – Is the division of allocations between different sectors/programmes justifiable and coherent?
- **Value for money** - Are public bodies spending their allocations well – economically, efficiently and effectively? i.e. outcomes
- **Budget processes** - Are they effective and accessible? Is there integration between corporate and service planning, and performance and financial management?

**11.** Additionally, prior to the publication of each draft Budget the Committee met to discuss scrutiny priorities and has written to other Senedd Committees to set out the suggested focus of financial scrutiny for that year. The Committee has also encouraged other Committees to follow this approach to provide more coordinated approach to scrutiny.

**12.** The devolution of tax raising and borrowing powers has given a new dimension to the Welsh Government budget process, where it has more control on tax revenue, debt and policy decisions will influence the growth of the Welsh tax base and influence future Welsh Government revenues.

**13.** This has led the Committee to adjust the focus of scrutiny to a more high-level approach, considering the Finance Minister’s prioritisation and allocation process, along with forecasting and policies regarding tax, borrowing and tax base growth. To fit in with this change of approach, the Committee has encouraged other Committees to undertake more detailed scrutiny in their subject areas.

**14.** The official accompanying the Minister welcomed the co-ordination between Committees:

“... the co-ordination between the roles of the different committees in scrutinising the budget has improved quite a lot during this term, particularly since 2017, with the new protocol. Prior to that, I think there was quite a lot of overlap between the types of questions that committees, particularly Finance Committee and subject committees, were asking either the finance Minister or the relevant portfolio



Ministers. I think that shifted quite a lot, and now the angles that the Finance Committee explores are different from the kind of angles that the subject committees are exploring in their budget scrutiny. They are more strategic and, I suppose, macro level about the strategic choices that are being made around the budget as opposed to the portfolio-specific issues that tended to crowd in quite a lot in scrutiny of the budget for the finance Minister in the earlier period. So, I think that's quite a big step forward in terms of making the process more effective and more comprehensive."<sup>4</sup>

**15.** The Committee considers that in “ordinary times” the agreed time allowed for Budget scrutiny would work well, but it is disappointing that wider events have resulted in curtailed scrutiny in recent years.

**Recommendation 1.** The Committee recommends that the responsible committee of the Sixth Senedd works with the Welsh Government to ensure the maximum possible time is available for budget scrutiny prior to the Senedd's approval of the final budget.

**Recommendation 2.** The Committee recommends that the responsible committee of the Sixth Senedd considers how it can work with the relevant policy Committees to improve budget scrutiny.

**Recommendation 3.** The Committee recommends that the responsible committee of the Sixth Senedd builds on the more strategic approach that the Committee has taken this Senedd term.

#### Engagement with stakeholders and Plenary Debate – Budget priorities

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**16.** The Committee has strived to maximise scrutiny opportunities for stakeholders within the time restrictions by annually inviting stakeholders and individuals to comment on expected draft budget proposals based on indicative figures and also on the Welsh Government's strategic approach to setting the budget, prioritising resources, the outputs and the outcomes that it plans to achieve.

**17.** The Committee has undertaken a number of successful external engagement events to inform upcoming budget scrutiny, including in Aberystwyth, Anglesey, Newport and Swansea.

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<sup>4</sup> Finance Committee, RoP, 10 March 2021, paragraph 7



Picture: Stakeholder engagement event held in Swansea in June 2018

**18.** In 2020, a digital approach was implemented via polls and surveys due to the COVID-19 restrictions.

**19.** The Committee has previously expressed concern that the Senedd lacks the formal opportunity to debate and potentially influence the Welsh Government’s spending priorities prior to the publication of the Draft Budget. The Committee considers that a priorities debate should be held in the Senedd before summer recess, to inform the Welsh Government on Members’ views ahead of its formulation of a draft Budget.

**20.** In 2019, the Committee secured its first debate on the Welsh Government’s spending priorities. In May 2020, the Committee wrote to the Business Committee and the Minister, requesting an annual budget priorities debate. The Business Committee said “there was unanimous support for this type of debate being held annually.”<sup>5</sup>

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<sup>5</sup> [Letter](#) from the Llywydd to the Finance Committee, 4 June 2020

**21.** The Minister said she found the pre-summer debates “to be extremely useful in understanding colleagues’ priorities for the budget ahead” and welcomed the engagement work undertaken by the Committee:

“I think that kind of early engagement and opportunity to discuss things in a very open way has been really useful, as has the work that has underpinned those debates, which committee has undertaken in terms of your public engagement. I recall a couple of years ago you had sessions in Aberystwyth, where members of the public were able to come and share their views with you, and I thought that that kind of very open engagement at an early stage was really important.”<sup>6</sup>

**22.** However, the Minister’s official indicated that the Committee may wish to consider the timing of the next debate, suggesting that the expected spending review may determine when the best time might be for a priorities debate.<sup>7</sup>

**Recommendation 4.** The Committee recommends that the responsible committee of the Sixth Senedd continues:

- to hold an annual stakeholder event, and
- utilises this stakeholder information to inform a budget priorities debate in the chamber.

**Recommendation 5.** Whilst the ideal time for scheduling a budget stakeholder event and priorities debate is pre summer recess, the Committee recommends that the responsible committee of the Sixth Senedd considers the best time for these events approaching the 2022-23 draft budget.

**Recommendation 6.** The Committee recommends that the responsible committee of the Sixth Senedd works with the Welsh Government to secure an annual budget priorities debate in the formal budget cycle.

## Information requirements

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**23.** The Committee has worked with the Minister to continually improve the quality and transparency of information provided by the Welsh Government accompanying its budgets. The Committee believes that the ability to undertake quality financial scrutiny depends critically on the financial information that is available.

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<sup>6</sup> Finance Committee, RoP, 10 March 2021, paragraph 9

<sup>7</sup> Finance Committee, RoP, 10 March 2021, paragraph 15

**24.** The Standing Orders and budget protocol outlines the expected level of detail that should be included in the budget documentation.

**25.** During this Senedd term the Welsh Government has produced more detailed documentation to accompany budgets since tax devolution. The documentation accompanying the draft Budget 2021-22 included

- A budget narrative including strategic impact assessment.
- Budget improvement plan, aiming to improve the budget process using the Well-being of Future Generations Act (WFG Act) and the five ways of working to drive continuous improvement.
- Detailed budget tables
- Chief Economist's report 2020, summary of economic developments and economic and fiscal prospects.
- Other documentation dependent on year, such as Distributional analysis 2021-22 or Tax Policy Report.
- The OBR also published its Welsh taxes outlook, forecasts for devolved Welsh taxes.

**26.** The Minister said:

“Just over the past couple of years, you’ll have seen that we publish a much greater range and depth of information now alongside our budget—for example, the new work that we’ve been doing on distributional analysis, the new work that we’ve been doing on understanding the carbon impact of spend, and also the gender budgeting work, which was in response to some of the issues raised by both this committee and others. Alongside that, we’ve tried to corral all of this over the last couple of years through our budget improvement plan, and that has been, I think, a particularly important central point, really, for us to gather all of these new innovations that we’re developing, but also to do so with a sense of focus and purpose, looking always five years ahead as to what more we need to be doing in terms of understanding the impact of spend, but also in terms of the engagement work that we do to develop our budget in the first place.”<sup>8</sup>

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<sup>8</sup> Finance Committee, RoP, 10 March 2021, paragraph 5

**27.** The official accompanying the Minister stated:

“Just a plug for the tax policy report that was published with the final budget. There’s a lot of what I would describe as fascinating stuff in there about trying to understand the potential behavioural effects of changing tax rates, particularly on decisions on where to live. It’s quite a well-developed literature on the impact of income tax rates on propensity to work, and that kind of thing. But certainly in a UK context, it’s relatively new to be thinking about the impact of tax on location decisions that people make about where to live, and so we’ve done a lot of work on that over the last few months, and that’s summarised in the tax policy report. We’d be very interested in views from the committee, obviously, but also the wider interested public, academics and others, about the way that analysis has been done. So, that’s a kind of contribution, I suppose, to building knowledge and understanding in that area going forward.”<sup>9</sup>

**28.** The Committee believes that, when formulating, implementing and scrutinising policies, the impact on the tax base needs to be a key consideration, now that the size of the Welsh Budget is linked to the growth of the Welsh tax base. This will be a key challenge for the next Finance Committee, Senedd and Welsh Government.

**Recommendation 7.** The Committee notes the improved level of detail provided by the Welsh Government in the Budget documentation, the information provided in the Chief Economist’s and tax policy reports has been particularly useful. The Committee recommends that the next Welsh Government builds on these improvements in future Budgets, particularly in areas such as the strategic integrated impact assessments, budget improvement plan and work on gender budgeting.

## Review and reform of budget process

**29.** The Committee reported on its inquiry into a legislative budget process in August 2020.

**30.** The Committee recommended that there should be annual legislation to pass the Welsh Government’s budget. This would involve a budget or finance bill being voted on and approved by the Senedd.

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<sup>9</sup> Finance Committee, RoP, 10 March 2021, paragraph 77

**31.** The Committee **concluded** that a legislative budget process would “*better reflect the maturity of the Senedd*”, and that making these changes will strengthen the role of both the Welsh Government and the Senedd following the devolution of fiscal powers.

**32.** However, the Committee recognised that any move to a legislative budget process would need a detailed review of the wider budget process. Based on experience in **Scotland** and elsewhere, such a review would best be undertaken by an independent review group. A new process would need principles of simplicity, transparency and accountability to be at the heart of its development.

**33.** The **Welsh Government responded** by stating that the current process provides sufficient flexibility, which could be reduced by a legislative process. The Minister added “before undertaking such reforms there would therefore need to be clear additional benefits identified which are not available within the context of the current process”.

**34.** The Minister said the Welsh budget process allowed the flexibility to deal with the unexpected fiscal events over the past few years<sup>10</sup>, whilst the Minister’s official said the flexibility offered by the budget process in Wales was valuable:

“I think the other point I would make is I think we have the benefits of the approach they have in Scotland without the downsides of the rigidity that comes from a more explicit legislative process. That flexibility, I think, is valuable, so in looking at this in the next Senedd term, what we’re really looking to do is to try and get the upside without the downside if we can. It there are things that we can do to change things that will improve matters, then great, but I think trying to retain that flexibility has a lot to be said for it.”<sup>11</sup>

**35.** Whilst not convinced of the need for a legislative budget process, the Minister said she would be open to working together to review the budget process:

“I’d really be open to a review process such as the Scottish budget process review group and the work that it undertook in terms of exploring what kind of improvements could be made to the budget process overall. When we had the debate on whether or not a specific legislative budget process should be put in place, our view was very much that the system at the moment has enabled us to act rapidly

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<sup>10</sup> Finance Committee, RoP, 10 March 2021, paragraph 51

<sup>11</sup> Finance Committee, RoP, 10 March 2021, paragraph 53



and flexibly and that a legislative process such as the one in Scotland wouldn't have brought us any additional benefits, but I realise that this is an area of ongoing debate with the committee. Potentially, the place to have that debate and those further discussions would be through that budget process review group that the next Government might be inclined to introduce."<sup>12</sup>

**Recommendation 8.** The Committee reiterates its recommendation on the need for a legislative budget process and recommends that the responsible committee of the Sixth Senedd works with the next Finance Minister to establish an independent group to review the existing process for agreeing the budget in Wales as a matter of priority.

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<sup>12</sup> Finance Committee, RoP, 10 March 2021, paragraph 49

## 2. Devolution of fiscal powers

### The Wales Act 2014

**36.** The Wales Act 2014 gave the Senedd powers over:

- stamp duty land tax,
- landfill tax,
- the power to vary the rate of income tax in Wales by up to 10 per cent,
- wider short-term borrowing powers,
- new powers to borrow for capital expenditure, and
- the ability to introduce new taxes, subject to various measures.

**37.** The Tax Collection and Management (Wales) Act 2016 established the Welsh Revenue Authority to collect and manage the taxes devolved by the Wales Act.

#### Devolved taxes

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**38.** In April 2018, the first Welsh taxes were introduced for almost eight hundred years. Land Transaction Tax (LTT) and Landfill Disposals Tax (LDT) replaced UK Stamp Duty Land Tax (SDLT) and Landfill Tax (LT) respectively.

**39.** This was followed by the implementation of Welsh Rates of Income Tax (WRIT) in April 2019, which is the largest source of tax revenue available to the Welsh Government.

**40.** The Office for Budget Responsibility (OBR), which is responsible for forecasting Welsh tax revenues, estimated that the Welsh Government would collect over £2 billion in WRIT revenue in 2021-22, whilst LTT and LDT would raise £288 million and £33 million respectively.

**41.** The Welsh Government's draft budget 2021-22 narrative noted that Welsh tax revenues represent 17 per cent of its total budget.

#### WRIT forecasts

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**42.** The COVID-19 pandemic has had a significant impact on Welsh tax revenue with the OBR forecasting a significant reduction in WRIT revenue between its



March 2020 and March 2021 forecasts by £119 million on average a year (5 per cent) between 2020-21 to 2024-25.

Table 1. OBR forecasts for WRIT between 2020-21 to 2025-26

£ million						
	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26
March 2020	2,170	2,273	2,377	2,466	2,558	
March 2021	2,093	2,113	2,233	2,315	2,495	2,643
Change	-77	-160	-144	-151	-63	

Source: OBR Devolved tax and spending forecasts (March 2021)

**43.** In 2020, the Committee undertook an inquiry exploring the impact of variations in national and sub-national income tax. As well as examining international and domestic studies on the responsiveness of taxpayers to cross-border tax variations and the availability of Welsh-specific data to support academic modelling, the inquiry considered the Welsh tax base, income profiles and approaches to mitigating personal income tax. With 44 per cent of the Welsh population paying income tax (compared with 47 per cent of the UK's population), the Committee concluded that the Welsh Government must consider ways to develop the Welsh income tax base and maximise tax revenues.

**44.** The Minister recognised there was more to do around the Welsh tax base, she said:

“... we are seeking to continue to improve our understanding of how the Welsh Government's policy levers, and those, of course, of the wider public sector here in Wales, influence the tax base, and as part of that work we're exploring the development of metrics to assess the impact of policy proposals on the Welsh tax base. So, again, we're taking important steps forward in this regard. This isn't just the responsibility of the finance Minister and the Welsh Treasury, to look at where we can raise money, but actually it's how we can improve the tax base more widely through our wider policy levers. But that work is happening. I appreciate there's a lot more to do there.”<sup>13</sup>

<sup>13</sup> Finance Committee, RoP, 10 March 2021, paragraph 70

**45.** The official accompanying the Minister said:

“... there’s still quite a long way to go across the Welsh Government, I think, in terms of thinking about growing the tax base. The impact on the tax base of policy as a key consideration is still a relatively new thing for us as a Government. But when we’re looking at policies to help people secure good-quality work, for example, to develop their careers, part of the justification for that is the impact it will have on the tax base going forward, and that should be an important consideration. Of course, there are many other considerations, like making Wales an attractive place to live and set up a business. These are all things that have all sorts of reasons for doing them, and one of them is growing the tax base. I think, yes, that’s something we’re still working on, and need to make progress on. I think it’s really helpful to have that challenge from the committee.”<sup>14</sup>

## Wales Reserve

**46.** The fiscal framework established the Wales Reserve, which enables the Welsh Government to carry forward funding across years. The Wales Reserve is held within the UK Government and separated between resource and capital. Resource funding (including resource block grant and tax receipts) can be paid into the resource reserve. Funds in the resource reserve may be drawn down to fund resource or capital spending. Capital funding (including capital block grant and capital borrowing) can be paid into the capital reserve. Funds in the capital reserve may be drawn down to fund capital spending only.

**47.** The Reserve is capped in aggregate at £350 million. There are no annual limits for payments into the Reserve. Annual drawdowns are limited to £125 million for resource and £50 million for capital. Welsh Ministers may request additional flexibility with the consent of Treasury Ministers in exceptional circumstances.

**48.** During an evidence session on the Welsh Government Second Supplementary Budget 2020-21, the Minister stated that dealing with the pandemic necessitates more flexibility regarding annual limits to accessing the Wales Reserve, which restricts the Welsh Government’s ability to carry funding between years. She said:

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<sup>14</sup> Finance Committee, RoP, 10 March 2021, paragraph 72

“We have had numerous discussions with the Chief Secretary to the Treasury about using the tools that we have better, and having access to more of the Wales reserve. That request was declined on the basis that we have established the guarantee with the UK Government in terms of additional funding. So, from their perspective, that wasn’t needed at this time.”

**49.** The Minister further commented that the Welsh Government should have the flexibility to draw down more reserves if needed and carry more funding over to manage the budget more effectively:

“And perhaps at this point in the financial year, that’s reasonable, but as we move towards the end of the financial year, I think it’s really important that we retain larger flexibility to draw down more if we need to, but also potentially to carry more over into the next financial year, because clearly we don’t know where we’re going to be in the spring, and managing the budget is quite difficult in the sense that you’re planning for a wide range of scenarios, and I think that it would help us a great deal if we were able to plan on that basis, with the confidence that we could carry more over to next year without having to find ourselves in a position that nobody wants to be in in terms of returning money to the Treasury.”

**50.** In February 2021, HM Treasury issued a [press release](#) stating that a further £650 million of COVID-19 funding had been allocated to Wales. It highlighted that “funding can be spent now or carried over to spend in 2021-22, providing vital and unprecedented flexibility”.

**51.** When asked whether there was a case for longer term flexibility for the Welsh Government to carry over funding, the Secretary of State said this was a matter for the Treasury, but he would look into the issue:

“... we need to get to the bottom of is what the sort of statutory basis of this might be, and what the legal basis in accountancy terms might be, and I don’t know the answer to those questions, so I’m very happy to get them. My experience of the Treasury is they don’t want to be unduly pedantic about these measures. There’s always a reason; it’s just worth us finding out whether that reason is still relevant in 2021, post

COVID, or whether it's a hangover from the past that can be adjusted, and I'm very happy to look into that."<sup>15</sup>

## Introducing new taxes

**52.** The Welsh Government has tested the process for devolving competence to introduce new Welsh taxes, with a proposed vacant land tax. The Minister remarked in the Welsh Government's sixth annual report on the implementation and operation of the Wales Act 2014 that:

"The Welsh Government's experience of moving through the process has been protracted and challenging, with HM Treasury continually requesting detail relating to the specific operation of the proposed tax - which is a matter for Wales - rather than information related to devolving competence for legislation in a new area of taxation."

**53.** She further noted:

"It has become apparent there are serious flaws in the agreed process for devolution of further tax competence. As the process currently stands, it is difficult to envision a scenario whereby the Welsh Government could successfully make the case for further tax competence. The process needs urgent review and reform."

**54.** When giving evidence on the Draft Budget 2021-22, the Minister emphasised that whilst there were good relationships at official level, she believed it to be a political decision as to why the competence for introducing a vacant land tax has not been devolved.

**55.** This has led to the Welsh Government considering an independent dispute resolution process and approaching Scottish colleagues to determine whether this is a proposal they would support:

"We're currently considering whether there is a case now for some kind of third-party assessment of the information that we provide to support a proposal for the devolution of tax powers, to have that kind of independent view and oversight of it, because the situation at the moment feels very, very lopsided towards the UK Government in terms of the devolution of further taxes."

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<sup>15</sup> Finance Committee, RoP, 10 March 2021, paragraph 266

**56.** Regarding the delays with the process on new taxes, the Secretary of State said:

“I think if there is a legitimate concern that is raised about maybe the speed of progress or the manner of engagement, then, actually, again, that’s a very legitimate issue to raise, and we’d be very happy to take that up, Mark, with the Treasury. If there are some accusations of foot dragging, we’ll look into it.”<sup>16</sup>

## Engagement with the UK Government

**57.** The final inquiry undertaken by the Committee during this Senedd term examined the implementation of the Wales Act 2014 and operation of the Fiscal Framework

**58.** This inquiry was undertaken as the COVID-19 pandemic began and, as covered in other parts of this report, the pandemic tested the fiscal arrangements. The Committee felt it was essential to take evidence from the Secretary of State for Wales and the Chief Secretary to the Treasury as part of the inquiry. Both offices have vital roles to play in the way Wales is funded and how fiscal devolution is implemented in Wales.

**59.** Unfortunately, the Committee found engaging with the UK Government to be challenging. Whilst recognising that the timing of the inquiry may pose difficulties based on wider events and pressures at the time, the Committee was willing to be flexible in its approach to evidence gathering. The Committee was grateful to the Secretary of State for agreeing to provide oral evidence. However, the Chief Secretary would not commit to attending a formal evidence session with the Senedd.

**60.** All correspondence between the Committee and the UK Government can be found on the Committee’s webpages.

## Committee view

**61.** The inquiry into the Wales Act 2014 and the operation of the fiscal framework raised a number of issues, including:

- the limitations of the fiscal framework when reacting to the COVID-19 pandemic,

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<sup>16</sup> Finance Committee, RoP, 10 March 2021, paragraph 260

- the Wales Reserve and the flexibility available to the Welsh Government,
- the need for independent arbitration over any disputes between both Welsh and UK Governments relating to the fiscal framework.

**62.** The Welsh Government's response was received on 16 March 2021 and a plenary debate on the inquiry took place on 24 March 2021. The Committee also received a response from HMRC and the Senedd Commission.

**63.** The Committee's views on fiscal devolution can be found in its report on the Wales Act 2014; it is clear there is still work to be done on fiscal devolution. The importance of tax levers; the impact of greater flexibility over the Wales Reserve; and the need for an independent mechanism to resolve any disputes raised in relation to the fiscal framework will be vital areas for the next responsible Committee to consider.

**64.** The importance of effective scrutiny of the devolution of fiscal powers cannot be underestimated, the devolved powers are still in their infancy – various pieces of work have shown effective processes at official level but it is apparent that political conversations have not been effective. This is further emphasised by the Chief Secretary's lack of engagement with the Committee. The fiscal powers devolved by the Wales Act 2014 need to be scrutinised – but this cannot be achieved when only the Welsh Government engages.

**65.** If the Chief Secretary to the Treasury will not engage with the Senedd, the next Committee must find alternative ways to hold the UK Government to account and understand its views on the processes.

**66.** The Committee has asked the Chief Secretary to consider, if he is unwilling to engage, how the Committee can measure the success or otherwise of the Wales Act 2014. The Chief Secretary responded on 23 March 2021, but his letter did not fully address the issues raised in the report on the Wales Act 2014 and the Fiscal Framework. The Committee did not have an opportunity to discuss the letter as it was received after the Committee's consideration of this report.

**Recommendation 9.** The Committee recommends that the responsible committee of the Sixth Senedd works closely with counterparts in other devolved institutions to collectively press the UK Government to attend Committee sessions to enable effective scrutiny of fiscal arrangements

**Recommendation 10.** The Committee recommends that the responsible committee of the Sixth Senedd liaises with the UK Welsh Affairs Committee to

investigate whether there is a possibility of joint working to scrutinise the UK Government on the devolution of fiscal powers.

## 3. Directly Funded Bodies

### Background

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**67.** Directly Funded Bodies (DFBs) are bodies that are funded directly from the Welsh Consolidated Fund (WCF). They include:

- Senedd Commission;
- Wales Audit Office (WAO);
- Public Services Ombudsman for Wales (PSOW);
- Electoral Commission (in relation to devolved Welsh elections and referendums, as required under paragraph 16A of Schedule 1 to the Political Parties, Elections and Referendums Act 2000)

**68.** Each of these bodies is required to submit a budget or estimate for approval by the Senedd in accordance with Standing Order 20.

**69.** The Finance Committee is responsible for scrutinising the budgets/estimates of the Senedd Commission, WAO and PSOW. The Llywydd's Committee is responsible for scrutiny of the Electoral Commission's estimate.

**70.** Early in this Senedd term the Committee looked to provide direction to DFBs<sup>17</sup> to ensure their budget/estimate requests were set in the context of budget constraints in the Welsh public sector. As a result, the Committee made a number of recommendations to individual DFBs to ensure that their budgets/estimates did not exceed any increase to the Welsh block grant.

**71.** However, this approach proved problematic as DFBs interpreted increases in the block grant differently. This was further complicated by other influences on the amount of funding available in any given year, such as Welsh Government tax policy decisions and the lack of certainty regarding funding coming from the UK Government at the time DFBs were setting their budgets. The Committee decided consideration needed to be given as to whether there was a more appropriate approach and guidance the Committee could provide.

### Inquiry into the funding of directly funded bodies

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<sup>17</sup> DFBs referred to in this Chapter relate to the DFBs that are scrutinised by the Finance Committee: Senedd Commission; Wales Audit Office and the Public Services Ombudsman for Wales



**72.** In 2019, the Committee undertook a short inquiry into the funding of DFBs. The aim of the inquiry was to ensure a consistent approach was taken by DFBs when preparing their budget/estimate proposals.

**73.** The Committee wrote to the DFBs<sup>18</sup> and the Welsh Government asking for their views on the direction and guidance that is provided by the Committee to assist DFBs in formulating future budget/estimates.

**74.** The Committee considered the response<sup>19</sup> from the DFBs and the Welsh Government. The Minister agreed:

“... to write to you before the summer recess with information on various factors which can be drawn upon to inform future budget plans such as the latest guidance on public sector pay remits, GDP deflator forecasts, forecasts of devolved taxes and our best possible assessment of the overall level of funding available in future years.”<sup>20</sup>

**75.** The Committee agreed to formally set out the principles that DFBs should consider when preparing their future budget/estimates and in May 2019 published its Statement of Principles that the Finance Committee of the National Assembly for Wales expects Directly Funded Bodies to have regard to when making budget proposals.

**76.** The Committee gave a commitment in the Statement of Principles (the Principles) to review the document the year of implementation and periodically thereafter and updated it as necessary.<sup>21</sup>

**77.** Following the 2020-21 Budget cycle, the Committee considered the Principles at its meeting on 4 March 2020. The Committee recognised that each of the DFBs evidenced the Principles in their Budget documentation to some degree and this was explored further during scrutiny sessions. The Committee agreed that there would not be any changes made to the Principles at this time.

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<sup>18</sup> Letter to Senedd Commission; Letter to Wales Audit Office; Letter to Public Services Ombudsman for Wales; Letter to Minister for Finance and Trefnydd

<sup>19</sup> Letter from Senedd Commission; Letter from Wales Audit Office; Letter from Public Services Ombudsman for Wales; Letter from Minister for Finance and Trefnydd

<sup>20</sup> Letter from Minister for Finance and Trefnydd

<sup>21</sup> Statement of Principles, May 2019

**78.** The Principles set out the information the Welsh Government provides<sup>22</sup>, which can be drawn upon by DFBs to inform their future budget plans. The Minister said it is “often really challenging”<sup>23</sup> to provide this information because of:

“... the constantly uncertain path of public finances. But, again, within the context of a spending review, there’s a potential for providing much more certainty to committee to aid your deliberations. But, again, this is an area where, if committee has recommendations for ways in which things could be improved, I’m sure that the incoming Government would be keen to explore those.”<sup>24</sup>

**79.** Nonetheless, the Minister considered the Principles to be “very positive and very useful” for DFBs in preparing their annual budgets/estimates.<sup>25</sup>

**80.** The Senedd Commissioner agreed that the Principles are “extremely useful” but said the Commission:

“can’t apply them to everything, though. I’m sure the committee understands, for example, that that part of our Commission budget that is basically in the hands of the remuneration board—we can’t exercise the principles on their behalf.”<sup>26</sup>

**81.** The Minister felt “in general” the process for DFBs submitting budgets/estimates works well. However, she noted “that some of the things that occur that work actually happen outside of Standing Orders”.<sup>27</sup> She added:

“Standing Orders require the directly funded bodies to provide the explanatory memorandum at the time of the supplementary budget motion being tabled. But actually I know that, in practice, they provide more information ahead of that, and that does obviously allow then you, as committee, to consider those issues before the Welsh Government tables its supplementary budget motion. I think that’s been a helpful development, but it’s not reflected in Standing Orders,

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<sup>22</sup> Statement of Principles, paragraph 8

<sup>23</sup> Finance Committee, RoP, 10 March 2021, paragraph 43

<sup>24</sup> Finance Committee, RoP, 10 March 2021, paragraph 43

<sup>25</sup> Finance Committee, RoP, 10 March 2021, paragraph 47

<sup>26</sup> Finance Committee, RoP, 3 March 2021, paragraph 19

<sup>27</sup> Finance Committee, RoP, 10 March 2021, paragraph 41

so that might be something to be considered as an improvement for future years.”<sup>28</sup>

**82.** In response to whether the Commission has a view on the processes and timings for the laying, scrutiny and approval of its estimate and supplementary budgets that could be considered for change in the Sixth Senedd, the Commissioner said this is a “matter for the sixth Senedd”.<sup>29</sup> She added:

“on timings, we manage to get everything together by 1 October, even though, realistically, that’s halfway through the financial year, so I hope that there’s some credit for being able to do that, but the processes are in place to allow us to do that, so, at the moment, no, it seems to be fine.”<sup>30</sup>

**83.** In addition, the Director of Finance said that the timing to submit a supplementary budget was also “convenient”.<sup>31</sup>

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<sup>28</sup> Finance Committee, RoP, 10 March 2021, paragraph 41

<sup>29</sup> Finance Committee, RoP, 3 March 2021, paragraph 10

<sup>30</sup> Finance Committee, RoP, 3 March 2021, paragraph 11

<sup>31</sup> Finance Committee, RoP, 3 March 2021, paragraph 15

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## Senedd Commission

### Previous scrutiny and budget transparency

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**84.** The Remuneration Board prepares a Determination, which outlines the salaries and levels of financial support available to Members. During the start of the Fifth Senedd, the Commission had chosen to budget allowing for the maximum allowance for each Member/Party. This led to a significant underspend against that budget associated with Members' pay and allowances. This underspend was utilised by the Commission to fund in-year investment priorities.

**85.** The Committee had concerns over this practise as it reduced the transparency around the total funding available to the Commission and as such conducted an **inquiry** into the Commission's use of the Remuneration Board's Determination underspend. The result of this inquiry led to the separation of funding for the Commission and resources linked to the Remuneration Board Determination. Underspends against the Remuneration Board Determination are now returned to the WCF.

**86.** The Commissioner felt that the current arrangements for budget planning, oversight and approval affords the right balance of freedom for the Commission and accountability to the public and the Senedd.<sup>32</sup> She added:

“From your point of view, I suppose, as the Finance Committee, I'm hoping it helps that we're able, when we put budgets forward, to not just give you the plans for a given year, but the likely or projected forward look for the next two years.”<sup>33</sup>

## Audit Wales

### Modifying the Estimate

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**87.** On 7 November 2019, following its consideration of the WAO Estimate 2020-21, the Committee asked the Auditor General and Chair of the WAO to reflect on the initial Estimate laid before the Senedd and consider whether changes could be made to reduce the call on the WCF, and bring it closer to the level of the other DFBs.<sup>34</sup>

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<sup>32</sup> Finance Committee, RoP, 3 March 2021, paragraph 7

<sup>33</sup> Finance Committee, RoP, 3 March 2021, paragraph 8

<sup>34</sup> Annual scrutiny of the Wales Audit Office and Auditor General for Wales, December 2019, Annex 1

**88.** Standing Order 20.22 states that the Committee must:

“... consider and lay before the Senedd, no later than 22 November, a report including the estimate, with any modification which the responsible committee, having consulted and taken into account any representation made by the Auditor General and the Wales Audit Office, considers appropriate.”<sup>35</sup>

**89.** The Auditor General and WAO submitted a modified Estimate for 2020-21 by way of correspondence and a revised Budget Ambit, noting:

“As you will appreciate, in the limited time available to us since receiving your letter, it has simply not been practicable to revise the supporting narrative... Clearly, once the Committee has confirmed approval of our Estimate, we will do so.”<sup>36</sup>

**90.** The Committee approved the modified Estimate and laid the modified Budget Ambit alongside its report on 22 November 2019.

**91.** The Committee reflected on the process of modifying the Estimate, the Standing Order requirements and the deadlines involved. The Committee subsequently wrote to the Auditor General and WAO requesting that in future years the Estimate (the Budget Ambit) should be separated from the supporting narrative and proposed Fee Scheme.

**92.** The new approach worked well for the Estimate 2021-22, has not negatively impacted on the scrutiny process or level of information provided, and greatly assists the Committee should it need to lay a modified Estimate in future.

## PSOW

### Resubmitted Estimate

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**93.** The PSOW’s Estimate for 2019-20, was submitted in September 2018. Following scrutiny, the Committee asked the PSOW to resubmit his Estimate specifically in relation to the inclusion of possible costs relating to the Public Services Ombudsman (Wales) Bill and with a view to reducing the requested funding.

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<sup>35</sup> Standing Orders of the Welsh Parliament

<sup>36</sup> Annual scrutiny of the Wales Audit Office and Auditor General for Wales, December 2019, Annex

**94.** Subsequently, the Ombudsman resubmitted his Estimate for 2019-20, which was approved by the Committee.

**95.** The Committee concluded that DFBs should be aware of the constraints on public sector finances, and not assume an increase in funding, regardless of the block grant change.<sup>37</sup>

## Electoral Commission

**96.** The Electoral Commission's work in relation to devolved Welsh elections and referendums is funded directly from the WCF. The Llywydd's Committee is responsible for scrutinising the Electoral Commission's estimate. Prior to the establishment of the Llywydd's Committee the Finance Committee wrote to the Deputy Presiding Officer to make them aware of the Statement of Principles. In the Llywydd's Committee's report on [Scrutiny of the Electoral Commission's financial estimate for 2021-22 and five-year plan for 2020-21 to 2024-25](#), it states that the Electoral Commission was made aware of the Finance Committee's Statement of Principles that it expects bodies funded directly from the Welsh Consolidated Fund to have regard to when making budget proposals.<sup>38</sup>

## Committee view

**97.** Wales has seen a decade of austerity and a constraint on public sector finances. The Committee believes that the budgets/estimates of DFBs should reflect the issues being felt throughout the public sector and aren't considered in isolation from other public service budgets. Therefore, the Committee has taken the view that DFBs should not assume an increase in funding, regardless of the block grant change. This has resulted in the Committee pushing back on increases in budgets/estimates requests which has required DFBs to modify or resubmit their proposals.

**98.** In relation to the WAO modified Estimate, the Committee does not anticipate this to happen very often in the future, but notes it is helpful for the requested estimate (the budget ambit) to be separate from the supporting narrative. This helps to ensure the Committee is able to lay a modified estimate if necessary, within the time constraints detailed within Standing Orders, without the need to revise the entire accompanying narrative.

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<sup>37</sup> [Finance Committee Report: Scrutiny of the Public Services Ombudsman for Wales's Estimate for 2019-2020](#)

<sup>38</sup> [Scrutiny of the Electoral Commission's financial estimate for 2021-22 and five-year plan for 2020-21 to 2024-25, page 8](#)

**99.** Annual scrutiny of the Senedd Commission has focused particularly on authorising the annual estimate. The Committee undertook a scrutiny session with the Senedd Commission on 10 March 2021 to focus in particular on medium term planning, how the new Sustainability plan and targets that are due to be in place from 2021 onwards will be implemented and how these are intended to influence decision making and funding: The Committee believe following up this medium term planning and how financial performance and efficiencies are monitored and reported will be important in the Sixth Senedd.

**100.** The Standing Orders requirements for DFBs supplementary budget/estimate vary. As the DFBs budget/estimate must be included within the Welsh Government's supplementary budget motion, the Committee has requested that the DFBs provide their supplementary budget/estimate early to enable the Committee to consider the requests before the Welsh Government lays its supplementary budget. This ensures that the Welsh Government's supplementary budget does not risk being voted down based on the requests of a DFB's supplementary budget.

**101.** Whilst this has worked well during the Fifth Senedd, the Committee believes this process should be formalised in Standing Orders or within the Statement of Principles. Specifically, it would be helpful to outline timescales for the submission and consideration of supplementary budgets, furthermore the Standing Orders are currently silent on the process for scrutinising a supplementary budget from the Senedd Commission – the Committee considers this should be addressed.

**102.** The Committee acknowledges that providing guidance to DFBs to ensure a consistent approach is taken by each body and that their budget/estimate requests are set in the context of budget constraints in the Welsh public sector is challenging. This is further complicated by influences on the amount of funding available in any given year, such as Welsh Government tax policy decisions and the UK Government announcements of additional funding (leading to subsequent consequentials for Wales). However, the Committee is pleased to note that during the 2021-22 Budget cycle each DFB did evidence the Principles in budget/estimate documentation to some degree and this was explored further during scrutiny sessions.

**Recommendation 11.** The Committee recommends that the responsible committee of the Sixth Senedd undertakes further work to consider whether the Standing Orders in relation to supplementary budgets should be reviewed.

**Recommendation 12.** The Committee recommends that the responsible committee of the Sixth Senedd continues to regularly review the Statement of Principles for directly funded bodies.



## 4. Financial implications of Bills

### Background

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**103.** It has become standard practice for the Committee to scrutinise the financial implications of all Bills introduced into the Senedd.

**104.** Whilst there is not a specific role for the Committee as part of the legislative process, SO 19.3 states the Committee:

“... may also consider and report on any other matter relating to or affecting financing, or expenditure out of the Welsh Consolidated Fund.”

**105.** In 2017, the Committee conducted an inquiry into the financial estimates accompanying legislation. This inquiry was undertaken following recommendations in the Finance Committee of the Fourth Assembly’s legacy report (recommendation 17).

**106.** The Committee has been involved in the scrutiny of 19 pieces of legislation, including financial scrutiny of 14 Bills.

**107.** The Business Committee referred the following Bills to the Committee for Stage 1 scrutiny:

- Landfill Disposals Tax (Wales) Bill
- Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Bill

**108.** The Committee has consistently called for further and updated financial information to be provided alongside Bills. However, there has also been a number of issues that have started to feature more frequently in the Committee’s work in the Sixth Senedd, including two in particular:

- **Costs associated with subordinate and/or secondary legislation:** the Committee has made a number of recommendations, across Bills, regarding the lack of detail and costs of secondary legislation. This recommendation was made a number of times in the Committee’s report on the financial implications of the Local Government and Elections (Wales) Bill (March 2020). Similar recommendations were made following scrutiny of the Additional Learning Needs (Wales) Bill, the Public Health (Minimum Price for Alcohol) (Wales) Bill and the Public Health (Wales) Bill.

- **Proposals for amendments following Stage 1:** The Committee has scrutinised legislation where proposals for amendments or significant changes are outlined at Stage 1. As the Committee conducts its scrutiny during Stage 1, and the financial resolution for the Bill is, normally, voted on alongside the general principles at the end of Stage 1, this means the Committee scrutinising Bills is not given an opportunity to consider these changes in detail. This has happened on three notable occasions:
- The Senedd and Elections Bill, where future funding arrangements for the Electoral Commission were outlined for inclusion at a later stage (explored further in Chapter 5).
- The Local Government and Elections Bill, where the Senedd was advised of proposals to extend the franchise to prisoners and young people in custody, to be included in the Bill at later stages.
- The Curriculum and Assessment Bill, where certain stakeholder cost information was not included in the RIA at Stage 1 due to the pandemic.

### Scrutiny of the financial implications of Bills

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**109.** The Minister highlighted that a number of steps have been taken by the Welsh Government to improve the presentation and the accuracy of RIAs during this Senedd.<sup>39</sup> She confirmed:

“On two occasions, officials have strengthened the RIA guidance. That, on the first occasion, reflected on the work of the fourth Assembly and the experiences there, and then again, part way through this current term, to incorporate the recommendations that the Finance Committee made in their inquiry into the financial estimates accompanying legislation. So, twice the guidance has been improved.”<sup>40</sup>

**110.** The Minister said that the RIA for each of the Bills introduced during this Senedd has included a summary table that sets out the financial implications of the legislation, and it is now standard practice for a consultation on proposed primary legislation to be accompanied by a draft RIA. She said that allows

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<sup>39</sup> Finance Committee, RoP, 10 March 2021, paragraph 81

<sup>40</sup> Finance Committee, RoP, 10 March 2021, paragraph 81

“stakeholders particularly to sense check that and provide any challenge to what we would expect the costs to be.”<sup>41</sup>

**111.** The Minister said there have been “improvements over the course of this Senedd term” but “there’s always more to do.” She added:

“Looking back at the accuracy of the expected costs is important. That could potentially be done through some of the work through post-implementation reviews, and so on. So, I think that there is scope to do more there.”<sup>42</sup>

**112.** The Committee highlighted that recently Bills have been laid in the Senedd with Government amendments intended at Stage 2 and/or with significant areas of the Bill accounted for by uncosted secondary legislation.

**113.** In response, the Minister stated:

“The legislation handbook is clear that an RIA for a Bill should, as far as is practicable, include the assessment of any costs of secondary legislation. So, I think it’s set out that that should happen. But, as you say, there are sometimes significant changes made at Stage 2 to Bills. Where that does happen, the costs are reviewed and then the Finance Committee is alerted through correspondence, as is the committee that is charged with the oversight of the scrutiny of the particular piece of legislation. But again, if there are things that Finance Committee or other committees think need to change, in terms of your recommendations for the next Senedd, then I’m sure that the Government at that point will be keen to explore those.”<sup>43</sup>

Audit Wales report: Better law making: the implementation challenge

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**114.** In September 2020, Audit Wales published its report Better law making: the implementation challenge. The report stated:

“Effective implementation is critical to good law-making. If implementation is not adequately considered by the Welsh

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<sup>41</sup> Finance Committee, RoP, 10 March 2021, paragraph 81

<sup>42</sup> Finance Committee, RoP, 10 March 2021, paragraph 81

<sup>43</sup> Finance Committee, RoP, 10 March 2021, paragraph 84

Government and Senedd when legislation is being developed and scrutinised, desired policy objectives are unlikely to be achieved.”<sup>44</sup>

**115.** The report identified the following key findings:

- RIAs underestimate the costs associated with implementing legislation;
- Local authorities struggle with capacity and find it difficult to implement new legislation;
- Implementation of legislation often requires the Welsh Government to support local authorities and publish timely guidance, but this is not always provided nor is it sufficiently clear and aligned;
- Different pieces of legislation and guidance are not sufficiently integrated to ensure public bodies are able to deliver their new responsibilities effectively and efficiently.<sup>45</sup>

## Committee view

**116.** The Committee acknowledges and welcomes the changes that have been made by the Welsh Government to the way in which it presents information in its RIAs, including providing uniform summary information. An approach as outlined in the Welsh Government’s [legislation handbook on Assembly bills](#) (May 2019).

**117.** The Committee also welcomes the fact the Welsh Government now provides the implementation costs of legislation in its budget information as evident in its [Draft Budget 2021-22](#).

**118.** The responsible committee of the Sixth Senedd may wish to conduct a similar inquiry into the financial estimates accompanying legislation as that undertaken during the Fifth Senedd, to understand what progress has been made and with a view to recommending further improvements to the financial information contained in RIAs.

**119.** The Committee has made a number of observations during its financial scrutiny work of Bills. These are outlined below and it is the expectation that all Bills introduced into the Senedd by the Welsh Government, Senedd Commission, a Senedd Committee or an individual Member, address these matters. The responsible committee may wish to explore these issues as part of a review:

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<sup>44</sup> Audit Wales report: [Better law making: the implementation challenge](#)

<sup>45</sup> Audit Wales report: [Better law making: the implementation challenge](#)

- The RIA is a key tool in establishing policy. It should be used to critically assess a range of approaches and provide an evidence base to policy decisions. RIAs often seem to be a “by-product” of the decision making process, rather than driving it.
- The Committee’s opportunity to scrutinise the costs associated with legislation is currently at Stage 1. All relevant information should be made available before the Senedd is asked to vote on a Financial Resolution committing resources to the Bill.
- The practice of introducing Bills with the intention of making substantial changes at a later stage by amendments by-passes scrutiny is unsatisfactory and should not continue into the Sixth Senedd.
- Should there be significant changes to the RIA following Stage 1, those changes should be considered by the Committee in more detail. The Committee should reserve the right to scrutinise and request further information from the Member in Charge in regard of any subsequent changes to the costs of a Bill at a later stage.
- Where Bills require the amendment of the EM/RIA this should be undertaken with the same rigour as when the EM/RIA was first prepared. The Welsh Government should undertake any work associated with such changes prior to the deadline for tabling amendments at Stage 3 to enable the Senedd to have as full a picture of the implications of changes as possible. RIAs should contain information about the methodologies and specific content of the post-implementation review. This should include information about the baseline position against which the impact of the Bill can be measured and assessed.
- The Welsh Government should commit to providing full and robust RIAs to accompany any relevant subordinate legislation.

**120.** A Bill being as fully formed as possible on introduction is vital – Stage 1 is the opportunity for scrutiny by Senedd Committees, but also when stakeholders can comment on the contents of the Bill. Introducing a Bill with the intention of making substantial changes denies stakeholders the opportunity to effectively engage with the Senedd. Of course, the Committee recognises the value of the amending stages, but considers these stages should be used to reflect on the Stage 1 evidence and make changes to a Bill using the informed outcomes of the Stage 1 scrutiny.

**Recommendation 13.** The Committee recommends that the responsible committee of the Sixth Senedd undertakes further work to improve the quality of the financial information contained in Regulatory Impact Assessments.

## 5. Non-government legislation

### Committee Bills

The Senedd's Standing Orders state:

26.81 Any committee may introduce a committee Bill relating to the committee's remit.

**121.** To date, the Finance Committee is the only Committee to have made use of this provision to introduce the Public Services Ombudsman (Wales) Bill (the Bill) since the Senedd gained full primary law-making powers.

**122.** The development and passage of the Bill took four years, and represented a significant amount of work spanning two parliamentary terms. Therefore, the Committee felt it was prudent to reflect on its experience of developing a committee Bill and steering it through the legislative process.

#### Public Services Ombudsman (Wales) Bill

**123.** The role of the Public Services Ombudsman for Wales (the Ombudsman) was established by the Public Services Ombudsman (Wales) Act 2005. Since 2013, there had been calls to extend the powers of the Ombudsman's role in five main areas, by the previous Ombudsman, Peter Tyndall and the current Ombudsman, Nick Bennett.

**124.** As a public body subject to scrutiny by the Ombudsman, the Welsh Government said it would be more appropriate for the Senedd to lead on any legislative change.

#### Bill development

**125.** Work on the Bill commenced in 2015, with the Finance Committee of the Fourth Assembly undertaking a public consultation to inform its inquiry into the proposals to extend the Ombudsman's powers. Having been persuaded by the evidence it heard, the Committee consulted on the draft Bill in October 2015. Given the limited time remaining in the Fourth Assembly for a Bill to proceed through its legislative passage, the Committee recommended that a future Committee should introduce the Bill as soon as possible.

**126.** Before deciding to introduce the Bill in October 2017, this Committee sought robust financial information to support the legislative intervention, took evidence

from the Ombudsman and considered the estimates of the costs and benefits of the new provisions. Discussions also took place between the Member in Charge<sup>46</sup> and the Welsh Government ahead of and following the introduction of the Bill.

### **Changes to Standing Orders**

**127.** At the time of introduction, Standing Orders allowed a committee bill to automatically bypass referral to a responsible committee to consider and report on the general principles. The rationale for ruling out committee consideration of such bills at Stage 1 is that a committee introducing a Bill relating to its remit is likely to:

- have completed at least one public policy inquiry and/or consultation on the need for legislation; and
- be better placed than any other committee (to which a Committee Bill would otherwise be referred) to make a judgement on the general principles, so a Stage 1 inquiry may add little value.

**128.** However, in the interest of best practice and transparency, and as the Bill's drafting had spanned two parliamentary terms, the Member in Charge proposed that Members should be provided with the opportunity to consider and report on the general principles. As a result, Standing Order 26.82 was removed<sup>47</sup> and the Bill was referred to the Equality, Local Government and Communities Committee (ELGC Committee) and subject to full Stage 1 scrutiny. This included scrutiny of the general principles of the Bill and its financial implications. Given that scrutiny of the financial implications is normally carried out by the Finance Committee, the ELGC Committee appointed an expert adviser to assist its financial scrutiny of the Bill.

**129.** Whilst the Standing Orders were amended to facilitate full Stage 1 scrutiny of this Bill, the rationale for bypassing Stage 1 committee consideration remains valid. In requesting that the Bill be referred for full Stage 1 scrutiny, it was not the Committee's intention to seek the removal of Standing Order 26.82. The Committee believes that bypassing Stage 1 scrutiny should remain the default position for Committee Bills, unless the committee requests otherwise. However, the effect of removing Standing Order 26.82 is that the Business Committee now decides whether to refer any future Committee Bills to a responsible committee

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<sup>46</sup> The Finance Committee authorised the Chair of the Committee as the 'Member in Charge' of the Bill

<sup>47</sup> [By resolution of the Assembly on 27 September 2017.](#)



to report on the general principles or to bypass referral and proceed straight to a Stage 1 debate.

**130.** In the preparation of a draft Committee Bill a huge amount of Senedd and stakeholder time is utilised to explore the need for legislation and conduct consultations on a draft Bill and, if the Welsh Government is engaged on the Bill prior to introduction, the automatic referral of a Bill to a Committee for Stage 1 scrutiny could be an inefficient use of Committee time.

**131.** The Committee believes that the purpose and resource implications of referring future Committee Bills for Stage 1 committee consideration requires careful consideration, particularly where significant consultation has been undertaken by the committee proposing the Bill and where the subject of the Bill is specific or narrow.

**Recommendation 14.** The Committee recommends that the Business Committee of the Sixth Senedd reviews the Standing Orders relating to the referral of Committee Bills for Stage 1 committee consideration.

## **Timetable**

**132.** The Committee timed the Bill's introduction to coincide with a convenient period in the workload of the ELGC Committee and followed best practice by facilitating a longer Stage 1 period to enable the Committee scrutinising the Bill to carry out a full consultation and allow for other committee work to be undertaken at the same time.

**133.** In considering the timetable for the Bill, the Committee consulted the Welsh Government and the ELGC Committee throughout, to minimise the pressure on workloads and resources.

## **Engagement with the Welsh Government**

**134.** The Senedd agreed to the general principles of the Bill on 21 March 2018. However, the Welsh Government indicated that, as well as revisiting the costs included in the RIA, a number of policy and drafting issues would need to be addressed before it could support the Bill.

**135.** As a Minister is the only person able to move a financial resolution, gaining Welsh Government support was essential to progress the Bill past Stage 1. Securing the Minister's agreement to move the financial resolution involved revising the RIA prior to the debate (a step not usually undertaken until Stage 2 has concluded). As SO 26.74(i) requires notice of a financial resolution to be tabled

within 6 months of the completion of Stage 1, the Committee faced the challenge of revising the RIA and securing the Senedd's approval of the financial resolution before the Summer recess of 2018.

**136.** While there had been some liaison between Welsh Government and Senedd lawyers, detailed discussions between officials to identify what changes were required to the Bill and to the cost estimates did not start until May 2018. This meant that significant work was required before the debate on the financial resolution, which the Welsh Government agreed to schedule on 17 July 2018.

**137.** The Member in Charge committed to working with the Minister to progress the Bill in a manner that was satisfactory to both the Committee and the Welsh Government. This involved a significant amount of engagement between Senedd and Welsh Government officials after Stage 1. This not only helped to resolve queries about the financial implications and the Welsh Government's comments on the Bill but also ensured a coordinated approach and that targets dates and milestones were met.

**138.** In total 230 amendments were tabled at Stage 2, and 49 amendments at Stage 3. To avoid such intense and heavy workloads for all concerned, the Committee would encourage earlier engagement from the Welsh Government during the development of draft Committee Bills.

**Recommendation 15.** The Committee recommends that early engagement with the Welsh Government is sought during the development of a draft Committee Bill and accompanying explanatory memorandum, in order to maximise the opportunity to resolve issues prior to introduction and to improve the efficiency of the legislative process.

#### Public Audit (Amendment) (Wales) Bill

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**139.** The Public Audit (Wales) Act 2013 (PAWA 2013) established new responsibilities for the Auditor General for Wales (AGW), established the Wales Audit Office (WAO) as a body corporate and prescribed governance arrangements for both the AGW and the WAO, as well as the relationship between the two.

**140.** The WAO and the previous AGW began raising concerns regarding the PAWA 2013 with the previous Finance Committee, specifically in relation to the fee charging provisions.

**141.** In 2019, the Committee conducted post-legislative scrutiny of the PAWA 2013 and considered the case for amending the legislation through its inquiry Consideration of proposals to amend the Public Audit (Wales) Act 2013.

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**142.** During that inquiry, the Minister for Finance and Trefnydd did not raise significant concerns around the proposals, confirming in June 2019 her broad agreement with the proposed amendments. In July 2019 the Minister noted the former AGW's proposed changes:

“I think that we’re comfortable with all of the suggestions that have been made in terms of improving the legislation.”<sup>48</sup>

**143.** The Committee reported on its findings in December 2019 and subsequently consulted on a draft Public Audit (Amendment) Wales Bill. Whilst the Committee is aware that Welsh Government officials are discussing their concerns regarding the policy changes proposed in the draft Bill with WAO officials, the Welsh Government did not respond formally to the consultation on that draft Bill.

**144.** On 10 March 2021, the Minister outlined the reasons for not responding formally to the consultation on the draft Bill:

“The reason why we were unable to respond to the consultation at the time was essentially a timing issue, because it was in that period when we were expecting to leave the EU, and all of our efforts were focused, then, on potentially preparing Wales for a ‘no deal’ scenario. So, unfortunately, it was related to timing, but there were meetings that took place to explore this issue further, and the Welsh Government did provide feedback to Audit Wales on the proposed changes, and I know officials had a number of opportunities to discuss the potential implications.

We’re in agreement with some of the proposals, but did feel that further discussions were needed on a number of issues, and our concerns were shared with the committee, so that you were aware of them. We also expressed some doubt as to whether or not it would be possible to legislate during this current term of Government, just given all of the pressures of the other legislation, and of course this was before COVID came along as well. So, that essentially sets out where we are. We see merit in some of the proposals, but have some concern that there should be further discussions around, for example, the interim report, the laying of the Audit Wales accounts, and some of the other areas that were being proposed.”<sup>49</sup>

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<sup>48</sup> Finance Committee, RoP, 11 July 2019, paragraph 212

<sup>49</sup> Finance Committee, RoP, 10 March 2021, paragraphs 88-89

**145.** The Committee has recently reported on the outcome of that consultation and made the following recommendation:

Recommendation 1: The Committee recommends that a future committee of the Senedd should consider the post-legislative scrutiny work undertaken, with a view to introducing the draft Public Audit (Amendment) (Wales) Bill annexed to this report as soon as possible in the Sixth Senedd, subject to the consideration of outstanding issues, the formal views of the next Welsh Government and the development of an Explanatory Memorandum with a fully costed Regulatory Impact Assessment.

## Commission Bills

The Senedd's Standing Orders state:

26.84 The Commission may introduce a Bill relating to the Commission's functions.

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### Senedd and Elections (Wales) Bill

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**146.** The Committee considered the financial implications of the only Commission Bill of the Fifth Senedd, the Senedd and Elections (Wales) Bill.

**147.** On introduction, section 27 of the Bill placed a duty on the Senedd to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums. However, the Bill did not include details as to how the Senedd should consider these financial and oversight arrangements.

**148.** Shortly after introduction, the Llywydd (as Member in Charge) wrote to the Committee indicating her intention to bring forward amendments at Stage 2, if the Senedd supported such a move, to establish arrangements for the Electoral Commission to be financed by, and accountable to, the Senedd.

**149.** The Committee's earlier report on Financial estimates accompanying legislation, October 2017 considered concerns in relation to the reduced opportunity for scrutiny of the financial implications of amendments made after Stage 1. The report recommended:

“Recommendation 7. The Committee recommends that where there are changes to RIAs after Stage 2, that the Member in charge should

provide the Finance Committee and the relevant scrutiny committee with a summary of these changes, including the financial implications.”

**150.** The Committee’s **report** on the Additional Learning Needs and Education Tribunal (Wales) Bill highlighted concerns regarding discrepancies with the financial information provided, and resulted in a revised Regulatory Impact Assessment (RIA) being published and **considered** prior to agreement of the financial resolution. On that occasion, the Committee requested that the Member in Charge provide details of how the financial information in the revised version had changed. The Committee subsequently took evidence from the Minister, as well as from a key stakeholder that had disputed the anticipated savings outlined in the RIA.

**151.** Whilst the Llywydd and the Counsel General set out their preferred options for the funding of the Electoral Commission towards the end of the Stage 1 scrutiny window, it did not allow the Committee sufficient time to explore the issues prior to the reporting deadline. The Committee’s **Stage 1 report** expressed disappointment that this policy area was not more advanced prior to the introduction of the Bill and pressed for further opportunity to consider the financial implications of any amendments prior to Stage 2 proceedings.

**152.** The Committee wrote to the Llywydd seeking further information and urging her, in discussion with the Welsh Government, to consider not seeking the Senedd’s approval of a financial resolution. During the Stage 1 debate, the Counsel General confirmed that he would delay moving the Financial Resolution until the Committee had an opportunity to consider the draft amendments and their cost implications.

**153.** The Committee produced a **supplementary report** following additional evidence sessions with the Llywydd and Counsel General to scrutinise the financial implications of the proposed amendments. Although the Counsel General’s draft amendments were not accompanied by detailed financial information, subsequent correspondence clarified the financial costs of the proposed amendments prior to the financial resolution being moved.

**154.** Whilst the Committee expects Bills to be fully formed on introduction, it accepts that there may be occasions when changes from the Member in Charge after introduction have a significant impact on the RIA. If significant changes are outlined during Stage 1 financial scrutiny of future bills, the responsible committee should be afforded an opportunity to consider these financial implications prior to the Senedd approving the financial resolution.

**Recommendation 16.** The Committee recommends that the responsible committee of the Sixth Senedd pursues additional scrutiny of any significant changes to the financial estimates accompanying future Bills, making representations to the Member in charge to delay the financial resolution, or undertaking additional scrutiny at a later stage in the legislative process if necessary.

## Members Bills

The Senedd's Standing Orders state:

26.91 A Member who is successful in a ballot may within 25 working days of the ballot table a motion seeking the Senedd's agreement to introduce a Bill.

**155.** The Llywydd conducted three ballots for Member Bills during the Fifth Senedd.

### Autism (Wales) Bill

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**156.** Only one Member was successful in seeking the Senedd's agreement to introduce a Member Bill in the Fifth Senedd. The Autism (Wales) Bill was introduced by Paul Davies MS in July 2018. However, the Senedd did not agree to the general principles and the Bill was rejected in January 2019.

**157.** The Committee scrutinised the financial implications of the Bill and reported that the lack of financial information provided by the Welsh Government on the cost of Autism Spectrum Disorder services meant the Committee was unable to scrutinise the figures presented by the Member in Charge. The Committee concluded:

Conclusion 4. The Committee is unable to make a decision on the validity or not of this Regulatory Impact Assessment. Members have not received any substantial financial reason for the legislation not to go forward, but we have been unable to ascertain whether there is any value for money in this legislation due to the lack of financial information.

**158.** The Committee was concerned that the Welsh Government's failure to provide information had hindered the process of scrutiny and the potential of the proposed legislation, setting a worrying precedent. Therefore, it recommended:

Recommendation 1. In future, should the Assembly vote in favour of the motion tabled in accordance with Standing Order 26.91 the Committee

recommends that the Welsh Government commits to providing information to ensure that costs in an explanatory memorandum are as comprehensive and detailed as possible, utilising cost information which the Welsh Government has available.

**159.** The Committee subsequently wrote to the First Minister detailing its concerns over the lack of Welsh Government engagement in non-Government Bills. In his response, the First Minister said that the Welsh Government would share data to support the development of an RIA “provided it is centrally held, readily available and there are no barriers to sharing the data (for example data protection)”.

**Recommendation 17.** The Committee recommends that the Business Committee of the Sixth Senedd reviews the process for bringing forward Members Bills to ensure that it maximises the opportunity presented to Members selected by ballot, facilitates effective scrutiny and utilises the Senedd’s time efficiently.

## 6. Governance of the Wales Audit Office and Auditor General for Wales

### Overview of responsibilities

**160.** The Public Audit (Wales) Act 2013 (PAWA 2013) confers a number of functions on the Senedd. During the Fifth Senedd, the functions relating to the oversight of the Auditor General for Wales (AGW) and Wales Audit Office (WAO) have been delegated to this Committee. These responsibilities are set out in Standing Orders 18.10-11 and include exercising functions relating to:

- approving the WAO's estimate of income and expenses, supplementary budget motions and fee scheme;
- considering and reporting on the Annual Plan, Interim Report, Annual Report and Accounts;
- advising the Senedd on the appointment and removal from office of the AGW or WAO Chair;
- the appointment and removal from office of the non-executive members of the WAO, and the designation of a temporary AGW;
- the remuneration arrangements and other terms of appointment in respect of the AGW, WAO Chair and other non-executive members of the WAO;
- the appointment of the auditors of the WAO's accounts;
- consideration of reports prepared by the auditors of the WAO's accounts.

### Annual scrutiny of the WAO

**161.** The Committee has conducted annual scrutiny of the AGW and WAO, to examine the:

- Estimate of income and expenses (normally laid in October);
- Draft Fee Scheme (normally laid in October);
- Annual Plan (normally laid in March);



- Interim Report (normally laid in October);
- Annual Report and Accounts (normally laid in June); and
- Report of the WAO's auditors (normally laid in June).

**162.** This has generally involved holding one annual evidence session during the Autumn term to coincide with the laying of the estimate of income and expenses. However, scrutiny took place in two parts in 2018 and 2020, to allow the Committee to hear from both the outgoing and incoming AGW and Chair respectively. This provided an opportunity to reflect on the postholders' tenures as well as scrutinising the specific documents for which they were responsible.

**Recommendation 18.** In considering its ways of working, the Committee recommends that the responsible committee of the Sixth Senedd reviews the approach taken to scrutinising the various publications laid by the Auditor General for Wales and Wales Audit Office throughout the year to confirm that this approach remains suitable.

## Appointment of the AGW

**163.** The AGW is a Crown appointment made on the nomination of the Senedd under Section 2 of the PAWA 2013. The appointment is for a single, non-renewable 8-year term of office.

**164.** In 2018, the Committee was responsible for advising the Senedd on the appointment of the AGW for the first time under the PAWA 2013. The officeholder at that time, Huw Vaughan Thomas, had held the position of AGW since 1 October 2010 and retired on 20 July 2018.

### Recruitment process

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**165.** The role was advertised for a four week period, between 9 October 2017 and 8 November 2017. To encourage a strong and diverse field of candidates the role was advertised using a combination of hard print, electronic publications, social media and personal contacts.

**166.** Eleven applications were received from two women and nine men. Five of the eleven applicants were shortlisted for interview by the panel (made up of two Members of the Senedd, the Chair of the WAO and the Auditor General for Scotland).

**167.** The panel made a recommendation to the Committee on its preferred candidate for nomination and the Committee undertook a pre-nomination

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process, including a pre-nomination hearing with the preferred candidate. The Committee concluded that the preferred candidate was suitable for nomination to Her Majesty for appointment as AGW. The Senedd agreed the nomination on **14 March 2018**.

**168.** Whilst the current AGW's term of office does not end until the start of the Seventh Senedd (July 2026), the responsible committee will need to advise the Senedd on the appointment of the next AGW prior to the dissolution of the Sixth Senedd.

**Recommendation 19.** The Committee recommends that the responsible committee of the Sixth Senedd considers the employment of a recruitment consultant with wide-ranging networks of professionals, to assist in sourcing and identifying suitably qualified candidates to meet the requirements for the position of Auditor General for Wales.

#### Remuneration arrangements

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**169.** In accordance with section 7 of the PAWA 2013, the Committee agreed the remuneration arrangements prior to advertising the position of AGW (September 2017), following consultation with the First Minister. The Committee agreed to advertise the position with a salary of £142,000, which would be adjusted in line with arrangements for the bottom of the Permanent Secretary pay band, as per the annual report of the Senior Salaries Review Body.

**170.** In July 2018, the Committee was advised that responsibility for advising on the Permanent Secretary pay band was no longer the responsibility of the Senior Salaries Review Body and that responsibility now rests with the Permanent Secretary Remuneration Committee, which provides advice to the UK Government. A decision on whether to adjust the pay band is taken annually by the Prime Minister.

**171.** The UK Government uplifted the bottom of the Permanent Secretary pay band from £142,000 to £150,000. The decision was taken in October 2017 and adjustment to the pay band was backdated to April 2017.

**172.** Whilst the AGW's starting salary remained at £142,000, as previously agreed by the Committee and advertised, the effect of the UK Government's changes to the pay band was that the AGW's salary increased to the bottom of the Permanent Secretary pay band (currently £150,000) on the first anniversary of the AGW's appointment. Subsequent salary changes are applied annually on the

anniversary of appointment to reflect the bottom of the Permanent Secretary pay band (should this band change).

**173.** Section 7(1) of the PAWA 2013 requires remuneration arrangements to be made (which may include a formula or mechanism for adjusting those arrangements from time to time (section 7(3)(b)) before a person is appointed as AGW. Therefore, the Committee cannot change the AGW's pay mechanism after appointment.

**Recommendation 20.** In setting the remuneration arrangements for future appointments, the Committee recommends that the responsible committee of the Sixth Senedd avoids linking the remuneration of the Auditor General for Wales to a pay scale agreed by an external body.

## Appointment of the Chair and non-executive members of the WAO

**174.** Parts 1 and 2 of Schedule 1 to the PAWA 2013 requires the Senedd to appoint five non-executive members of the WAO, based on the conclusion of fair and open competition. Responsibility for appointing the non-executive members of the WAO is delegated to the Committee in Standing Orders.

**175.** An appointment as non-executive member is for a maximum of four years and a person cannot be appointed more than twice (paragraph 6 of Schedule 1). Paragraph 5 of Schedule 1 requires the Chair of the WAO to be appointed from amongst the non-executive members and the Senedd may extend the Chair's appointment for a second term of office.

**176.** Over the course of the Fifth Senedd, the Committee has undertaken three recruitment exercises to appoint the Chair and non-executive members of the WAO.<sup>50</sup> The Committee's appointments are detailed below:

Non-executive member	2016-17	2017-18	2018-19	2019-20	2020-21
<b>Isobel Everett</b>		Extended as Chair for three years			<i>Second term expired</i>
<b>Steve Burnett</b>		Re-appointed for four years	<i>Stood down</i>		
<b>David Francis</b>			Appointed for four years		

<sup>50</sup> [July 2017](#) (see also [August 2017](#)), [January 2019](#) and [September 2020](#).

Non-executive member	2016-17	2017-18	2018-19	2019-20	2020-21
<b>Bill Richardson</b>		Appointed for four years			<i>Stood down</i>
<b>Alison Gerrard</b>		Appointed for four years			
<b>Lindsay Foyster</b>			Re-appointed for four years		Appointed as Chair
<b>Elinor Gwynn</b>					Appointed for four years
<b>Ian Rees</b>					Appointed for four years

**177.** Given the timing of the Senedd Elections, the Committee included the upcoming 2021-22 vacancy as part of its September 2020 recruitment exercise and the Senedd subsequently agreed to re-appoint Alison Gerrard for a second term of office. The anticipated vacancies during the Sixth Senedd are detailed below (subject to any changes to the current membership of the WAO).

Non-executive member	2021-22	2022-23	2023-24	2024-25	2025-26
<b>Lindsay Foyster (Chair)</b>		<i>Second term ends</i> Due for recruitment			
<b>David Francis</b>		Due for recruitment or re-appointment			
<b>Alison Gerrard</b>	Re-appointed for four years by the Fifth Senedd				<i>Second term expires</i> Due for recruitment
<b>Elinor Gwynn</b>				Due for recruitment or re-appointment	
<b>Ian Rees</b>				Due for recruitment or re-appointment	

**178.** The Committee reflected on its role in overseeing the appointment of non-executive members of the WAO as part of its post-legislative scrutiny of the PAWA 2013 and agreed that the provisions relating to the appointment and re-appointment of the Chair and non-executive members should be simplified.

**179.** The Committee concluded that the legislation should be revised so that the provision enabling the Chair's appointment to be extended for a second term of up to four years is also available to the non-executive members, subject to acceptable performance. This proposal is included in the draft Public Audit (Amendment) (Wales) Bill discussed in Chapter 5.

### Appointment of the Auditors of the WAO's accounts

**180.** Paragraph 34(1) of Schedule 1 to the PAWA 2013 requires the Senedd to appoint a person as auditor of the WAO's accounts, and to determine the person's term of appointment. Paragraph 34(2) permits the WAO to recommend a person for appointment. The Senedd's Standing Orders delegate responsibility for the appointment of the auditors of the WAO's accounts to the Committee.

**181.** The Committee appointed the auditors of the WAO in October 2018, authorising the WAO to undertake a procurement exercise and put forward the successful tenderer for approval and appointment by the Senedd, with oversight of the process being delegated to Senedd Commission officials. The Committee agreed to appoint the WAO's preferred supplier, RSM, as the WAO's external auditor for a four year period commencing on 1 November 2018.

**182.** During the Committee's post-legislative scrutiny of the PAWA 2013, the WAO suggested that significant contractual complications arise because the appointing authority (the Senedd) and the client (the WAO) are different bodies. This necessitates the preparation of tripartite contractual arrangements, including a side agreement to cover, for example, the provision of indemnity should the WAO fail to pay the auditor's remuneration.<sup>51</sup>

**183.** The Senedd Commission also highlighted that its Legal Services team was required to undertake "significant work in relation to the appointment of the auditors of the WAO". This was due to the tripartite nature of the arrangement and included, for the 2018 appointment process, specialist external legal advice valued at £19,500.<sup>52</sup>

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<sup>51</sup> PAWA 05 Written evidence: Wales Audit Office and the Auditor General for Wales

<sup>52</sup> Letter from the Senedd Commission, 27 June 2019

**184.** The Committee concluded that the significant expenditure on legal advice was not the best use of public funds and proposed a revised process that allows the WAO to directly appoint its external auditors, whilst maintaining a role for the Senedd in approving that appointment and agreeing the associated terms and conditions and process by which the WAO procures its auditors. This proposal is included in the draft Public Audit (Amendment) (Wales) Bill discussed in Chapter 5.

## 7. Committee Inquiries

### Background

**185.** The Committee has undertaken a range of inquiries over the Fifth Senedd in addition to its budget and legislative scrutiny work, including:

- [The financial estimates accompanying legislation](#) (October 2017)
- [Preparations for replacing EU funding for Wales](#) (September 2018)
- [The Cost of Caring for an Ageing Population](#) (October 2018)
- The implementation of fiscal devolution ([March 2018](#) and [March 2019](#))
- [Inquiry into the Welsh Government’s capital funding sources](#) (November 2019)
- [Impact of variations in national and sub-national income tax](#) (July 2020)
- [Inquiry into a legislative budget process](#) (August 2020)
- [Inquiry into the implementation of the Wales Act 2014 and operation of the Fiscal Framework](#) (February 2021)

**186.** In the reports listed above, and where a response had been received, all but one of the Committee’s recommendations were accepted (or accepted in principle) by the Welsh Government. Further details on some of these inquiries are covered elsewhere in this report.

**187.** A full list of the Committee’s reports and the responses to them are available on the [Committee’s webpage](#).

### Data and research

**188.** A number of the Committee’s recommendations have related to the need for Welsh specific data and/or research. For example, in its report, [Impact of variations in national and sub-national income tax](#), the Committee noted:

“To fully understand the Welsh tax base and support further research development on taxpayers’ responses to income tax divergence, it is clear that Welsh-specific data, such as data on the different income bands of households, needs to be unlocked.”

**189.** In her [response](#) to the report, the Minister said the “development of new surveys and improving Welsh specific data generally requires considerable resources and usually has long lead times” and “the collection of accurate and comprehensive income information via statistical surveys is resource intensive”.

However, she noted that “administrative data tend to be more useful for studying the impact of income tax variations”, with the most useful data source in the UK being the Survey of Personal Income (SPI) provided by HMRC. This dataset, along with the Welsh rates of income tax outturn, were highlighted to be “key pieces of Welsh-specific income tax data”.

**190.** The Minister noted that the Welsh Government is undertaking research with HMRC’s Knowledge, Analysis and Intelligence (KAI) Division on estimating the behavioural impacts from tax divergence to better account for sub-UK differences in tax rates.

**191.** The Minister also reported that the Welsh Government, with the Scottish Government, had “engaged with HMRC on the potential need for a longitudinal data set, to enable more sophisticated research into the behavioural impact of income tax changes and potential differences within the UK”. She noted that this was a “technical piece of work” and its development was “likely to take some time” given its complexity.

**192.** The Minister acknowledged that the longitudinal data set of income tax payers would provide a “really valuable new data source”, but added:

“It is a long-term project, and there are still some uncertainties about the extent to which it will yield useful results. So, at the moment, we’re at the very start of that particular road.”<sup>53</sup>

**193.** In terms of driving improvements in Welsh economic, spending and revenue data, the Minister highlighted a number of key developments during the Fifth Senedd, including:

- Office for National Statistics (ONS) publishing annual country and regional public sector finance statistics;
- HMRC data from its real-time information systems, which forms a “major component” of the Welsh Government’s monthly suite of labour market statistics;
- Welsh Revenue Authority (WRA) publishing timely and comprehensive statistics on the revenues from land transaction tax and landfill disposals tax;
- introduction of the trade survey for Wales;
- development of the fortnightly ONS business insights and conditions survey.<sup>54</sup>

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<sup>53</sup> Finance Committee, RoP, 10 March 2021, paragraph 128

<sup>54</sup> Finance Committee, RoP, 10 March 2021, paragraph 130-131



**194.** However, the Minister stated there was more to do, noting some examples of future developments, such as “boosting” the Wales sample of the family resources survey and the Welsh response to the census, both of which would provide useful information in future years.<sup>55</sup>

## Skills and Expertise

**195.** In its report, Inquiry into the Welsh Government’s capital funding sources, the Committee noted that a theme running through the evidence sessions, given the complex nature of Public Private Partnerships (PPP) contracts, was the fundamental need for the public sector to have in-house capabilities and expertise in place at the outset of Mutual Investment Model (MIM) projects.

**196.** The Committee recommended that the Welsh Government review the level of expertise in place for contract management, and take steps to maintain this expertise to ensure effective delivery throughout the project lifecycle.

**197.** In her response to the report, the Minister said “work is in hand to assess the levels of resource required to manage contracts on the existing pipeline of MIM schemes with a view to ensuring that a contract management function is established prior to MIM schemes starting construction in 2020”.

**198.** Following up on how the Welsh civil service has responded to the Committee’s recommendation, the Minister explained:

“... different stages of the projects will require different resource complements. We’ve used our holding in local partnerships to bring commercial experts into the Welsh Government, ensuring that they have the skills necessary to develop and procure those MIM schemes. And I’m very mindful that active contract management is going to be the key to the success of these schemes. It’s something I think the committee was keen that we were putting in place to ensure that we got that value for money. And there are different options as to how we do that.

On the education MIM, we continue to use our holding in local partnerships in the short term, alongside looking at and examining more longer term solutions. And for transport, we’re working currently with Transport for Wales to ensure that the effective contract management during the construction phase of the MIM project is in

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<sup>55</sup> Finance Committee, RoP, 10 March 2021, paragraph 132-133

place. So, we're looking to bring in expertise to the Welsh Government but also to make use of the expertise of our partners as well.<sup>56</sup>

## Welsh Government's response to Committee inquiries

**199.** When asked how the work of this Committee's inquiries has driven improvement, the Minister referred to its work on a legislative budget process. While acknowledging that the Welsh Government took a different view, she said it was "helpful in terms of exploring what more we can do in this area, potentially to achieve the same outcomes in different ways".<sup>57</sup>

**200.** She went on to state:

"The work that has been done on local tax arrangements has also been particularly useful in terms of helping us focus our minds, really, on areas of interest to people in Wales, and the work that the committee has done setting out the importance of support for business, for example, through non-domestic rate support has been reflected in the fact that we've made our small business rate relief scheme permanent. And we recently announced bespoke support for the leisure, retail and hospitality sector. So, I think that the shared areas of interest and priorities have been useful in terms of helping us consider what options are available to us."<sup>58</sup>

**201.** On 21 December 2020, the Minister published a written statement outlining the principles that will shape the development of the Wales infrastructure investment plan (WIIP) over the next 18 months. In this statement the Minister noted that the Welsh Government will "consider how best to use our capital borrowing powers over the long term, as recommended by the Senedd Finance Committee in their inquiry into the Welsh Government's capital funding sources".<sup>59</sup>

**202.** The Minister told the Committee that the inquiry had been useful in developing the successor to the WIIP and the Welsh Government's response to the Committee's recommendations "have shaped the strategy as we have it". She continued:

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<sup>56</sup> Finance Committee, RoP, 10 March 2021, paragraph 100-101

<sup>57</sup> Finance Committee, RoP, 10 March 2021, paragraph 119

<sup>58</sup> Finance Committee, RoP, 10 March 2021, paragraph 120

<sup>59</sup> [Written statement: Update on Welsh Government strategic infrastructure investment](#)

“I published a written statement that sets out the development and where we are with the next steps in terms of the WIIP, and it says, ‘we will deploy our capital levers to ensure the delivery of our strategic outcomes’, for example, through the use of capital borrowing powers and innovative finance mechanisms. Those were recommendations of the committee. Also, on our response to the climate emergency and our commitment to net-zero on tackling biodiversity, again, those are things that I know committee has wanted us to use our capital levers to drive forward as well. So, it’s been really useful in that regard.”<sup>60</sup>

## Committee View

**203.** The Committee has undertaken a wide range of inquiries over the course of the Fifth Senedd, alongside its principal financial scrutiny and WAO oversight role. While providing rigorous challenge and scrutiny of the Welsh Government, the Committee has cultivated a constructive working relationship with the previous Cabinet Secretary for Finance and the Minister for Finance and Trefnydd, demonstrated by the acceptance of the large majority of recommendations.

**204.** Throughout its scrutiny of the devolved revenue-raising powers, the Committee has made recommendations about the need for Welsh-specific data to inform tax policy in Wales and improve the evidence base for stakeholders. While acknowledging the improvements highlighted by the Minister, it is clear that further data is needed to address gaps in the Welsh evidence base and to gain a better understanding of the impact of tax divergence.

**Recommendation 21.** The Committee recommends that the responsible committee of the Sixth Senedd works to develop a positive and effective working relationship with the future Finance Minister.

**Recommendation 22.** The Committee recommends that the responsible committee of the Sixth Senedd continues to seek and closely monitor developments in improving Welsh-specific data and research to support fiscal policies.

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<sup>60</sup> Finance Committee, RoP, 10 March 2021, paragraph 124-126

## 8. Brexit and EU Transition

**205.** During the Fifth Senedd term, the topic of Brexit has featured in much of the Committee's work. In addition to undertaking specific Brexit-related work such as its inquiry into the Preparations for replacing EU funding for Wales, and its report on The Welsh Government's Legislative Consent Memorandum on the United Kingdom Internal Market Bill, it has also been a theme of the Committee's annual scrutiny of the Welsh Government's Draft Budgets.

### Internal Market Act 2020

**206.** The United Kingdom Internal Market Act 2020 became law in December 2020.

#### Financial Assistance Powers

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**207.** The Act conferred new financial powers upon UK Government Ministers at Part 6 Sections 50 and 51 of the Act. Section 50 states that financial assistance can be provided for any of the following purposes;

- promoting economic development in the United Kingdom or any area of the United Kingdom;
- providing infrastructure at places in the United Kingdom (including infrastructure in connection with any of the other purposes mentioned in this section);
- supporting cultural activities, projects and events that the Minister considers directly or indirectly benefit the United Kingdom or particular areas of the United Kingdom;
- supporting activities, projects and events relating to sport that the Minister considers directly or indirectly benefit the United Kingdom or particular areas of the United Kingdom;
- supporting international educational and training activities and exchanges;
- supporting educational and training activities and exchanges within the United Kingdom.

**208.** On 2 November 2020, the Committee heard from the Minister about the implications of these financial assistance powers on spending in devolved areas. She stated that:

“... the internal market Bill gives the UK Government power to spend in areas that are clearly devolved.”<sup>61</sup>

**209.** These concerns were echoed by the Counsel General and Minister for European Transition in a letter to the UK Parliament’s Welsh Affairs Committee on 11 January 2021, which stated:

“The blatant disregard for the Welsh Government is the more disturbing within the context of the Internal Market Act which allows UK Ministers to bypass and undermine devolution by exercising spending powers over areas of devolved competence.”<sup>62</sup>

**210.** The Secretary of State for Wales (the Secretary of State) responded to these concerns, stating:

“It is clear that our two governments’ perspectives on the UK Internal Market Act 2020 are not readily reconcilable.”<sup>63</sup>

**211.** In relation to the different viewpoints expressed by the Welsh and UK Governments on the financial assistance powers of the Internal Market Bill, the Committee asked the Secretary of State for further clarification as to whether the powers could lead to a situation where the Senedd’s funding is top-sliced because of devolved spending decisions being made in devolved areas

**212.** The Secretary of State said:

“... I don’t think it is valid, and I’ve not heard that anywhere. In all of the conversations I’ve had with the Treasury, and this applies to other territorial offices as well, that has never been on the table. In fact, it has never been necessary to be on the table because that’s never been something that has been proposed or even considered. So, I don’t see that as a part of what we’re proposing here.”<sup>64</sup>

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<sup>61</sup> Finance Committee, RoP, 2 November 2020, paragraph 266

<sup>62</sup> **Letter** from Counsel General and Minister for European Transition to Chair of the Welsh Affairs Committee, 11 January 2021

<sup>63</sup> **Letter** from the Secretary of State for Wales to Chair of the Welsh Affairs Committee, 22 January 2021

<sup>64</sup> Finance Committee, RoP, 10 March 2021, paragraph 207

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**213.** The letter went on to say that Wales “is expected to receive a significant amount of legacy funding over the next four financial years”, from the previous round of EU Structural Funds, with the anticipation that Wales will be in receipt of more than £375 million annually for the 2021-22 and 2022-23 financial years, with additional funding of £220 million for the next financial year, to assist “local areas to transition away from EU Structural Funds”.

**214.** In the Committee’s report on the Welsh Government’s Legislative Consent Memorandum on the United Kingdom Internal Market Bill, the majority of Committee Members concluded that:

“... the constitutional and financial implications of this Bill passing, in its current form, would undermine the devolution settlement and sets up the prospect that funding available through the Welsh Block Grant could be reduced.”<sup>65</sup>

## UK Shared Prosperity Fund

**215.** On 23 June 2016, the UK voted in a referendum to leave the European Union.

**216.** Given that Wales received considerably more EU funding per person than any of the devolved nations and English regions, the Committee undertook an inquiry to assess the preparations for replacing EU funding for Wales after the UK had left the EU.

**217.** Much of the funding that Wales received from the EU was channelled through Structural Funds, which were designed to address poverty and reduce regional disparities; and through the Common Agricultural Policy (CAP).

**218.** The UK Government announced that Structural Funds would be replaced by a UK Shared Prosperity Fund (UKSPF), but on publication of the Committee’s report in September 2018, very little detail or information had emerged on the Fund and the Committee noted its disappointment with the lack of engagement received from the UK Government.

**219.** The Committee saw the UKSPF and the replacement of CAP as an opportunity to shape a strategic approach for Wales. In relation to the UKSPF, the report highlighted how this might be shared between the four nations, presenting

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<sup>65</sup> Finance Committee report, The Welsh Government’s Legislative Consent Memorandum on the United Kingdom Internal Market Bill, November 2020

a strong case for Wales not to be a penny worse off as a result of Brexit, and for the Welsh Government to manage and administer Wales' share.

**220.** In her response to the Committee's report, the Minister accepted all 11 of its recommendations and stated:

"We agree with the Committee's view that Wales should not be a penny worse off as a result of Brexit..."

**221.** She also stated that:

"We oppose the concept of a UK Shared Prosperity Fund administered from Whitehall."

**222.** The UK Government Spending Review (the Spending Review), published in November 2020, outlined what the UKSPF would look like in broad terms, and stated that:

"Funding for the UKSPF will ramp up so that total domestic UK-wide funding will at least match receipts from EU structural funds, on average reaching around £1.5 billion per year. In addition, to help local areas prepare over 2021-22 for the introduction of the UKSPF, the government will provide additional UK-wide funding to support communities to pilot programmes and new approaches."

**223.** The Spending Review went on to state that further details about how the UKSPF will operate will be published in Spring 2021, with further details to follow on the nature of the additional funding to be provided in 2021-22 using "the new financial assistance powers in the UK Internal Market Bill".

**224.** The Committee wrote<sup>66</sup> to the Secretary of State to request an urgent update on the impact of the Spending Review in Wales, including further detail on the UKSPF. In his response<sup>67</sup> on 5 December 2020, the Secretary of State anticipated that provision of UK Government funding alongside a tailing off of EU Structural Funds would result in "a significant increase in investment for Wales next year compared to its average yearly receipts from the previous seven years of Structural Funds".

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<sup>66</sup> Letter from the Chair of the Finance Committee to the Secretary of State for Wales, 27 November 2020

<sup>67</sup> Letter from the Secretary of State for Wales to the Chair of the Finance Committee, 5 December

**225.** The Committee also wrote<sup>68</sup> to the Chief Secretary to the Treasury on 8 January 2021 regarding the Spending Review, as it still had a number of concerns, including the lack of detail on the UKSPF and the shortfall in agricultural funding. The Committee received his response<sup>69</sup> on 23 February 2021.

**226.** The Welsh Government's Draft Budget narrative 2021-22, published on 21 December 2020, provided the view that Wales is likely to receive a reduction in funding as part of the UKSPF:

“The UK Government’s proposal for a UK-wide Shared Prosperity Fund will be worth just £220m next year for the whole UK – a significant reduction compared to the £375m per year from which Wales alone currently benefits through the European Structural and Investment Funds.”

**227.** In evidence provided to the Committee on the Draft Budget 2021-22, the Minister noted a lack of detail regarding the UKSPF:

“We understand that, potentially, the shared prosperity fund, or the levelling-up fund, will be potentially primarily a capital fund, so there might be additional funding from those funds coming to Wales, but as yet we don’t have an indication.”<sup>70</sup>

**228.** Similar concerns regarding the UK Shared Prosperity Fund were highlighted by several stakeholders who provided evidence to Committee on the Draft Budget 2021-22.

**229.** The Welsh NHS Confederation called for clarity on the “structures and governance arrangements that will replace EU Structural Funds”, noting that the NHS requires clarity about the funding Wales will receive, how it will be targeted and how it will be administered.<sup>71</sup>

**230.** In its October 2020 report, Wales and the Shared Prosperity Fund, the Welsh Affairs Committee concluded that there was:

“... no clarity as to what the Shared Prosperity Fund will look like, how it will be administered, nor how it will be funded. This is unacceptable, and

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<sup>68</sup> Letter from the Chair of the Finance Committee to the Chief Secretary to the Treasury, 8 January 2021

<sup>69</sup> Letter from the Chief Secretary to the Treasury to the Finance Committee Chair, 23 February 2021

<sup>70</sup> Finance Committee, RoP, 20 January 2021, paragraph 100

<sup>71</sup> Written evidence, Welsh NHS Confederation



the UK Government must, as a priority, publish detailed proposals for how the Fund will operate.”

**231.** Full details on the scheme have not been formally published, however in a letter<sup>72</sup> to the Cabinet Secretary for Finance at the Scottish Government, dated 15 January 2021, the Chief Secretary to the Treasury said that the UKSPF would:

“... operate UK-wide, using the new financial assistance powers in the UK Internal Market Act. We will ramp up funding so that total domestic UK-wide funding will at least match EU receipts on average reaching around £1.5bn a year.”

**232.** In response to whether Wales will receive the same level of funding through the UKSPF and other funds, compared to funding previously received under the EU, the Secretary of State told the Committee on 10 March 2021 that:

“... a combination of all of those funding opportunities underpinned by the not-a-penny-less guarantee I hope will give you a sense of my optimism that we’re not looking at a rather bleak period of underfunding or reduced funding. I would like to think quite the opposite.”<sup>73</sup>

**233.** During this session with the Secretary of State, the Committee expressed its concern regarding the likely structure of the UKSPF model and questioned whether the fund would be administered by the UK Government or Welsh Government.<sup>74</sup>

**234.** In his response, the Secretary of State was unable to confirm details, but stated that Robert Jenrick MP, the lead Minister in the Ministry of Housing, Communities and Local Government, had given an assurance to the Welsh Government that a consultation process on these issues would definitely be conducted<sup>75</sup> and that he was ‘very open minded’ to Welsh Government involvement in the management of the UKSPF.<sup>76</sup>

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<sup>72</sup> Letter from the Chief Secretary to the Treasury to Cabinet Secretary for Finance at the Scottish Government, 15 January 2021

<sup>73</sup> Finance Committee, RoP, 10 March 2021, paragraph 164

<sup>74</sup> Finance Committee, RoP, 10 March 2021, paragraphs 166 and 168

<sup>75</sup> Finance Committee, RoP, 10 March 2021, paragraph 169

<sup>76</sup> Finance Committee, RoP, 10 March 2021, paragraph 174

**235.** The UK Minister for Housing, Communities and Local Government, in response to a written question on 8 February 2021 asking for more details about the UKSPF, confirmed that:

“The Government will publish a UK-wide investment framework in Spring 2021 and confirm multi-year funding profiles at the next Spending Review. Further details on the operation of the additional funding in 2021/22 will be published soon.”

## Agriculture and the Rural Economy

**236.** In its 2018 report on Preparations for replacing EU funding for Wales the Committee recommended that:

“... the Welsh Government negotiates with the UK Government to ensure Wales initially continues to receive its current level of funding after the UK leaves the Common Agricultural Policy.”

**237.** The Committee stated that maintaining current funding levels to support the sector sufficiently was of prime importance.

**238.** In accepting this recommendation the Minister stated that:

“Welsh Ministers are clear that leaving the EU should not mean any reduction in the funding available for Welsh land.”

**239.** Following the Spending Review in November 2020, the Committee wrote<sup>77</sup> to the Secretary of State requesting an update on the proposed replacement for the EU Common Agricultural Policy funding, which the Welsh Government stated, appears to leave Welsh farmers and rural communities £137 million short of the expected funding in 2021-22.

**240.** In response<sup>78</sup>, the Secretary of State said the UK Government’s commitment to guarantee the current annual budget to farmers in this UK Parliament was being achieved through:

“... a combination of Exchequer funding and EU funding that will continue to be accessed for CAP Pillar 2...”

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<sup>77</sup> Letter from the Chair of the Finance Committee to the Secretary of State for Wales, 27 November 2020

<sup>78</sup> Letter from the Secretary of State for Wales to the Chair of the Finance Committee, 5 December 2020

**241.** The Committee heard from the Minister that the shortfall in funding compared to what farmers would have expected to receive under previous funding arrangements, including broader rural development funding, will impact on wider work in terms of rural support and projects.<sup>79</sup>

**242.** The Minister did not suggest that the Welsh Government would seek to compensate for this reduction in the Final Budget by making allocations from existing Welsh Government funds, but will continue to strongly press for a transfer of £42 million relating to pillar transfer that has not been received.<sup>80</sup>

**243.** The Minister updated the Committee:

“... we understand from Her Majesty’s Treasury officials...that the Chief Secretary is minded not to agree our request for the return of the £42 million. We haven’t had that notification formally; we’d expect that through the UK supplementary estimates process, which we’re likely to have information on very shortly...As soon as that’s confirmed, Chair, obviously I’m keen to clarify that for committee, but also, then, set out what our response would be to that.”<sup>81</sup>

**244.** The Committee reported its deep concern regarding the likelihood of a shortfall in overall funding available to agriculture and the wider rural economy compared to 2020-21 levels and recommended that the Welsh Government provides further detail of discussions held with the Chief Secretary of the Treasury on funding relating to pillar transfer.

**245.** In her response to the Committee’s report, the Minister stated:

“It has been confirmed through the Supplementary Estimates process that the request for the pillar transfer has been rejected.”

## Committee View

**246.** The Committee has regularly stated its concern over the lack of clarity and transparency regarding the future UK Shared Prosperity Fund, and these concerns remain. Evidence received during the Committee’s scrutiny of the Welsh Government’s Draft Budget 2021-22 has highlighted that these concerns are felt

<sup>79</sup> Finance Committee, RoP, 8 January 2021, paragraph 183

<sup>80</sup> Finance Committee, RoP, 8 January 2021, paragraph 189

<sup>81</sup> Finance Committee, RoP, 20 January 2021, paragraph 149

by many stakeholders across Wales. It is disappointing that the detail around the UK Shared Prosperity Fund has not been finalised at this stage.

**247.** The Committee is very concerned about the evidence that pillar transfer funding and overall funding available to agriculture and the wider rural economy is likely to be well below the level available in 2020-21.

**Recommendation 23.** The Committee recommends that the responsible committee of the Sixth Senedd considers the position in relation to Welsh funding following Brexit, working with the Welsh Government to ensure that Wales receives funding that is at least equivalent to funding that has been received under EU schemes in previous years.

**Recommendation 24.** The Committee recommends that the responsible committee of the Sixth Senedd considers the impact in terms on accountability of the different structures being put in place by the UK to deliver and distribute funding due to replace previous EU funding to public bodies in Wales and how this interacts with priorities and funding provided by the Welsh Government.

## 9. COVID-19

**248.** The Welsh Government normally publishes two Supplementary Budgets in each financial year. However, in 2020-21 an extra Supplementary Budget was published, which included significant additional allocations, as part of its response to the COVID-19 pandemic. The three Supplementary Budgets published were:

- First Supplementary Budget 2020-21, published on 27 May 2020;
- Second Supplementary Budget 2020-21, published on 20 October 2020;
- Third Supplementary Budget 2020-21, published on 16 February 2020.

### In-year funding decisions

**249.** The COVID pandemic has caused significant issues for parliaments to scrutinise Government spending. Over the financial year, the Welsh Government budget increased by almost £6 billion as a result of in-year decisions made by the UK Government. With the UK and Welsh Governments having to release funding to deal with the health and economic emergencies, it was challenging for the Committee and the Senedd to have the information to track or scrutinise funding allocations that were made. In July 2020, the Chancellor of the Exchequer announced in the UK Government Summer Economic update that the Welsh Government would receive an additional £500 million of COVID-19 funding through Barnett Formula consequentials, bringing the Welsh Government's additional COVID-19 support funding to £2.8 billion.

**250.** In response to this announcement, the Minister for Finance and Trefnydd stated publicly that the Welsh Government was only receiving £12.5 million in Barnett Formula consequentials as 'new' funding.

**251.** The Secretary of State stood by the figures announced by the Chancellor in the Summer Economic update and told the Committee that:

“The fact is that £2.8 billion, of which £500 million was a part, has been, or is in the process of being made available to Welsh Government as a result of the Barnett formula.”<sup>82</sup>

**252.** Concerned about the differing views between the two Governments on the calculation of the settlement to Wales, the Committee wrote to both the

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<sup>82</sup> Finance Committee, RoP, 13 July 2020, paragraph 26

Minister<sup>83</sup> and the Secretary of State<sup>84</sup> to seek clarification on the calculations in relation to the announcement.

**253.** In her response<sup>85</sup>, the Minister referred to the Welsh Government figure of £12.5 million received in new revenue consequential and provides details of, “all consequential received since Main Estimates 2020”.

**254.** In the Secretary of State’s response<sup>86</sup>, he stated:

“The UK government has committed that the Welsh government will receive at least £4.0bn of additional resource funding in 2020-21 on top of the position set out at the Spring Budget.”

**255.** On 20 January 2021, the Minister informed the Committee that additional steps had been undertaken to improve transparency in the Welsh Government’s financial reporting. She stated:

“... we’re having our third supplementary budget in February. I’ve also taken every opportunity to provide the information we have in terms of consequential funding to committee, and also provided updates to the Senedd in the Chamber as well. So, the level of transparency that I’ve offered and those opportunities for scrutiny have been the largest of any administration in the UK... the additional steps we’ve put in place” this year might be things that we could consider how we can develop for next year or for future administrations.<sup>87</sup>

**256.** In its report on the Scrutiny of the Second Supplementary Budget 2020-21, the Committee welcomed the publication of an additional Supplementary Budget:

“The Committee welcomes the transparency afforded to the Senedd in bringing forward this additional Supplementary Budget, and believes

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<sup>83</sup> **Letter** from the Chair of the Finance Committee to the Minister for Finance and Trefnydd, 22 July 2020

<sup>84</sup> **Letter** from the Chair of the Finance Committee to the Secretary of State for Wales, 22 July 2020

<sup>85</sup> **Letter** from the Minister for Finance and Trefnydd to the Chair of the Finance Committee, 19 August 2020

<sup>86</sup> **Letter** from the Secretary of State for Wales to the Chair of the Finance Committee, 5 September 2020

<sup>87</sup> Finance Committee, RoP, 20 January 2021, paragraph 12

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the approach of additional supplementary budgets in extraordinary years should continue.”<sup>88</sup>

**257.** The Committee also requested that the Welsh Government provides “as much real time information on its expenditure and the finance available to it” and is more explicit in identifying when funding announcement includes “new” money, or whether it relates to previously announced funding.

**258.** The Committee has previously heard<sup>89</sup> that the **funding guarantee** announced by the UK Government, which guaranteed additional COVID-19 funding for devolved administrations, had caused confusion in terms knowing whether additional funding announcements by the UK Government, following the guarantee, were included in the funding guarantee for Wales, or represented additional funding that would be received through consequentials.

**259.** The Committee has expressed concerns about the level of engagement between the Welsh Government and the UK Government. In its report on the Scrutiny of the First Supplementary Budget 2020-21, it recommended that:

“... the Welsh Government insists that the UK Government provides as much information as promptly as possible, on any UK Government announcement that affects Wales, its residents and/or the businesses that operate here.”<sup>90</sup>

**260.** During an evidence session on the Second Supplementary Budget 2020-21, the Minister informed the Committee that engagement with the UK Government had improved, since her appearance before the Committee in May, with more quadrilateral meetings taking place. Despite this, the Minister summarised the levels of communication as being, “mixed, but often poor”.<sup>91</sup>

## Reconstruction and Recovery

**261.** One of the most important issues for the next Senedd and Welsh Government will be economic reconstruction and recovery.

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<sup>88</sup> Finance Committee, Scrutiny of Welsh Government Second Supplementary Budget 2020-21, November 2020

<sup>89</sup> Finance Committee, RoP, 2 November 2020, paragraph 195

<sup>90</sup> Finance Committee, Scrutiny of Welsh Government Second Supplementary Budget 2020-21, June 2020

<sup>91</sup> Finance Committee, RoP, 2 November 2020, paragraph 191

**262.** The Welsh Government published its COVID-19 reconstruction: challenges and priorities strategy paper on 6 October 2020, outlining its plan for reconstructing the economy following the COVID-19 pandemic. The plan focussed on eight key priorities for reconstruction, including reducing unemployment, ensuring young people are not disadvantaged educationally or economically, investment in town centres and the construction of more affordable housing, amongst others. Allocations were made in subsequent budgets.

**263.** The Committee has expressed its concern regarding no specific Minister having overall responsibility for coordinating Wales' recovery from the COVID-19 pandemic, following the publication of COVID-19 Reconstruction: Challenges and Priorities. The Committee expressed its concerns in a letter to the First Minister:

“We believe this work is of vital importance and are surprised that responsibility for ensuring the action plan is delivered is not the responsibility of a specific Minister.”<sup>92</sup>

**264.** In his response, the First Minister stated:

“Ministers are best placed to ensure the immediate priorities within their portfolios are delivered and can focus their policies and programmes to align with the priorities for recovery.”<sup>93</sup>

**265.** Whilst acknowledging this collective approach, the Committee found it challenging to undertake effective scrutiny of the Welsh Government's Draft Budget 2021-22 without a single point of contact with responsibility for recovery from COVID-19, a budget which had undoubtedly been affected by the ongoing uncertainty arising from the COVID-19 pandemic.

**266.** On 6 October 2020, the First Minister told the Senedd:

“We are committed to a reconstruction that works for all parts of Wales... by addressing the issues that matter to people most: tackling unemployment, addressing entrenched inequalities, providing affordable housing, the revitalisation of our town centres, and supporting the foundational economy.”<sup>94</sup>

**267.** The recovery plan was also accompanied by a post-covid pledge, which committed £320 million of funding towards immediate reconstruction work. The

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<sup>92</sup> Letter from the Chair of the Finance Committee to the First Minister, 18 November 2020

<sup>93</sup> Letter from the First Minister to the Chair of the Finance Committee, 23 December 2020

<sup>94</sup> Plenary, Record of Proceedings, 6 October, paragraph 75

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pledge committed to investing in projects and schemes over the following six months that delivered on the eight priorities identified in the recovery plan, including funding for young people and education (£103 million), investment schemes (£75 million) and housing (£60 million).

**268.** The Third Supplementary Budget 2020-2021 included an **allocation** of £270 million to assist with reconstruction efforts; **provided** to the Development Bank of Wales to help Welsh businesses access finance to “focus on their long term success”.

### Committee view

**269.** The Committee welcomes the Welsh Government’s publication of an additional Supplementary Budget in 2020-21 and its efforts to improve transparency in its financial reporting.

**270.** The Committee is concerned with the level of engagement and communication between the Welsh and UK Governments, in which the Minister has described as being ‘mixed, but often poor.’ Such unsatisfactory levels of cooperation between the two Governments has arguably contributed to public disputes regarding funding announcements and consequently, hindered effective scrutiny.

**271.** The Committee considers that the recovery from COVID-19 will be the priority for the next Welsh Government and the Senedd will need to be able to effectively scrutinise the Welsh Government on its plans. Whilst recognising the role individual Ministers will have, the Committee is concerned that the recovery plan from COVID-19 was published prior to the third lockdown, after which there was not a central Minister responsible for overseeing the recovery.

**Recommendation 25.** The Committee recommends that recovery from COVID-19 is a central Budget scrutiny theme for the responsible committee of the Sixth Senedd throughout the next parliamentary term.

## Annex: List of oral evidence sessions

Whilst the following witnesses provided oral evidence to the committee to inform its legacy work, the Committee's scrutiny over the past five years is reflected in this report. Transcripts of all oral evidence sessions can be viewed on the [Committee's website](#).

Date	Name and organisation
<p><b><u>10 March 2021</u></b></p>	<p><b>Rebecca Evans MS</b> Minister for Finance and Trefnydd</p> <p><b>Andrew Jeffreys</b> Director Treasury, Welsh Government</p> <p><b>Gawain Evans</b> Director of Finance, Welsh Government</p> <p><b>Debra Carter</b> Deputy Director, Local Government Strategic Finance</p> <p><b>Marcella Maxwell</b> Deputy Director, Commercial Procurement and Group Strategy, Welsh Government</p>
<p><b><u>10 March 2021</u></b></p>	<p><b>Rt. Hon Simon Hart MP</b> Secretary of State for Wales</p> <p><b>Geth Williams</b> Deputy Director of Constitution and Policy, Wales Office</p>
<p><b><u>3 March 2021</u></b></p>	<p><b>Suzy Davies MS</b> Commissioner for Budget and Governance</p> <p><b>Manon Antoniazzi</b> Chief Executive and Clerk of the Senedd</p> <p><b>Nia Morgan</b> Director of Finance</p>