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National Assembly for Wales
Cardiff Bay
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Dear Alun

**THE WELL-BEING OF FUTURE GENERATIONS (WALES) BILL:
CONSULTATION ON GENERAL PRINCIPLES**

Thank you for your letter of 3 October 2014, and thank you again for the opportunity to present evidence to the Committee on the Bill.

You ask for further details regarding the potential for amending the Bill to include a duty on the Auditor General to examine the embedding of the sustainable development principle, including specific amendments that would need to be made and the potential impact. You also note that I agreed to provide the views of Leading Counsel regarding my current statutory obligations in relation to the Bill in its current form and an example of an existing duty that is similar to a potential duty to examine the embedding of the sustainable development principle.

I enclose a paper that sets out the example of section 41(1) of the Public Audit (Wales) Act 2004 as a starting point for developing a proportionate duty that would ensure that the Auditor General examines certain matters in a particular time frame. The paper goes on to suggest what an appropriate duty in relation to the sustainable development principle should achieve and gives a suggested provision that could be included in the Bill by way of amendment. It also notes the potential impact of such a provision, both in terms of benefits, such as providing robust and independent evidence for the Future Generations Commissioner's work, as well as in terms of broad estimates of the potential costs.

I also enclose a copy of Leading Counsel's advice on my current statutory obligations in relation to the Bill. The key question of interest that I put to Counsel was whether the Welsh Government were correct in saying at paragraph 390 of the Explanatory Memorandum that "the AGW is under a duty to consider the effectiveness and efficiency of the use of resources for the majority of bodies covered by the Bill in undertaking the FG Bill duties...on an annual basis as an integral part of the audit of accounts." As you will see from paragraph 18 of the advice, Counsel confirms that there is no such duty.

You also requested in your letter that, in relation to my observations on the Explanatory Memorandum, I undertake an audit of the underlying working papers. As you will appreciate, I must take account of the views of the Public Accounts Committee regarding such proposed work. I hope to be able to write to you on Tuesday, 14 October 2014, following receipt of the Committee's views.

Given the interests of the Public Accounts Committee and the Finance Committee, I am copying this response to Darren Millar AM and Jocelyn Davies AM.

Yours sincerely



HUW VAUGHAN THOMAS
AUDITOR GENERAL FOR WALES

Encs

cc Mr Darren Millar AM
Ms Jocelyn Davies AM

Example of a duty on the Auditor General and suggestions for such a duty to examine how public bodies have embedded the sustainable development principle

1. Section 41 of the Public Audit (Wales) Act 2004 provides a duty¹ on the Auditor General to undertake certain types of study of local government bodies. The full extant text is at the Annex of this document.
2. The element of most relevance in relation to developing a duty of the Auditor General in relation to the Bill is subsection (1) (as extant):

1) The Auditor General for Wales must for each financial year undertake studies designed to enable him to make recommendations—

(a) for improving economy, efficiency and effectiveness in the discharge of the functions of local government bodies in Wales that are Welsh improvement authorities for the purposes of Part 1 of the Local Government (Wales) Measure 2009;

(b) for improving economy, efficiency and effectiveness in the provision of services provided by other local government bodies in Wales;

(c) for improving the financial or other management of local government bodies in Wales.

3. This example could be used as a starting point example for a duty on the Auditor General to examine how organisations have embedded the sustainable development principle. Indeed, the Auditor General can², but is not required to, use this provision as it stands to study the economy, efficiency and effectiveness of local authorities' discharge of FG Bill duties. However as I explained to the Committee, studying the economy, efficiency and effectiveness of the discharge of duties is not the same thing as examining how public bodies have progressed in embedding the sustainable development principle. And, clearly, the section does not apply to NHS bodies or central government.
4. I consider therefore that an appropriate duty on the Auditor General in relation to FG Bill requirements of audited bodies should provide the following:
 - a. a specific requirement to examine and report on public bodies'³ application of the sustainable development principle (in clause 3), i.e. compliance with the requirements of clause 8 (setting and taking steps to meet well-being objectives in accordance with the sustainable development principle);

¹ Along with the duty to undertake certain types of study, it also provides a *power* to do other studies relating to the provision of services.

² While it is a duty, it does not require the Auditor General to make recommendations for improving economy, efficiency and effectiveness in relation to *all* the functions of authorities (or where WFG Bill duties take the form of services, services), and it therefore provides for discretion in relation to which functions or services the Auditor General makes recommendations. It is not, therefore, a duty to necessarily study the effectiveness of authorities' discharge of WFG Bill duties. Furthermore, it only applies to local government bodies.

³ In this context, "public bodies" means those bodies that have duties under Part 2 of the Bill—see clause 5 of the Bill.

- b. a requirement to meet (a) above at least as often as is necessary to complement the Future Generations Commissioner's Future Generations report (at least one report each electoral cycle);
 - c. a requirement to lay (and therefore publish) reports. (As well as ensuring that the public and the Assembly can scrutinise public bodies' arrangements, this would enable the findings to be shared with the Future Generations Commissioner.)
5. A draft provision might therefore look something like:

() Auditor General's examinations of compliance with the sustainable development principle

- (1) The Auditor General for Wales must undertake examinations of the compliance of each public body with the requirements of section 8 (Setting and meeting well-being objectives: sustainable development principle).*
- (2) The Auditor General for Wales must before the end of each reporting period lay before the National Assembly for Wales a report on the examinations undertaken under subsection (1).*
- (3) In this section "reporting period" has the same meaning as in section 21.*

6. It would be appropriate to insert this clause after clause 8.
7. It should be noted that "public body" in these draft provisions means a body defined as such in clause 5 of the Bill.
8. The above draft duty would be sufficiently prescriptive to ensure that the Auditor General does examine all relevant public bodies in terms of their efforts to meet the key duty of the Bill (i.e. setting and pursuing well-being objectives in accordance with the sustainable development principle) at least as often as the FG Commissioner must make a Future Generations report. It would, however, also be sufficiently flexible as to allow the Auditor General to look at compliance in a proportionate way, and it would avoid a requirement for annual reporting, which would be unnecessarily onerous, unduly repetitive and expensive.
9. As the time-frame for reporting contained in the draft duty is set in terms of requiring a report *at least* often as the FG Commissioner must make a Future Generations report, but is not confined to that frequency, it provides flexibility by permitting more frequent examination and reporting if that proves desirable or necessary. That flexibility might be helpful, for example, in providing additional support for the FG Commissioner.
10. The draft duty is practical in that it would permit reasonable conclusions to be drawn on the basis of sample testing, rather than the Auditor General having to examine all steps taken by public bodies to comply with the Bill. It is also important to note that under the draft duty the Auditor General would not be required to conclude on the effectiveness of the steps taken by public bodies to meet well-being objectives, though it would be open to the

Auditor General to draw such conclusions where practical. A strict requirement to conclude on the effectiveness of steps taken is not desirable as it would not be practical to draw such conclusions in all cases—many objectives are likely to present significant methodological challenges, such as where reliable measures of change are not available.

11. A further benefit of the draft duty is that it provides a consistent basis for examining and reporting on whether all the public bodies covered by Part 2 of the Bill are setting and pursuing well-being objectives in accordance with the sustainable development principle. At present, neither the Bill nor other existing legislation provides this essential support for implementation.
12. Overall, this duty would provide the benefit of proportionate examination and reporting on whether public bodies are setting and pursuing well-being objectives in accordance with the sustainable development principle. Such reporting would identify, for example, where public bodies were failing to set objectives that did not take into account the importance of balancing short term needs with the need to safeguard the ability to meet long term needs. It would also identify where bodies were simply failing to take reasonable steps to meet the objectives. The requirement on the Auditor General to report on these matters would help ensure that public bodies genuinely take steps to pursue objectives in accordance with the sustainable development principle. In addition, the duty to report regularly would provide the Commissioner's Future Generations reports with robust and independent evidence to help drive the improvements public bodies should make.
13. As ever, it is hard to predict with certainty the costs of the duty. If public bodies follow sound processes for setting and pursuing well-being objectives, including keeping good records and maintaining reliable measures of progress, audit work will be more straightforward than if there are problems in compliance. As a broad indicator of the cost, we consider that the work to meet the duty would amount to a three substantial studies (one in each sector—local government, health and central government) every four years. Costs would fluctuate between years, with an average in the region of £100,000 to £120,000 a year. This would increase if we were to undertake more examinations and report more frequently than the minimum required by the draft duty.
14. In addition, we consider that an initial baseline study to examine in depth the initial efforts of public bodies to meet the duties of the Bill will be needed in the initial commencement period. It would be appropriate for this to examine issues wider than the duties of clause 8, and it would therefore in part be undertaken in combination with work done under existing powers and duties. The cost of such a baseline study, which we estimate would be in the region of £150,000 to £300,000, would therefore not be wholly attributable to the duty that we propose above. Subject to the views of PAC, it might be appropriate for such a study to displace some other work in the Auditor General's ordinary study programme and may, therefore, not be an additional cost overall.

15. To avoid duplicating cost and effort, examinations under the draft duty would draw on work done to consider (or “satisfy”) whether local government and NHS bodies have made proper arrangements for securing economy, efficiency and effectiveness, where such arrangements are relevant to the duties of public bodies under the Bill. At present, it is not possible to reliably estimate the cost of such work following the additional requirements of the Bill in its current form. This is because, for example, at present it is not at all clear whether local authority improvement objectives set under the Local Government (Wales) Measure 2009 will also serve as well-being objectives, or whether the two sets of objectives will apply in parallel.

41 Studies for improving economy etc in services

(1) The Auditor General for Wales must for each financial year undertake studies designed to enable him to make recommendations—

(a) for improving economy, efficiency and effectiveness in the discharge of the functions of local government bodies in Wales that are Welsh improvement authorities for the purposes of Part 1 of the Local Government (Wales) Measure 2009;

(b) for improving economy, efficiency and effectiveness in the provision of services provided by other local government bodies in Wales;

(c) for improving the financial or other management of local government bodies in Wales.

(2) The studies which the Auditor General for Wales is required to undertake under subsection (1) include in particular—

(a) studies designed to enable the Auditor General for Wales to determine what directions he should give under section 47;

(b) studies of information published in pursuance of section 47 which are designed to enable the Auditor General for Wales to determine, in relation to each financial year, what comparative information to publish himself about the standards of performance achieved by bodies which are relevant bodies for the purposes of that section.

(3) The Auditor General for Wales may undertake other studies relating to the provision of services by local government bodies in Wales.

(4) Where the Auditor General for Wales undertakes a study under this section, he must publish or otherwise make available—

(a) the results of the study, and

(b) any recommendations made by him.

(5) Before undertaking a study under this section, other than a study of a kind mentioned in paragraph (a) or (b) of subsection (2), the Auditor General for Wales must consult—

(a) any associations of local government bodies in Wales which appear to him to be concerned, and

(b) any associations of employees which appear to him to be appropriate.

(6) The Auditor General for Wales and the Welsh Ministers must co-operate with each other with respect to the exercise of their respective functions under this section and sections 94 and 95 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) (reviews, investigations and studies by Assembly).

IN THE MATTER OF THE WELL-BEING OF FUTURE GENERATIONS (WALES) BILL

ADVICE

1. I am instructed to advise the Wales Audit Office (“WAO”) and Auditor General for Wales (“AGW”) in the following circumstances. WAO and AGW wish to share this advice with the National Assembly and have asked that it be kept brief. I am happy to expand on any issue should my instructing solicitors so wish.

The background in brief

2. The Welsh Government (“WG”) has introduced the Well-Being of Future Generations (Wales) Bill (“the Bill”) into the National Assembly. This declares (cl 2) that the aim of the public bodies listed in cl 5 is to improve the economic, social and environmental well-being of Wales in accordance with the sustainable development principle. That aim is called the common aim. The sustainable development principle is defined in cl 3.

3. By cl 6(1), each public body must pursue the common aim by seeking to achieve the well-being goals listed in the table under that clause. By cl 7, each public body must set objectives designed to maximise its contribution to the achievement of the well-being goals.

4. WG’s Explanatory Memorandum on the Bill provides (with particularly important text in bold):-

*“390. For local government bodies (local authorities, national park authorities and fire and rescue authorities) and health bodies (LHBs and two Health Trusts) - a total of 37 public bodies - **the AGW must, when carrying out the annual audit of accounts, satisfy him/herself “that the body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources”.** This means that the AGW is under a duty to consider the effectiveness and efficiency of the use of resources for the majority of the bodies covered by the Bill in undertaking the FG Bill duties (amongst their other functions) – namely the setting of well-being objectives and taking all reasonable steps to achieve the objectives in a manner consistent with the sustainable development principle - **on an annual basis as an integral part of the audit of accounts.** Whilst the AGW has complete discretion as to the*

manner in which the functions of that office are exercised (as provided for by section 8 of the Public Audit (Wales) Act 2013), this has the potential to increase the costs of the annual audit of accounts for these bodies.”

5. WG believes that no new legislation is needed as AGW should undertake this role under:-

(a) section 145 of the Government of Wales Act 1998 (“GOWA 1998”), though section 145A may also be of relevance;

(b) section 17 of the Public Audit (Wales) Act 2004 (“PAWA”) in the case of local government bodies;

(c) section 61 of PAWA in the case of NHS bodies.

These provisions are set out in an appendix to this advice.

Question 1

6. I am asked, first, whether the Explanatory Memorandum is correct in saying:-

“... the AGW is under a duty to consider the effectiveness and efficiency of the use of resources for the majority of the bodies covered by the Bill in undertaking the FG Bill duties (amongst their other functions) ... on an annual basis as an integral part of the audit of accounts.”

7. My instructing solicitors’ letter of 26th August 2014 to Mr. Peters at WAO explains in detail why they believe that AGW has no such duty. Their reasoning is based on the view that there is a distinction between:-

(1) considering whether a public body has made “proper arrangements for securing economy, efficiency and effectiveness in its use of resources” (this being the wording of section 17(2)(d) and 61(3)(b) of PAWA), and

(2) considering the “effectiveness and efficiency of the use of resources”, which is the wording used in the Explanatory Memorandum. As I understand it, the Memorandum here proposes that AGW considers, amongst other matters, the success or otherwise with which the functions under the Bill are discharged as part of the annual audit.

8. I believe that my instructing solicitors are correct in drawing such a distinction. This is largely for the reasons which they set out in their letter of 26th August 2014 which include the following:-

- a) the duties refer to the test of whether arrangements are “proper” for a purpose, and not to whether that purpose has been achieved;
- b) the statutory wording requires AGW to be satisfied as to those arrangements, and not to opine, report, recommend or otherwise qualitatively assess the outcome of the arrangements;
- c) other matters to be examined under the relevant annual duties relate more to matters of financial compliance (and are likely to be undertaken by auditors skilled in that area) rather than more subjective analysis; and
- d) further legislative provision is made for more detailed examinations or studies.

9. I would add only the following comments.

10. First, I can see that an evaluation of whether a body had made “proper arrangements for securing economy, efficiency and effectiveness in its use of resources” could be partly based on evidence as to whether functions were in fact being discharged effectively. However, successful discharge of functions is not necessarily evidence of “proper arrangements” being in place. Service delivery might be very good, yet not delivered by economic, efficient and effective use of resources. This supports the view that the two processes referred to in paragraph 7 above are different.

11. Second, section 145 of GOWA 1998 provides:-

145 Examinations into use of resources

(1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which a body or office specified in Schedule 17 has used its resources in discharging its functions. ...

The use of the term “effectiveness” suggests that such an examination may involve AGW in reaching a view on the success or otherwise with which the functions under the Bill are discharged, albeit in the context of a value for money enquiry.

12. Section 145(1) does not impose a duty and therefore does not require AGW to carry out such an examination. Furthermore the power not linked to the annual audit. As my instructing solicitors have pointed out in their letter of 26th August, by section of the Public Audit (Wales) Act 2013 (set out in full in the appendix):-

(1) The Auditor General has complete discretion as to the manner in which the functions of that office are exercised and is not subject to the direction or control of the National Assembly or the Welsh Government.

this discretion being subject only to the conditions set out in sections 8(3), and the duty in section 145(3) of GOWA 1998 which I deal with in question 2 below..

13. Similar points fall to be made about AGW's powers to undertake studies under section 145A(1) and (2) of GOWA 1998. I do not repeat those points here. Section 145A is set out in the appendix to this advice.

14. Third, though it is not apparently relied on by WG, I should mention section 41 of PAWA, which provides:-

41 Studies for improving economy etc in services

(1) The Auditor General for Wales must for each financial year undertake . . . studies designed to enable him to make recommendations—

(a) for improving economy, efficiency and effectiveness in the discharge of the functions of local government bodies in Wales that are . . . Welsh improvement authorities for the purposes of Part 1 of the Local Government (Wales) Measure 2009;

(b) for improving economy, efficiency and effectiveness in the provision of services provided by other local government bodies in Wales;

This is a duty rather than a power. The use of the term “effectiveness” suggests that the study may involve a consideration of the success with which the functions are discharged, so that suitable recommendations may be made. But this is not linked to the annual audit i.e. is not part of AGW's duty to satisfy himself of the matters in section 17(2).

15. I also wonder whether studies under section 41(1) are intended to be about local government bodies as a group rather than about individual bodies. The cross reference, through section 41(2), to section 47 suggests that this may be the case, but it is not necessary to reach a view on this point.

16. Fourth, section 41(3) provides a power to “undertake . . . other studies relating to the provision of services by local government bodies in Wales” and I suppose this

could include an evaluation of the effectiveness of those bodies' discharge of their functions under the Bill. But this is a power and not a duty.

17. I deal with the duty to consult in section 41(5) at question 2 below.

Conclusion on question 1

18. Accordingly, essentially for the reasons given in my instructing solicitors' letter of 26th August 2014, I do not believe that AGW:-

"... is under a duty to consider the effectiveness and efficiency of the use of resources for the majority of the bodies covered by the Bill in undertaking the FG Bill duties (amongst their other functions) ... on an annual basis as an integral part of the audit of accounts"

Question 2

19. I am asked what the effect is of:-

(1) section 145(3) of GOWA 1998 in the event that the Public Accounts Committee ("PAC") expressed concerns about AGW's proposed exercise of the power under section 145(1) of GOWA 1998 to examine effectiveness in the use of resources in the way in which functions under the Bill were discharged, and

(2) section 41(5) of PAWA in the event that the consultees there referred to expressed concerns about AGW's proposed exercise of the duty under section 41(1) and the power under section 41(3) to do the same.

20. Section 145(3) of GOWA 1998 provides:-

(3) In determining how to exercise his functions under this section, the Auditor General for Wales shall take into account the views of the Audit Committee ... as to the examinations which he should carry out under this section.

21. Section 145(3) provides that the PAC's views should be taken into account in AGW's determination of whether to undertake an examination under section 145(1) and/or of the content of such an examination. If the PAC objected to a proposal from AGW to exercise the section 145(1) power to examine effectiveness in the use of resources in the way in which functions under the Bill were discharged, AGW would

have to take that objection into account in deciding whether to exercise the power in that way.

22. Section 41(5) of PAWA provides:-

(5) Before undertaking . . . a study under this section, other than a study of a kind mentioned in paragraph (a) or (b) of subsection (2), the Auditor General for Wales must consult—

(a) any associations of local government bodies in Wales which appear to him to be concerned, and

(b) any associations of employees which appear to him to be appropriate.

23. If the consultees referred to in (a) or (b) expressed concerns about the AGW's proposed use of the section 41(1) duty or the section 41(3) power to examine effectiveness in the use of resources in the way in which functions under the Bill were discharged, AGW would have to take those views into account before determining whether to carry out such a proposal. It is inherent in the duty to consult that the consultee's views must be conscientiously taken into account: R v Brent London BC, ex parte Gunning 84 LGR 168.

Question 3

24. I am asked, next, whether, if there is policy intent that AGW should carry out reviews of effective discharge of functions under the Bill, explicit provision for this in the Bill would be the best way of putting the policy into effect.

25. If WG wishes to impose a duty on AGW to undertake certain functions, it must do so through legislation. The legislation might take different forms. It could be primary legislation or secondary legislation under an appropriate power. I see no reason why the imposition of the proposed duty should necessarily be effected through the Bill, as opposed to some other legislation, but I can see that it would make sense for this to happen.

Question 4

26. Last I am asked whether the Assembly would be competent to make such legislation. The Assembly's legislative competence is provided by section 108 of the Government of Wales Act 2006 ("GOWA 2006") which provides:-

108 Legislative competence

- (1) Subject to the provisions of this Part, an Act of the Assembly may make any provision that could be made by an Act of Parliament.*
- (2) An Act of the Assembly is not law so far as any provision of the Act is outside the Assembly's legislative competence.*
- (3) A provision of an Act of the Assembly is within the Assembly's legislative competence only if it falls within subsection (4) or (5).*
- (4) A provision of an Act of the Assembly falls within this subsection if—*
 - (a) it relates to one or more of the subjects listed under any of the headings in Part 1 of Schedule 7 and does not fall within any of the exceptions specified in that Part of that Schedule (whether or not under that heading or any of those headings), and*
 - (b) it neither applies otherwise than in relation to Wales nor confers, imposes, modifies or removes (or gives power to confer, impose, modify or remove) functions exercisable otherwise than in relation to Wales.*
- (5) A provision of an Act of the Assembly falls within this subsection if—*
 - (a) it provides for the enforcement of a provision (of that or any other Act of the Assembly) which falls within subsection (4) or a provision of an Assembly Measure or it is otherwise appropriate for making such a provision effective, or*
 - (b) it is otherwise incidental to, or consequential on, such a provision.*
- (6) But a provision which falls within subsection (4) or (5) is outside the Assembly's legislative competence if—*
 - (a) it breaches any of the restrictions in Part 2 of Schedule 7, having regard to any exception in Part 3 of that Schedule from those restrictions,*
 - (b) it extends otherwise than only to England and Wales, or*
 - (c) it is incompatible with the Convention rights or with [EU] law.*
- (7) For the purposes of this section the question whether a provision of an Act of the Assembly relates to one or more of the subjects listed in Part 1 of*

Schedule 7 (or falls within any of the exceptions specified in that Part of that Schedule) is to be determined by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances.

27. Section 108(4)(a) refers to Schedule 7, which includes the following paragraph:-

Public administration

14 Public Services Ombudsman for Wales. Auditor General for Wales. Audit, examination, regulation and inspection of auditable public authorities. ...

28. Would the putative legislation “relate to” AGW and/or “Audit, examination, regulation and inspection of auditable public authorities. ...”? . In Martin v Most (2010) SLT 412 Lord Walker of Gestingthorpe JSC observed at paragraph 49 that:-

“ ... the expression “relates to” indicates “more than a loose or consequential connection”.

Martin was referred to at paragraph 50 of In re Agricultural Sector (Wales) Bill [2014] 1 WLR 2622, where the Supreme Court considered whether a scheme for regulating agricultural wages “related to” agriculture for the purposes of paragraph 1 of Schedule 7 to GOWA 2006.

29. Given this it seems to me that the legislation would “relate to” AGW and to “Audit, examination, regulation and inspection of auditable public authorities”. Hence it would fall within the scope of section 108(4)(a). Nor would it have effect outside Wales, so that section 108(4)(b) would also be satisfied.

30. Accordingly in my view the Assembly would have competence to enact legislation imposing a duty on AGW to consider the effectiveness of a body’s discharge of its functions under the Bill.

31. I hope that this advice is helpful, but should my instructing solicitors have any questions or comments, they should not hesitate to contact me.

11KBW

Peter Oldham QC

11 King’s Bench Walk, Temple, London EC4

APPENDIX – EXTRACTS FROM THE RELEVANT LEGISLATION

Public Audit (Wales) Act 2004

17 General duties on audit of accounts*(1) This section applies in relation to the audit of a body's accounts under this Chapter.*

(2) The Auditor General for Wales must, by examination of the accounts and otherwise, satisfy himself of these things—

(a) that the accounts are prepared in accordance with regulations under section 39;

(b) that they comply with the requirements of all other statutory provisions applicable to the accounts;

(c) that proper practices have been observed in the compilation of the accounts;

(d) that the body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources;

(e) that the body, if required to publish information in pursuance of a direction under section 47 (performance information) has made such arrangements for collecting and recording the information and for publishing it as are required for the performance of its duties under that section.

41 Studies for improving economy etc in services

(1) The Auditor General for Wales must for each financial year undertake . . . studies designed to enable him to make recommendations—

(a) for improving economy, efficiency and effectiveness in the discharge of the functions of [local government bodies in Wales that are . . .] [. . . Welsh improvement authorities for the purposes of Part 1 of the [Local Government \(Wales\) Measure 2009](#)];

(b) for improving economy, efficiency and effectiveness in the provision of services provided by other local government bodies in Wales;

(c) for improving the financial or other management of local government bodies in Wales.

(2) The studies which the Auditor General for Wales is required to undertake . . . under subsection (1) include in particular—

(a) studies designed to enable the Auditor General for Wales to determine what directions he should give under section 47;

(b) studies of information published in pursuance of section 47 which are designed to enable the Auditor General for Wales to determine, in relation to each financial year, what comparative information to publish himself about the standards of performance achieved by bodies which are relevant bodies for the purposes of that section.

(3) The Auditor General for Wales may undertake . . . other studies relating to the provision of services by local government bodies in Wales.

(4) Where the Auditor General for Wales undertakes . . . a study under this section, he must publish or otherwise make available—

(a) the results of the study, and

(b) any recommendations made by him.

(5) Before undertaking . . . a study under this section, other than a study of a kind mentioned in paragraph (a) or (b) of subsection (2), the Auditor General for Wales must consult—

(a) any associations of local government bodies in Wales which appear to him to be concerned, and

(b) any associations of employees which appear to him to be appropriate.

(6) The Auditor General for Wales and [the Welsh Ministers] must co-operate with each other with respect to the exercise of their respective functions under this section and [sections 94](#) and [95](#) of the Health and Social Care (Community Health and Standards) Act 2003 (c 43) (reviews, investigations and studies by Assembly).

61 Audit of Welsh NHS bodies*(1) The accounts prepared by a Welsh NHS body under paragraph 3(1) of Schedule 9 to the National Health Service (Wales) Act 2006 for a financial year must be submitted by that body to the Auditor General for Wales no later than five months after the end of that year.*

(2) The Auditor General for Wales must—

- (a) examine and certify any accounts submitted to him under this section, and*
- (b) no later than four months after the accounts are submitted to him, lay before the National Assembly for Wales a copy of them as certified by him together with his report on them.*

(3) In examining any accounts submitted to him under this section, the Auditor General for Wales must, in particular, satisfy himself—

- (a) that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it, and*
- (b) that the body to which the accounts relate has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.*

Public Audit (Wales) Act 2013

8 How functions are to be exercised

(1) The Auditor General has complete discretion as to the manner in which the functions of that office are exercised and is not subject to the direction or control of the National Assembly or the Welsh Government.

(2) But this discretion is subject to subsection (3).

(3) The Auditor General must—

- (a) aim to carry out his or her functions efficiently and cost-effectively;*
- (b) have regard, as he or she considers appropriate, to the standards and principles that an expert professional provider of accounting or auditing services would be expected to follow;*
- (c) have regard to advice given to him or her by the WAO (see section 17(3)).*

Government of Wales Act 1998

145 Examinations into use of resources

(1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which a body or office specified in Schedule 17 has used its resources in discharging its functions.

(2) Subsection (1) shall not be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of any body or office in respect of which an examination is carried out.

(3) In determining how to exercise his functions under this section, the Auditor General for Wales shall take into account the views of the Audit Committee . . . as to the examinations which he should carry out under this section.

(4) The Auditor General for Wales may lay before the Assembly a report of the results of any examination carried out by him under this section.

(5) . . .

(6) The Comptroller and Auditor General shall—

(a) consult the Auditor General for Wales, and

(b) take into account any relevant work done or being done by the Auditor General for Wales,

before he carries out an examination under section 6 or 7 of the National Audit Act 1983 (economy etc examinations) in respect of a body or office specified in Schedule 17.

(7) This section is without prejudice to the power conferred on the Auditor General for Wales by paragraph 18(3)(b) of Schedule 8 to the Government of Wales Act 2006 (agreement between a person and the Welsh Ministers etc to permit the Auditor General to carry out an examination into the discharge of functions by that person).

145A Studies for improving economy etc in services

(1) The Auditor General for Wales may undertake or promote studies designed to enable him to make recommendations for improving economy, efficiency and effectiveness in the discharge of the functions of any relevant body or bodies.

(2) The Auditor General for Wales may also undertake or promote other studies relating to the provision of services by any relevant body or bodies.

(3) Subsections (1) and (2) do not entitle the Auditor General for Wales to question the merits of the policy objectives of any relevant body.

(4) In determining how to exercise his functions under this section, the Auditor General for Wales shall take into account the views of the Audit Committee as to the studies which he should undertake or promote under this section.

(5) *For the purposes of this section each of the following is a “relevant body”—*

(a) a person who prepares accounts or statements of accounts falling to be examined by the Auditor General for Wales in accordance with any provision made by or under this or any other Act;

(b) any other person (other than a local government body in Wales) in relation to whom, by virtue of provision made by or under this or any other Act, the Auditor General for Wales carries out examinations or studies relating to the economy, efficiency and effectiveness with which that person has used his resources in discharging his functions;

(c) a person (other than a registered social landlord in Wales) in respect of whom the Auditor General for Wales has functions by virtue of provision made under section 146A.

(6) *Where the Auditor General for Wales undertakes or promotes a study under this section he may arrange for a report containing—*

(a) the results of the study, and

(b) his recommendations (if any),

to be laid before the Assembly.

(7) *In this section—*

“local government body in Wales” has the meaning given in section 12(1) of the Public Audit (Wales) Act 2004; and

“registered social landlord in Wales” has the meaning given in section 146A(2).]