

Constitutional and Legislative Affairs Committee Draft Report

CLA484 – The Accounts and Audit (Wales) Regulations 2014

Procedure: Negative

These Regulations revoke and replace the Accounts and Audit (Wales) Regulations 2005 (as amended). They consolidate all previous amendments and clarify the definitions of, and auditing practices applicable to, smaller and larger relevant bodies.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

One point is identified for reporting under Standing order 21.3(ii) namely that it is of political importance or gives rise to issues of public policy likely to be of interest to the Assembly.

Regulation 9 provides that the statement of accounts required to be prepared by a larger relevant authority must include (inter alia) a note of the remuneration and contribution to the pensions by the relevant authority of senior employees or relevant police officers. Individuals whose salary is over £150,000 a year are to be identified by name; regulation 9(5) provides that the persons whose remuneration is to so noted must be listed individually and identified by way of job title only. However this does potentially enable the identities of the latter category to be ascertained so giving rise to concerns relating to data protection and incompatibility with UN Convention on Human Rights.

The principle underlying the provision is not novel. Similar requirements were found in the Local Authorities (Capital

Finance and Accounting) (Wales) Regulations 2003 (and in subsequent amending regulations). In 2009 The first time this provision was enacted within accounts and audit regulations was in The Account and Audit (Amendment No.2) (England) Regulations 2009; the same provision was then contained in the Wales regulations in 2010.

In 2009 the Joint Committee on Statutory Instruments considered the 2009 Regulations; the regulations were not reported. Members may find informative the following extract from the Explanatory Memorandum laid with the 2009 Regulations.

“Of particular relevance to the Government’s consideration of the content of the Regulations was the response from the Information Commissioner’s Office (ICO). In the ICO’s response, it was noted that the Commissioner encourages public authorities to publish information pro-actively wherever possible, including certain information about staff costs. The Commissioner did not foresee that the proposals would be incompatible with the Data Protection Act, and envisaged that section 34 of that Act would apply. The Commissioner agreed that public sector workers who are responsible for major policy decisions and the spending of public money should expect some scrutiny of their pay, and supported the detailed reporting of remuneration as proposed, but sounded a note of caution that such disclosure should not be misleading. Disclosure should provide transparency about the expenditure of public money, not an employee’s purely private financial affairs”.

Notwithstanding the potential data protection and human rights issues potentially raised by this provision, Members may consider that the public interest in the accountability of public bodies regarding the expenditure of public money, including on the remuneration of public sector workers, must be balanced

against the protection of private information and private interests of the persons involved regarding the protection of private information.

Legal Advisers

Constitutional and Legislative Affairs committee