

Agenda – Finance Committee

Meeting Venue:	For further information contact:
Scott Room, Royal Society of Edinburgh	Bethan Davies
Meeting date: 13 June 2019	Committee Clerk
Meeting time: 09.30	0300 200 6372
	SeneddFinance@assembly.wales

1 Introductions, apologies, substitutions and declarations of interest

(09.30)

2 Paper(s) to note

(09.30)

2.1 PTN1 – Letter from the Deputy Minister for Health and Social Services: Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill – 31 May 2019

(Pages 1 – 5)

2.2 PTN2 – Letter from the Chair of the Economy, Infrastructure and Skills Committee – Retention payments in construction contracts – 6 June 2019

(Page 6)

3 Legislative budget process: Evidence session 1

(09.30–10.30)

(Pages 7 – 38)

David Eiser, Adviser to the Scottish Parliament's Finance Committee

Research Brief

Break: 10.30–10.40

4 Legislative budget process: Evidence session 2

(10.40–11.40)

Prof. Michael Danson, Professor of Enterprise Policy, Heriot-Watt University



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

Dr Angela O'Hagan, School for Business and Society, Glasgow Caledonian University

Research Brief

Break: 11.40–12.00

5 Legislative budget process: Evidence session 3

(12.00–12.30)

(Pages 39 – 46)

Caroline Gardner, Auditor General for Scotland

Mark Taylor, Audit Director, Audit Scotland

Paper 1 – Written evidence: Auditor General for Scotland
Research Brief

6 Consideration of proposals to amend the Public Audit (Wales) Act 2013: Evidence session 1

(12.30–13.00)

(Pages 47 – 79)

Caroline Gardner, Auditor General for Scotland

Diane McGiffen, Chief Operating Officer, Audit Scotland

Paper 2 – Written evidence: Auditor General for Scotland
Research Brief

7 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting and the meeting on the 19 June 2019

(13.00)

8 Legislative budget process: Consideration of evidence

(13.00–13.15)

**9 Consideration of proposals to amend the Public Audit (Wales) Act
2013: Consideration of evidence
(13.15–13.30)**

Our ref: MAL JM 405/19

Lynne Neagle AM
Chair
Children, Young People and Education Committee

Llyr Gruffydd AM
Chair
Finance Committee

National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

31 May 2019

Dear Lynne and Llyr,

I would like to thank the Children, Young People and Education Committee and the Finance Committee for their scrutiny of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill to date.

As the action from each Committee related to providing further detail relating to the police data used in the Regulatory Impact Assessment, I am providing a single response which covers both Committees' actions.

I trust the Committees will find the information provided in the Annex to this letter helpful during your continued scrutiny of the Bill.

A copy of my letter is also being sent to the Chair, Mick Antoniw AM, Chair Constitutional and Legislative Affairs Committee.

Yours Sincerely



Julie Morgan AC/AM

Y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol

Deputy Minister for Health and Social Service

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Gohebiaeth.Julie.Morgan@llyw.cymru
Correspondence.Julie.Morgan@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill

ANNEX

- ***The Deputy Minister agreed to provide further clarification on whether the Explanatory Memorandum's estimated 274 cases of reasonable punishment reported to the police in Wales per year included smacking only, or smacking as part of a wider range of behaviours.***

At the request of the Welsh Government, the Police Liaison Unit conducted an audit of recorded crime offences relating to Common Assault and Cruelty to Children. These relate to crimes recorded in the four Welsh police forces' areas. The methodology used by the Police Liaison Unit is set out in Annex 7 of the Explanatory Memorandum. Police forces in England and Wales comply solely with the Home Office Counting Rules for Recorded Crime (HOC).

The dataset focused on:

- Recorded Common Assault (HOC 105/1) where no injury occurs, (the defence of reasonable punishment does not hold where injury is evident);
- Recorded Cruelty to Children offences (HOC 11/3) as assaults on children can appear as 'hidden crimes' during an investigation.

A search was made of the data for incidents against children with the words:

- Smacking;
- Slapping;
- Hitting;
- Parental control;
- Chastisement; and
- Punishment

Through discussion with the Police Liaison Unit we understand the figure of 274 cases of reasonable punishment may, in some cases, not have been isolated to incidences of physical punishment but could also be part of a wider set of issues such as neglect and abuse.

- ***The CYPE Committee asked for a more detailed note on the differences between the figures cited in the Explanatory Memorandum from New Zealand on prosecutions under similar legislation, and estimates from Wales's Police Liaison Unit based on unpublished data.***
- ***The Deputy Minister agreed to provide the Finance Committee with further information on how the number of cases of reasonable punishment reported to the police was estimated and how this links to the number of prosecutions in Wales each year.***

The figures cited in the Explanatory Memorandum from New Zealand have been used to estimate the potential number of *prosecutions* which could occur in Wales if the legislation is enacted. Prosecution is where an individual is charged and the case is tried in court.

The data from the police has been used to provide an estimate of the number of cases the police may need to *investigate* if the Bill is enacted. While we have been able to work with the police forces to identify the best possible data on numbers of offences which relate to parental physical punishment, this does not translate into likely numbers of cases which would proceed to court. This is because most would be resolved before reaching that stage. The police and Crown Prosecution Service balance factors for and against prosecution very carefully. They consider the evidence and what is in the public interest and this will include what is in the best interests of the child. Some cases may result in the police taking 'no further action'. In other cases an offence might be dealt with through an out of court disposal which may be offered by the police.

The data collected by the New Zealand police was specifically for the purpose of monitoring the impact of the change in the law, and included specific data on number of prosecutions. We have therefore used the New Zealand data as a proxy to estimate the potential number of prosecutions if the law changes in Wales.

Further detail about how these figures were developed is set out in the Explanatory Memorandum. I also referred to these figures in my letter to the Committee on 25 April.

New Zealand data on prosecutions

In New Zealand, The Crimes (Substituted Section 59) Amendment Act 2007 came into force on 22 June 2007. Its purpose was to abolish the use of parental force for the purpose of correction.

In New Zealand the police service published data about the numbers of cases reported to them in the three months before and five years after the law changed.

In the absence of any other reliable data to make estimates of the number of prosecutions that might occur in Wales as a result of the legislation, the police data from New Zealand has been used as a proxy to provide an estimate of the potential numbers of cases prosecuted in Wales in the five years following commencement. A justice impact assessment was developed in consultation with the Ministry of Justice. This included an estimate of costs to the justice system using the New Zealand data as a proxy. This approach was agreed with the Ministry of Justice.

While there are similarities between Wales and New Zealand, with both jurisdictions based on common law, there are also a number of differences, which need to be taken into consideration. These include:

- Differences between the Legislation in New Zealand and what is proposed in Wales;

- Law enforcement in New Zealand is distinct to that in Wales;
- Age of child covered by the legislation;
- Population differences; and
- Parenting support and awareness raising about the legislation.

In the five years of the review period, there were eight prosecutions for 'smacking' and 55 for 'minor acts of physical discipline', so 63 prosecutions in total in New Zealand. Due to differences in population sizes between Wales and New Zealand we have therefore, estimated 37 or 38 prosecutions over a five year period in Wales.

In New Zealand there was no specific educational and media campaign to explain the law change. In Wales we have made a commitment to raise awareness about the change in the law (if passed) and would, therefore, anticipate that the number of cases proceeding to prosecution would reduce over time.

This is explained further on pages 8-9 of the Justice Impact Assessment, and in chapter 8 of the Explanatory Memorandum.

Police data on investigations

The four police forces in Wales, in coordination with the Police Liaison Unit, conducted a retrospective audit of recorded crime offences relating to Common Assault and Cruelty to Children covering a period of 19 months (April 2017-December 2018). The police filtered the information using the specific terms set out above, where the offender was an adult and the victim a child, and the age gap between the two was greater than 3 years.

The police manually analysed a sample of the results to determine which proportion related to reasonable punishment, and identified that one in seven/eight did, depending on the specific police force. The police identified a sample size for review large enough to provide 90% confidence in their estimate that 274 crimes identified by the search would relate to physical punishment. This estimate would be subject to a small margin of error (± 25 crimes).

The potential scale of increase was calculated by reference to the New Zealand data, on the basis that incidents categorised in New Zealand as 'smacking' or 'minor acts of physical discipline' would most likely equate to offences at the level of 'reasonable punishment' in Wales. The table in chapter 8 (headed Police) of the Explanatory Memorandum explains that, on average, such incidents occurred twice as frequently in the five years following commencement of the legislation in New Zealand. An average increase has been used as reporting periods in New Zealand were not uniform over the five year reporting period.

Through the Implementation Group further work will take place with the police, and other key stakeholders, to agree the approach to data collection pre and post the change in the law (if the Bill is passed) with the intention of developing the baseline and future monitoring requirements.

Agenda Item 2.2

Llyr Gruffydd AM
Chair of the Finance Committee

06 June 2019

Dear Llyr,

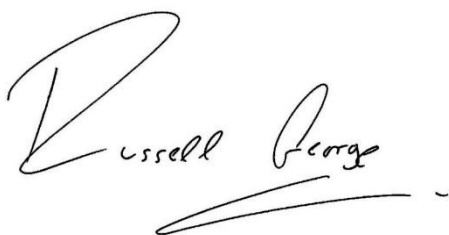
Retention payments in construction contracts

Thank you for your letter on the 16 May, proposing a joint piece of work into retention payments in construction contracts.

I write to inform you that the Economy, Infrastructure and Skills Committee (EIS) recognises the importance of this topic, and would be happy to undertake a joint piece of work with the Finance Committee.

I have asked the Clerk of the EIS Committee, Gareth Price, to liaise with the Clerk of the Finance Committee in order to arrange a meeting to discuss the next steps.

Yours sincerely,



Russell George AM
Chair
Economy, Infrastructure and Skills Committee



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National Assembly for Wales – Finance Committee

Written submission by the Auditor General for Scotland on the Scottish budget process

Introduction

1. I welcome the opportunity to contribute to the Finance Committee's consideration of the legislative budget process.
2. I was a member of the Budget Process Review Group (BPRG), which carried out a fundamental review of the Scottish Parliament's budget process. A revised process based on the recommendations of the BPRG was introduced last year, for the 2019/20 budget. This submission reflects my experience as a member of the BPRG. I look forward to discussing these issues further with the Committee on 13 June 2019.

Background

Previous budget process

3. The Scottish Parliament has always had a legislative budget process. The UK Government established the Financial Issues Advisory Group (FIAG) in 1998 to develop proposals for the new Scottish Parliament's budgetary process. FIAG outlined a set of principles for the process (Appendix 1). It recommended a statutory annual budget process that was designed to give the Parliament's committees the opportunity to comment on Scottish Government spending plans at several points during the year. It proposed an annual three-stage approach to scrutinising and approving the Government's spending proposals:
 - April to June - discussion of strategic priorities for the following financial year
 - September to December - consideration of the Scottish Government's draft budget and opportunity to suggest alternative tax and spending proposals
 - January to February - scrutiny of the Budget Bill.

Rationale for change

4. The process has continually evolved since it was introduced in 1999, but more fundamental changes were needed to accommodate the devolution of tax and spending powers through the 2012 and 2016 Scotland Acts. Before these powers were devolved, budget scrutiny focused on Scottish Government plans to spend the block grant allocation from the UK Government. The new financial powers saw a shift from a spending parliament to one that needs to balance spending and revenue, while managing increased complexity, volatility and uncertainty. This placed increased emphasis on the importance of parliamentary committee's budget scrutiny.
5. The changing landscape for the public finances meant that there was a need to transform the budget process. This also provided an opportunity to address some weaknesses in the process. The Scottish Budget has always been published after the UK Budget and spending reviews, so the timetable for budget scrutiny depends on the timing of UK fiscal events. On seven occasions since devolution, the Scottish Draft Budget was published later than September. This reduced the time available for budget scrutiny and was a cause of concern for parliamentary committees.

6. The discussion of strategic priorities before the Draft Budget was published never worked as intended by FIAG and became largely overlooked. This limited the level of parliamentary influence on the formulation of the budget. In practice, scrutiny did not begin until the Scottish Government's detailed spending proposals were published in the Draft Budget. At this stage, scrutiny tended to focus on budgetary changes in a single year. There was little emphasis on evaluating the impact of previous budgets or looking ahead to future budgets.
7. The impact of new financial powers and the operation of the fiscal framework on the Scottish budget, along with the scope to improve budget scrutiny, meant that both the Scottish Parliament and Scottish Government supported revisions to the budget process. They encouraged a transformative approach to reviewing the whole process rather than updating or amending existing steps in the process.

Budget Process Review Group

Establishing the group

8. In its legacy paper at the end of the previous session of the Parliament, the Finance Committee recommended that "Scottish Parliament and Scottish Government officials work together to review the budget process in the first instance with a view to bringing forward proposals for any changes for consideration by our successor and Ministers. This should include addressing the issue of tax changes and the balance between scrutiny of revenue and expenditure."¹
9. In September 2016, the new Finance and Constitution Committee and the Cabinet Secretary for Finance and the Constitution agreed to establish a group with the following remit:

"To carry out a fundamental review of the Scottish Parliament's budget process following the devolution of further powers in the Scotland Act 2012 and Scotland Act 2016. To bring forward proposals for a revised budget process which are consistent as far as possible with the principles of the Financial Issues Advisory Group for consideration by the Finance Committee and the Cabinet Secretary for Finance and the Constitution."
10. The clerks of the Finance and Constitution Committee and Scottish Government officials jointly led the establishment of the BPRG. They identified potential members and proposed the scope and timing of the group's work. The joint lead taken by the Parliament and Government in calling for a review of the existing budget process and investing time and resources in its work was essential to the success of the BPRG and the adoption of its recommendations.
11. Membership of the BPRG included four officials from the Scottish Parliament, four officials from finance directorates in the Scottish Government and eight expert advisors. This provided a good balance between officials and advisors and ensured a range of views around the table from people with relevant knowledge and experience. Once the BPRG was established, the expert advisors were able to influence and shape the work of the group.

¹ Finance Committee legacy paper, March 2016
https://www.parliament.scot/S4_FinanceCommittee/Reports/FIS042016R06.pdf

Work of the group

12. The scope of the review was to:

- assess the likely impact of the new financial powers on the effectiveness of the existing budget process
- devise a revised budget process that addresses the increased level of financial responsibility within the context of the FIAG principles.

13. The first meeting of the BPRG, at the end of September 2016, was introduced by the Cabinet Secretary for Finance and the Constitution, the Convenor of the Finance Committee and the Scottish Government's Director General Finance. They highlighted their commitment to transforming the budget process and support for the BPRG. This set a constructive tone, empowering the group to explore options and make independent recommendations.

14. At its first meeting, the BPRG agreed to the scope and timings of the review as proposed by the Scottish Parliament and Scottish Government. Steered by the expert advisors, the group agreed a range of principles that would guide its work and the issues that it wanted to consider at future meetings. The group agreed its initial work programme, including specific information it required to help inform the review and people it wanted to invite to give evidence.

15. The BPRG met 11 times between September 2016 and June 2017. During this time, it took oral evidence from 20 people including academics and representatives from organisations such as the Organisation for Economic Cooperation and Development (OECD) and the Institute of Fiscal Studies. The group also held a workshop on an outcomes-based approach to budget scrutiny and commissioned research on international best practice in budget scrutiny.

16. To widen the evidence base further, the group published an interim report for consultation.² This provided an opportunity for wider civic engagement in the review. The group received 26 written submissions, including ones from other Scottish Parliament committees, public bodies, councils and representative organisations. Taking an evidence-led approach to the review, based on contributions from a wide range of stakeholders, helped the group to agree a set of recommendations that were ambitious but achievable.

17. Although the group was encouraged to take a transformative approach to reviewing the whole budget process, it was important to recognise what was already working well. Some of the BPRG's recommendations were based on retaining elements of the existing process and building on what some committees were already doing around budget scrutiny. The group was also clear that it would take time to implement any changes, given the complexity of the issues and the cultural change required.

18. The BPRG reported its findings in June 2017.³ This included 59 recommendations, designed to transform the Scottish budget process. I and another member of the BPRG contributed to the Finance Committee's evidence session on the report in September

² Budget Process Review Group interim report, March 2017

[https://www.parliament.scot/S5_Finance/Reports/2017.03.10_BPRG_Interim_Report_\(1\).pdf](https://www.parliament.scot/S5_Finance/Reports/2017.03.10_BPRG_Interim_Report_(1).pdf)

³ Budget Process Review Group final report, June 2017

http://www.parliament.scot/S5_Finance/Reports/BPRG_-_Final_Report_30.06.17.pdf

2017.⁴ The Convenor highlighted the role of the external advisors in developing the group's recommendations and noted that the BPRG provided a positive example of parliament, government and civic society working together to find a successful way forward.

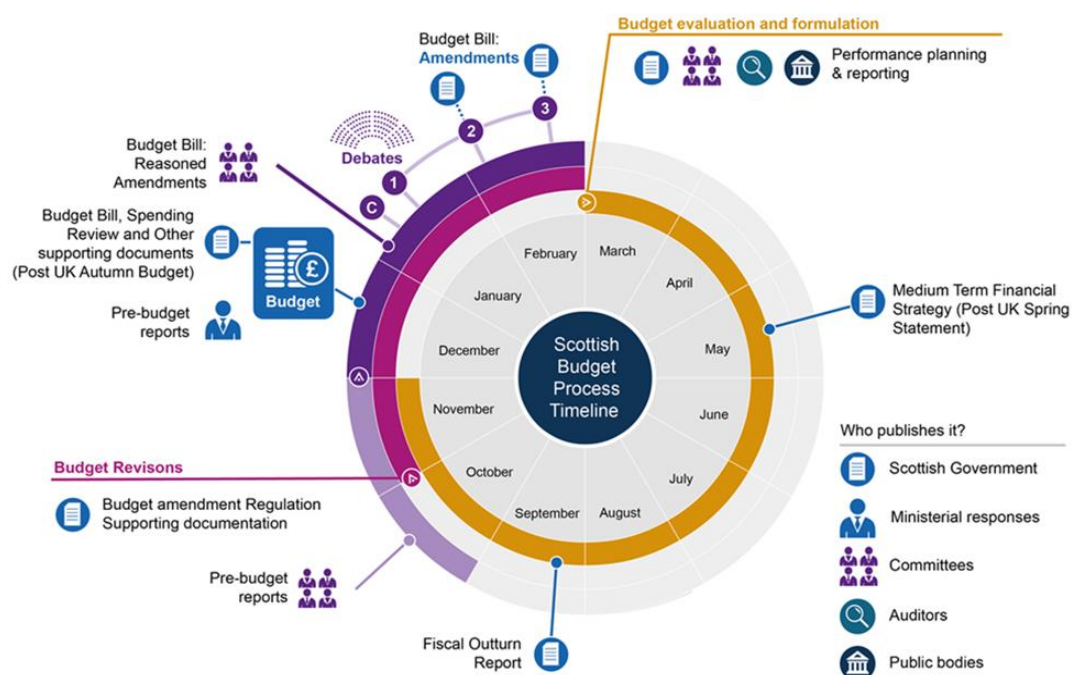
Revised Scottish budget process

19. The Finance and Constitution Committee and the Cabinet Secretary for Finance and the Constitution welcomed the recommendations of the BPRG and agreed to implement them in full. In May 2018, the Scottish Parliament backed changes to the budget process, and this was set out in a revised written agreement between the Scottish Government and the Finance and Constitution Committee.⁵ The revised process was introduced for the 2019/20 budget.
20. At the heart of the new budget process is a framework that supports a more strategic approach to scrutiny with the following features:
 - Full year approach - a broader process in which committees have the flexibility to incorporate budget scrutiny including public engagement into their work prior to the publication of firm and detailed spending proposals.
 - Continuous cycle - an emphasis on developing an understanding of the impact of budgetary decisions over a number of years including budgetary trends.
 - Output/outcome focused - an emphasis on what budgets have achieved and aim to achieve over the long term, including scrutiny of equalities outcomes.
 - Fiscal responsibility - a longer-term outlook with a focus on prioritisation and addressing fiscal constraints and increasing demand for public services.
 - Inter-dependent – more of a focus on the inter-dependent nature of many of the policies which the budget is seeking to deliver.
21. The main elements of the new budget cycle are shown in Exhibit 1. A key part of the new process is the extended budget evaluation and formulation stage from March to November. This involves parliamentary committees looking back to explore what is working and looking forward to identify the issues and challenges, and considering what this should mean for future budgets. This is intended to allow committees to influence the content of budget proposals up front, both through discussion at the committee and by setting out their views in a pre-budget report. The pre-budget reports, which are to be prepared at least six weeks before publication of the Scottish Budget, should set out individual committees' views on the delivery and funding of existing policy priorities, any proposed changes and how these should be funded. This then plays into the formal parliamentary process around the budget itself.
22. The Scottish Budget document should include a summary of how committees' pre-budget reports have influenced the budget. Ministers are required to provide a more detailed written response to each committee within five sitting days of publication of the budget. They may also be invited to provide oral evidence to their respective committees.

⁴ Finance and Constitution Committee official report, September 2017 (column 27 to 46)
<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11105&mode=pdf>

⁵ Budget process agreement between the Scottish Government and Finance and Constitution Committee
https://www.parliament.scot/S5_Finance/General%20Documents/20180517WA_with_SG.pdf

Exhibit 1: Revised Scottish budget process



Source: Scottish Parliament Information Centre

Legislative process

23. The BPRG considered the timing of the publication of the Scottish Budget and the implications for the time available for scrutiny. It concluded that publishing the Scottish Budget prior to the UK Budget would be counter-productive due to the increased levels of uncertainty introduced by the fiscal framework. It therefore recommended that more time is built into the budget cycle for ongoing parliamentary scrutiny, and the Scottish Budget will continue to be published after the UK Budget. The main difference in approach is that a draft budget is no longer published, as committees' pre-budget scrutiny should feed into the formulation of the Scottish Budget document. Although the timings are not fixed, normally the Scottish Budget will be published no more than three weeks after publication of the UK Budget and the Budget Bill will be introduced one week later.
24. The legislative process following publication of the Budget Bill, and the timescales for this, remain largely the same as they were (Appendix 2). Only the Government can propose amendments to the Bill. Committees and individual members can express their views on revenue and spending proposals through reasoned amendments to the Scottish Government's motion on the general principles of the Budget Bill at stage one. There was no change to the existing procedure that only Ministers can lodge amendments to the Budget Bill at stages two and three. The BPRG carefully considered other options and concluded that this approach provides the right balance between meaningful parliamentary influence in setting the budget and overall Government control of the public finances.
25. To enhance the role of committees once the Budget Bill has been introduced, there is now a debate on committees' pre-budget scrutiny before the stage one debate on the Budget Bill. This debate in the chamber, led by the Finance and Constitution Committee, provides an opportunity for Convenors of each committee to highlight

issues from their budget scrutiny and for the Cabinet Secretary for Finance, Economy and Fair Work to respond.

26. Currently, different legislative and non-legislative mechanisms are used to set or amend tax rates and bands and authorise the collection of revenue. Views received by the BPRG suggested that these approaches may not be flexible enough to allow a timely and effective response, particularly where tax measures need to be introduced quickly or minor amendments are needed to existing primary legislation. The group recommended that the Finance and Constitution Committee, Scottish Government and Revenue Scotland explore options for alternative legislative processes for devolved taxes. This work is continuing.
27. The BPRG considered whether all revenue related powers should be collectively included in a Finance Bill. The UK Government's annual Finance Bill provides a single legislative vehicle for revenue related changes requiring primary legislation, for both new taxes and changes to existing taxes. It allows for the UK Government to amend taxes in advance of parliamentary scrutiny of the draft legislation to deliver changes. The BPRG recognised that there may be good reasons for the introduction of a Finance Bill and recommended that the Scottish Government and Finance and Constitution Committee examine this further and bring forward any proposals by the end of the current Parliament in 2021.

Conclusion

28. The first cycle of the new budget process completed with the passing of the 2019/20 budget in February 2019, two and a half years after the BPRG was established. This marked a significant shift in approach to budget scrutiny and created momentum, which provides a good foundation on which to build. The BPRG recommended transformational changes that will take time to implement fully. I expect the budget process to continue to evolve during the current parliamentary session, as the new approaches and ways of working bed in.
29. The review of the budget process provided an opportunity to create financial scrutiny processes that are world class, reflecting international best practice in a way that suits Scotland. Balancing our aspirations for what the process might achieve with the practicalities of implementation will require both ambition and realism.

Caroline Gardner

Auditor General for Scotland

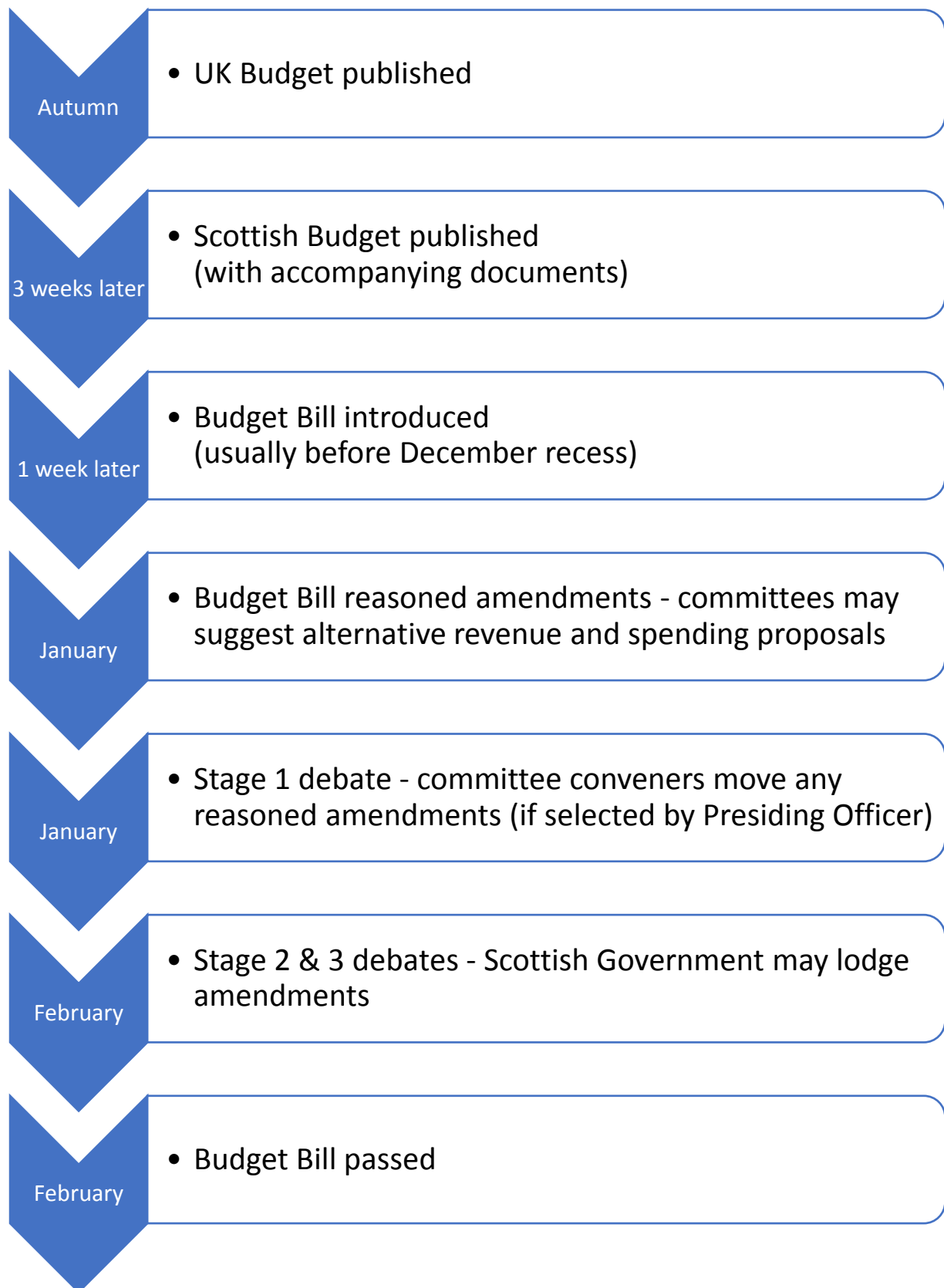
May 2019

Appendix 1: Financial Issues Advisory Group principles

The Financial Issues Advisory Group stated that any Scottish budgeting system should be capable of:

- providing opportunities for the Parliament to comment on expenditure priorities and to influence the Governments' preparation of budgets
- providing the opportunity for the public to have the opportunity to put their views to subject committees, as well as individual MSPs at an early stage in the process
- providing sufficient time for the Parliament to consider and debate proposals fully
- providing balance between the requirement for parliamentary scrutiny and the needs of the Executive
- providing some degree of certainty so that on-going activities can continue without prolonged uncertainty
- providing an efficient mechanism to deliver motions to be debated by the Parliament
- providing a meaningful role for subject committees and the Finance Committee
- delivering timeous decisions on tax varying powers and the budget (as well as the interim spending approval and budget amendments)
- engaging all MSPs
- facilitating the Executive's formulation of proposals
- providing for the right of amendment.

Appendix 2: Timeline of the Scottish legislative budget process



Llyr Gruffydd AM
Chair
Finance Committee
National Assembly for Wales

22 May 2019

By email

Dear Llyr

Public Audit (Wales) Act 2013

Thank you for inviting me to provide written evidence to inform your post-legislative scrutiny of the Public Audit (Wales) Act. In relation to the issues set out in point 1 of your letter, I thought it would be helpful to provide some information on how funding and fee-setting for public audit operate in Scotland.

Fee income represents approximately 71% of Audit Scotland's total funding, with the remainder coming from the Scottish Consolidated Fund. Audit Scotland has a statutory duty under the Public Finance and Accountability (Scotland) Act 2000 to seek to broadly break even on audit work that is charged for, taking one year with another, either for each audit or for classes of audits. Audit Scotland treats each sector (e.g. local government, health) as a class of audits. Audit fees are set with the objective of recovering the full cost of audit work in each sector. I have attached a copy of our funding and fees strategy for information.

The principles of the funding and fee setting arrangements are designed to underpin the delivery of high quality, independent public audit in Scotland while demonstrating accountability for the public money involved. Enclosed is a copy of our Fees & Funding Strategy for reference.

The objectives are as follows:

- Comply with the Public Finance and Accountability Act
- Maintain the independence of auditors
- Reflect the way in which public services are organised and audited
- Minimise volatility from year to year without reason
- Transparent and easy to understand
- Simple to operate
- Sustainable

Audit Scotland is not able to hold reserves. Within this constraint, the flexibility provided by the legislation to broadly break even for classes of audit enables Audit Scotland to manage its business effectively by:

- Supporting differences between years in the overall amount of work performed in each sector
- Recognising the extent of cross sector joint working and the judgemental nature of allocating this between sectors
- Recognising the need to apportion overheads between sectors
- Smoothing changes in fee levels from year to year to reduce volatility and provide predictability
- Providing flexibility to manage the difference between the financial year and the audit year.

I hope that this information is helpful to your enquiry, and I look forward to meeting you and the Committee in June.

Yours sincerely

A handwritten signature in black ink, reading 'Caroline Gardner'. The script is cursive and fluid, with the first name 'Caroline' and last name 'Gardner' clearly distinguishable.

Caroline Gardner
Auditor General for Scotland

Fee Strategy

Audit Scotland is a statutory body set up in April 2000 under the Public Finance and Accountability (Scotland) Act 2000. It provides services to the Auditor General for Scotland and the Accounts Commission. Together they ensure that the Scottish Government and public sector bodies in Scotland are held to account for the proper, efficient and effective use of public funds.

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Key messages

- We have completed a review of funding and fee setting arrangements.
- We carried out a successful audit procurement exercise leading to new audit appointments being made for the 2016/17 to 2020/21 audits.
- Our aim is to deliver independent, consistent, high quality, wider scope public audits whilst achieving best value in our use of resources.
- We will reduce average fee levels for the 2016/17 audits by 6.7% (8.6% in real terms).
- This is on top of a 24% reduction on average in real terms between 2010/11 and 2015/16 audits.
- We expect to make further real terms reductions in fee levels for 2017/18 and 2018/19 audits.
- Our 2017/18 budget proposal includes the transfer of funding for NHS performance audit from audit fees to the SCF. We will reduce audit fees to the NHS by the same amount.

Introduction

1. This fee strategy supports Audit Scotland's 2017/18 budget proposal, sets out our approach to setting fees and the fee levels for 2016/17 and future audits.
2. Audit Scotland's principal statutory function is to provide services to the Auditor General and the Accounts Commission. They appoint independent external auditors to most public bodies in Scotland and determine the scope of audit work through the Code of Audit Practice.
3. We are funded by a combination of fees to audited bodies and funding from the Scottish Consolidated Fund (SCF). Audit Scotland is responsible for setting audit fees, which make up around 75% of total income.
4. Fee income forms part of our annual budget submission to the Scottish Parliament. The budget proposal is subject to scrutiny by the Scottish Commission for Public Audit, a commission of the Scottish Parliament, and forms part of the annual Budget Act approved by the Parliament. Whilst the budget proposal is for financial years running from 1 April to 31 March the majority of annual audit work covers a period from November to October. We set fees for each audit and therefore each budget includes fees for parts of two annual audit cycles.
5. Annual audits are undertaken by Audit Scotland staff and private firms appointed by the Auditor General and the Accounts Commission. Performance audits are carried out by Audit Scotland staff with assistance from external specialists and appointed auditors where appropriate.
6. To support our vision of world class high quality audit and to maintain independence, auditors are rotated every five years. During 2015/16 we carried out an audit procurement exercise leading to appointments of in house teams and external firms being made to over 220 bodies for the 2016/17 to 2020/21 audits.
7. During 2016 we completed a review of funding and fee setting arrangements to ensure that our approach is appropriate for our current environment at the start of a new round of audit appointments. The review confirmed that many of the principles already in place remain appropriate but found that we could improve the transparency and understanding of the fee setting arrangements.
8. The overall aims of our Fee strategy are to:
 - enable Audit Scotland to meet its statutory and professional obligations as independent external auditors of public bodies in Scotland
 - support Audit Scotland in meeting its corporate vision of being a World Class audit organisation providing high quality public audit in Scotland, whilst keeping charges to the minimum necessary; and
 - establish a transparent framework for the setting of fees and charges in a stable and predictable way.

9. This document explains the objectives and principles adopted in setting fees and charges following the review and applies these to the setting of fees for 2016/17 and future audits.
10. The fee strategy is based on the public sector landscape in autumn 2016. There are likely to be changes to our workload in the medium term as a result of the new devolved taxation and social security powers, any change in the public sector landscape and the outcome of the referendum on EU membership. We continue to work with the relevant audited bodies and any implications for fee levels will be considered as details of their timing and impact become clearer.
11. We will review the operation of this fee strategy after two years and undertake a full review in advance of the next audit appointment round.

Review of fee setting arrangements

12. Audit Scotland's vision is to be a world class audit organisation that improves the use of public money.

In order to deliver our world class vision we have:



Consulted stakeholders about their Expectations of Audit



Published *Public Audit in Scotland* – a high level statement on the scope of Public audit by the Auditor General, the Accounts Commission and Audit Scotland



Revised the *Code of Audit Practice* to raise expectations of auditors in conducting wider scope public sector audits and increase the transparency of audit work



Carried out an audit procurement exercise to underpin new audit appointments by the Auditor General and the Accounts Commission for the period 2016/17 to 2020/21.

13. We have reviewed our approach to funding our work and the fee setting arrangements to improve transparency and make them easier to understand and operate. These new arrangements apply from the 2016/17 audits, the first year of new audit appointments.
14. The review work has taken account of a number of changes including:
- Revised and enhanced auditing standards which have increased the minimum amount of work required to conduct a fully standards compliant audit.
 - Developments in technology in both accounting and auditing which have streamlined audits of the largest bodies.
 - Increased expectations in auditing or reviewing governance statements, remuneration reports and strategic reports/management commentaries.
 - Changes in the structure and organisation of the public sector, such as the reform of police and fire services and the creation of Integration Joint Boards for the delivery of health and social care.

15. As part of the review process we consulted with audited bodies and other stakeholders on proposed principles for setting fees and received substantial support for the principles from those bodies that responded. The consultation responses:
 - Agreed that audit fees should be set with the objective of recovering the full cost of audit in each sector.
 - Supported the principle that an audited body should pay the same fee irrespective of who is appointed to deliver the audit.
 - Agreed that some costs therefore be pooled across each sector.
16. The review and consultation also found that, while the arrangements for most work were appropriate and well understood, there was scope to reconsider the funding of NHS performance audit work. Currently 60% of the cost of this work is funded from the Scottish Consolidated Fund (SCF) and 40% by NHS boards. This approach was put in place after the creation of the Scottish Parliament. Prior to this, NHS Boards paid for all NHS performance audit work. This arrangement is different from the other sectors within the remit of the Auditor General where all performance audit costs are met from SCF funding.
17. Audit Scotland's 2017/18 Budget paper proposes that all funding for this work should come from the SCF. This will bring the funding of NHS performance audit work into line with the other areas of the Auditor General's remit and increase transparency and simplicity. The overall impact on public finances and Audit Scotland's total income is neutral as the increase in SCF funding will be matched by a reduction in fees to NHS bodies. (If the proposal is not accepted then the reduction in NHS fees will be £495,000 less than shown in this paper and the 2017/18 Budget proposal).
18. In order to achieve the objectives of the fee setting arrangements a number of costs are pooled and shared between all audited bodies within a sector or across all sectors. The review considered the differences in approach to cost sharing that had built up incrementally over a number of years and this has resulted in simpler and more consistent approach to the charging of these costs.
19. We also reviewed and revised the costs of individual audits using information on the actual cost of delivering the audits in recent years. In most sectors this will result in increases for some smaller bodies and reductions for larger bodies.
20. We will revise the way in which audit fees are presented and explained to audited bodies and the mechanism for agreeing adjustments to fees to reflect local circumstances.
21. The outcome of our review is the revised approach to fee setting described in this paper which is more consistent across sectors, transparent and sustainable.

Fee setting arrangements

Objectives of the fee setting arrangements

22. The overall aim of the fee setting arrangements is to support Audit Scotland in providing high quality independent public audit in Scotland whilst keeping charges to the minimum necessary. The objectives for the arrangements are that they:
 - comply with statute
 - maintain the independence of auditors
 - reflect the way in which public services are organised and audited
 - are transparent and easy to understand
 - are simple to operate
 - are sustainable
 - minimise the volatility of fee changes between years.
23. Audit Scotland is required to aim to broadly break even on audit work that is charged for taking one year with another either for each audit or for classes of audits. We have determined each sector as being a class of audits.
24. Audit Scotland considers that audit fees should be set with the objective of recovering the full cost of audit work in each sector. Within sectors there may be a degree of cross sharing, for example where the costs of travel and subsistence are pooled across a sector.
25. Audit appointments are made by the Auditor General or the Accounts Commission rather than by audited bodies themselves thereby enhancing the independence of external audit. The identity or location of the appointed auditor could affect the total cost of undertaking the audit if we did not take steps to ensure that, as far as possible, bodies pay the same audit fee irrespective of who carries out the audit by pooling some costs.

Audit work that is subject to fees

26. The fee setting arrangements cover all local government audit work and the costs of annual audit work in the NHS, central government, Scottish Water and further education colleges. The same principles are used to calculate notional fees for the central government audits that we cannot charge for.
27. Parliamentary funding pays for all performance audit work in central government, further education and Scottish Water, and, subject to approval of our 2017/18 Budget proposal, the cost of NHS performance audit work. It also pays for the costs of Audit Scotland's work to support parliament and its committees, the annual audits of the central government audits (that we cannot charge for), the National Fraud Initiative and the costs of the Auditor General, Accounts Commission and Audit Scotland Board.

28. Local government is a separate tier of government and the Accounts Commission appoints auditors and oversees performance and best value audit arrangements. Local government funding includes an amount for scrutiny costs such as audit and therefore local government bodies pay for all audit work across the sector. For more information see paras 36-38 below.

Fee setting process and governance

29. Fee setting is one part of the annual budget process. The legislative provisions relating to charging are set out in Annex 1.
30. Budget proposals, including levels of charges, are presented to the Audit Scotland Board for discussion and approval, normally in mid-September, before being submitted to the SCPA for consideration as part of the Budget Bill process.
31. Because charges are set for audit years that run from approximately November to October, the fee setting process for each financial year covers two audit years. Therefore in September 2016, Audit Scotland confirmed the levels of charges for the 2016/17 audits which were provisionally set as part of the 2016/17 financial year budget in September 2015. We also indicate our plans for charges over the next two audit years.

Calculating audit fees

32. Audited bodies will receive a breakdown of the total audit fee from 2016/17 audits as shown below:

£	Current year	Prior year
Auditor remuneration	--,---	--,---
Pooled costs	-,---	-,---
Performance audit & best value (where relevant)	-,---	-,---
Audit support costs	-,---	-,---
Total Expected fee	--,---	--,---

Auditor remuneration

33. The auditor remuneration element for an individual body is based on our assessment of the audit input likely to be required to deliver an audit that complies with the Code of Audit Practice for a body of that size facing the normal risks in that part of the public sector. The fee takes account of actual recent costs of carrying out the audit and assumes that the body:
- is well governed
 - has effective internal controls; and
 - prepares complete draft accounts in accordance with the agreed timetable.

34. Auditors and audited bodies can agree remuneration up to 10% above the level set, either where local circumstances mean that the implicit assumptions are not being met, or where significant local issues require additional work to be undertaken, for example a new and complex accounting issue or a history of accounting errors. In exceptional circumstances fees can be agreed above the 10% limit with the prior agreement of Audit Scotland.
35. If the auditor and audited body agree that a permanent reduction in remuneration is appropriate then Audit Scotland will consider the proposal, taking account of any potential impact on audit quality.

Pooled costs

36. To achieve the aim that as far as possible an audited body should pay the same fee irrespective of whether the auditor is an Audit Scotland team or any of the appointed private firms we pool certain costs which would otherwise lead to different fees being charged depending on the identity or location of the appointed auditor. These pooled costs are apportioned across the audited bodies in each sector in proportion to the expected level of auditor remuneration. The pooled costs include:
- Travel and subsistence costs.
 - Procurement savings.
 - Any difference between the costs of Audit Scotland teams and the auditor remuneration for their audits.
 - Recoverable input VAT (local government only).

Local government performance audit and best value audit costs

37. Local government bodies pay for the cost of all audit work carried out in the sector including national performance audits, best value audits and housing benefit audits. All councils carry out a similar range of services and therefore can benefit from the recommendations for improvement and good practices identified in performance audits and best value reports at other councils.
38. For performance audit work, including the costs of responding to correspondence from elected representatives and members of the public about issues in local government bodies, the budgeted costs are apportioned between significant local government bodies (councils, Integration Joint Boards and Strathclyde Passenger Transport) in proportion to the level of auditor remuneration.
39. For Best Value audit and housing benefit audit the amount of money received by councils towards the cost of this work is apportioned between the 32 councils only on the basis of relative populations in June 2015, being a proxy for the distribution of the funding through the local government settlement. We fully recognise that this approach to charging for best value does not reflect the actual costs incurred in relation to each council but believe that it is fair when considering the way in which councils were funded for it.

Audit support costs

40. Audit Scotland incurs costs in making audit appointments, providing assurance on audit quality, providing technical guidance and support to all appointed auditors and contributing to the development of auditing and accounting guidance within Scotland and across the UK. These costs are apportioned across all audits relative to the level of auditor remuneration.

Audit fees for 2016/17 audits

Fee levels

41. We are reducing the average audit fees for 2016/17 audits by 6.7% building on real terms reductions of 24% since 2010/11 through a combination of the review of fees and funding, recent audit procurement exercise and further Audit Scotland Budget savings.
42. As shown in Table 1 there is variation around this average between sectors. These differences arise from the varying prices bid for audit work in different sectors and the application of revised cost apportionment methods across all sectors as a result of the funding and fees review. For the NHS, the reduction includes the transfer of performance audit costs to the Scottish Consolidated Fund.

Table 1

	Average change on 2015/16 charges	Real terms
Local government	-4.5	-6.4%
NHS	-20.5	-22.4%
Central government - chargeable audits	+3.3%	1.4%
Further education	+2.0	+0.1%
Overall weighted average	-6.7%	-8.6%

43. The fee movements shown in Table 1 are based on achieving a break even position for the 2017/18 financial year in all sectors.
44. The effect of the above proposals and actual changes since 2010/11 on the average level of charges for each sector is shown in Table 2:

Table 2

Audit Years	Local Gov.	NHS	FE	Central Gov.
2010/11 to 2015/16	-10.4%	-13.3%	+2.0%	-8.9%
2016/17	-4.5%	-20.5%	+2.0%	+3.3%

45. Within sectors there will be a range of decreases or increases to better reflect the actual costs of undertaking each audit and the consequences of implementing the simpler and more transparent apportionment of pooled costs across and within sectors.

- Local government - for councils reductions will range from 0% to 11% with larger councils generally receiving larger reductions. Fees for Integration Joint Boards will rise as a result of the Boards all assuming their full functions in 2016/17. Other local government bodies will see fees remain at 2015/16 levels.
- NHS - mainland health boards will see significant reductions of 26-30% including the proposed transfer of funding for performance audit to the SCF. Island health boards will see an increase of around £2,500 to £7,500 (4-12 %) each to better reflect the actual cost of auditing these bodies. Almost all Special health boards will see fees remain at 2015/16 levels.
- Central government chargeable bodies will generally see increases of 1-6% to better reflect the actual costs of undertaking each audit and the review of the apportionment of pooled costs.
- Further education - colleges that have recently merged will see reductions of 4%. Colleges that have not merged will see increases of £1,600 - £2,200 (14%) to better reflect the actual cost of delivering audits in compliance with the Code of Audit Practice at these audits.

Future years

46. For 2017/18 and 2018/19 audits, at this stage we expect to continue to make real terms reductions in fees across all sectors.

Hourly rates

47. Hourly rates are calculated for each grade of staff. The rates are based on the average direct costs of the role (such as salaries, national insurance and pension contributions) and indirect costs (such as property costs, and corporate support costs including IT, finance and human resources).
48. For the 2016/17 financial year the hourly rates used to cost audit work are:

£/hour	2015/16	2016/17
Trainees	47	46
Business support specialist	22	22
Audit/support officer	38	37
Auditor	42	41
Senior auditor	59	58
Manager	70	68
Senior manager	88	86

Directors & Assistant	149	145
Directors		

49. The rates for the 2017/18 financial year will be calculated once the budget has been finalised and the pay and grading structure review has been completed as this may change the grade structure used from 1 April 2017.

Annex 1

Legislative provisions relating to Audit Scotland charges

- 50. Audit Scotland is subject to several statutory provisions in the setting of charges which are set out in the Public Finance and Accountability (Scotland) Act 2000. Specifically, section 11 of the Act states that “Audit Scotland may impose reasonable charges in respect of the exercise of its functions in connection with” certain of its functions.
- 51. Further provisions specify that charges may be determined by reference to particular cases or classes of case and that in determining the amounts of those charges Audit Scotland must seek to ensure that the total sum received in respect of the charges is, taking one year with another, broadly equivalent to its expenditure in connection with the matters for which charges are made. Where an examination or study covers more than one body each body is to pay such proportion of the charge as is determined by Audit Scotland.
- 52. Sums received by Audit Scotland in respect of charges are to be retained by it and applied to meet the related expenditure. Other sums received are to be paid into the Scottish Consolidated Fund subject to any provision for them to be applied for any other purpose eg through the Budget Acts.
- 53. Any expenditure of Audit Scotland, so far as not met out of sums received and applied from charges is payable out of the Scottish Consolidated Fund.
- 54. The full text of section 11 of the PFA Act is:

Extract from the Public Finance and Accountability (Scotland) Act 2000

11 Audit Scotland: financial provisions

(1) Audit Scotland may impose reasonable charges in respect of the exercise of its functions in connection with:

- (a) the provision of services under arrangements made in pursuance of section 10(5)
- (b) the audit under sections 21 and 22 of an account, other than one prepared in pursuance of section 19(1) to (3) or 20(1)
- (c) the carrying out under section 23 of an examination, other than one in respect of an office-holder in the Scottish Administration or a body or other office-holder to whom sums are paid out of the Fund
- (d) the audit of an account in pursuance of Part VII of the Local Government (Scotland) Act 1973 (c. 65)
- (e) the undertaking or promotion of any study under section 97A or 105A of that Act
- (f) giving of directions under section 1 of the Local Government Act 1992 (c. 19).

(2) Charges under subsection (1) may be determined by reference to particular cases or classes of case.

- (3) In determining the amounts of those charges Audit Scotland must seek to ensure that the total sum received in respect of the charges is, taking one year with another, broadly equivalent to its expenditure in connection with the matters mentioned in subsection (1)(a) to (f).
- (4) Charges under subsection (1) (b) to (f) are payable by the body or office-holder whose account is audited or, as the case may be, in respect of whom the examination is carried out, the study undertaken or promoted or the direction given.
- (5) Where a charge under subsection (1)(c), (e) or (f) relates to an examination, study or direction in respect of more than one body or office-holder, each body or office-holder is to pay such proportion of the charge as is determined by Audit Scotland.
- (6) Sums received by Audit Scotland in respect of charges under subsection (1) are to be retained by it and applied to meet the expenditure mentioned in subsection (3).
- (7) Any other sums received by Audit Scotland are to be paid into the Fund, subject to any provision made by any enactment for such sums to be applied for any purpose instead of being paid into the Fund.
- (8) Any expenditure of Audit Scotland, so far as not met out of sums received and applied in accordance with subsection (6), is payable out of the Fund.
- (9) Audit Scotland must, for each financial year, prepare proposals for its use of resources and expenditure and send the proposals to the Scottish Commission for Public Audit (constituted under section 12), which is to examine the proposals and report to the Parliament on them.

Document is Restricted