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Public Audit (Wales) Bill Team
Welsh Government
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Cardiff, CF10 3NQ

By email: publicauditwalesbill@wales.gsi.gov.uk

Dear Sir or Madam

The Draft Public Audit (Wales) Bill

ICAEW is pleased to respond to your request for comments on *The Draft Public Audit (Wales) Bill*.

Please contact me should you wish to discuss any of the points raised in the attached response.

Yours sincerely

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ICAEW REPRESENTATION

Welsh Government Consultation Document on the Draft Public Audit (Wales) Bill

Memorandum of comment submitted in May 2012 by ICAEW, in response to the Welsh Government's consultation paper The Draft Public Audit (Wales) Bill published in March 2012

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INTRODUCTION

1. ICAEW welcomes the opportunity to comment on the consultation paper *The Draft Public Audit (Wales) Bill* published by the Welsh Government in March 2012, a copy of which is available from this link <http://wales.gov.uk/consultations/improving/pawbill/?lang=en>.

WHO WE ARE

2. ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter, working in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 138,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.
3. ICAEW members operate across a wide range of areas in business, practice and the public sector. They provide financial expertise and guidance based on the highest professional, technical and ethical standards. They are trained to provide clarity and apply rigour, and so help create long-term sustainable economic value.
4. ICAEW is recognised internationally as a leading authority on audit and assurance. It is responsible for formulating ICAEW policy on audit and assurance issues, and makes submissions to standard setters and other external bodies. It provides an extensive range of services to its members, providing practical assistance in dealing with common audit and assurance problems.
5. ICAEW is an active member of Business Wales and the Council for Economic Renewal, and most of our 3,000 members in Wales either advise or run small or medium sized businesses; in fact, evidence suggests that over 80% of businesses in Wales use the services of a chartered accountant. By drawing on their collective experience, ICAEW Wales is well placed to act as a barometer for the views of the private sector. ICAEW members in Wales have actively engaged with the Welsh Government on all business issues and have responded to relevant consultations in this regard. In addition, ICAEW has a number of member firms who carry out audit within the public sector in Wales, either on a sub-contract basis to the Wales Audit Office (WAO) or as appointed auditors to public bodies. A number of our members also work within the public sector or have public sector clients.

MAJOR POINTS

General Comments

6. ICAEW is heavily involved in the audit quality debates within Europe and therefore recognises the importance of the proposals contained within the draft Bill for the future of public audit. The Bill addresses important issues that could have significant implications for the stewardship of public resources and public audit in Wales.
7. Securing a broad consensus on the provisions within the Bill is highly recommended and we therefore welcome the opportunity to contribute our views. In providing our comments, we have reviewed the current arrangements within England (Westminster) for similar, established functions.
8. ICAEW recognises that the Welsh Government will receive detailed responses to its questions from those stakeholders who are involved in public audit on a day-to-day basis. ICAEW's comments are therefore high-level and on areas where we are able to add value from our experiences and knowledge of audit, governance, oversight and independence scrutiny functions. Our comments are restricted to the scope and conduct of the independent public audit function in Wales; and the governance, oversight and scrutiny of the Auditor General for Wales (AGW), who is statutorily independent of government.

9. ICAEW is of the view that, in this current environment, with a global focus on accountability and transparency within governments and the need for efficiency savings, the work of the WAO, the Auditor General for Wales (AGW) and the need for independent oversight is more important than ever. Our overarching comment is that, although we are in favour of tightening up the scrutiny and oversight of the WAO and the AGW, the level of prescription in the oversight role should not hinder the operational effectiveness of both the WAO and the AGW.

Role of the public accounts committee

10. The draft Bill includes an extensive range of requirements for the Public Accounts Committee (PAC) to exercise its scrutiny function over the WAO and the AGW, including review of the WAO's estimates, annual plans, interim reports, annual report, as well as approval of the WAO's fee charging scheme and production of the PAC's own reports. This is in addition to the PAC's role of scrutinising the rest of the Welsh public sector.
11. Our view is that the level of prescription over how the PAC should discharge its scrutiny functions is too high and could impair the PAC's ability to carry out its role properly. The PAC should have the ability to go where it needs to go and be proportionate about it. We understand that the PAC meets only fortnightly and for approximately two hours. This means that it already has limited capacity to consider the value for money and other reports produced by the AGW. The addition of a lengthy list of scrutiny responsibilities with regard to the WAO would then reduce the capacity of the PAC to scrutinise the rest of the Welsh public sector.
12. By way of comparison, in the Westminster context, even though the equivalent committee meets twice weekly for longer sessions, it would still be unusual to see this level of detailed prescription over the PAC's discharge of its scrutiny functions. We also note that in Westminster, the scrutiny of the National Audit Office is carried out by a separate Public Accounts Commission, leaving the PAC to focus entirely on its wider scrutiny of holding government to account. We are not suggesting that this is the appropriate mechanism for the National Assembly for Wales as it needs to consider its own resources and what is practical and feasible; however it is worth noting that this is what actually happens.

Role and composition of the WAO Board

13. The consultation document recognises in several places the importance of ensuring the operational independence of the AGW. However, the draft Bill does not appear to fully reflect this. We have concerns about whether auditor independence might be compromised if the AGW is required to obtain agreement to his work programme from the new WAO Board. Is there a possibility that this could, unintentionally, fetter the AGW's duties and responsibilities?
14. ICAEW notes that the draft Bill proposes that the Board perform an executive role rather than a supervisory one. However, it then proposes a composition almost entirely of non-executive members, alongside the AGW and one employee representative member. If the Board is indeed to have an executive function, then there needs to be a better balance of senior WAO staff represented on the Board, while retaining a non-executive majority. This would also be in line with the governance and oversight arrangements over the National Audit Office, where the Comptroller and Auditor General (C&AG) and three of his senior staff are members of a nine-member Board, sitting alongside five non-executive members.
15. We are also unclear whether members of the WAO, in their own committee, will be dealing with matters set out in Schedule 1 Section 25(5). Having reviewed these procedural obligations, we question whether there will be adequate technical knowledge within the Board to arrive at a sensible conclusion. The AGW and the one employee may be able to convey tactical issues, but the heavy weighting towards independence makes it feel weak.
16. If the Welsh Government wishes to retain the proposed composition, then our view is that it should operate in a supervisory role. Maintaining auditor independence is vital and therefore our recommendation is that the Board's role remains consultative and advisory to allow the AGW to determine the scope of work and how it should be carried out.

17. ICAEW's view is that the document is a little weak in relation to the annual work programme (ie, there does not appear to be any holding to account if it is not followed), however this will depend on how detailed the work programme is, which could be at quite a high-level.
18. ICAEW notes the proposal to combine the roles of the AGW and the Chief Executive Officer (CEO). This could lead to a lack of independence in one role or the other. We would suggest that these remain separate, perhaps with a Chief Operating Officer created, leaving the AGW as the Accountable Office, but which ensure that there is another senior post to cover elements of the CEO role. ICAEW's view is that the seven-year appointment for the AGW is too short. Our recommendation would be to, perhaps, include an option to extend the term for a further three years. Although we agree that there should only be one (ten-year) term, we do have concerns, however, that the option of one term may only make the post attractive to candidates at the end of their career.

DETAILED POINTS

19. In relation to appointments of non-executive members, pre- and concurrent disqualification provisions and restrictions on subsequent employments and interests need to be considered.
20. There needs to be clarity in relation to the definitions in Schedule 1 (2)(a) which state that five members of the WAO are not employees but then provides for payment at 7(4). Similarly, Schedule 1 paragraph 12 indicates that the expenses of the AGW will be paid by the WAO, but in section 7 of the bill it appears that he will be remunerated by the Welsh Consolidated Fund (WCF). We assume that the reference to the WCF is purely a funding reference and that all expenditure for the AGW and non-executive members goes through the WAO, which the Bill reflects, however the wording may need to be clarified and checked for clarity. Care will need to be taken over the appointment terms as it could appear that the AGW's expenses are being paid by a body that is not his or her direct employer.
21. In the expenditure proposals, in taking away the perceived weakness of the AGW keeping his or her own unbudgeted fee income, it is unclear what these underlying activities are and how and if they should be undertaken and resourced. If the WAO is to carry out such work, then it will need to cover its costs, but not make a profit. The regular fee –earning work is taken account of in the budgets and indeed the income retained. However the ad hoc work is not. A simpler approach might be to require PAC approval for special projects not addressed in the annual budget motion, with excess of fee income over related expenditure going to the WCF. A cap could be applied if there are concerns about the amount of effort being put into these activities.
22. Clause 87 refers to the Code of Audit Practice. ICAEW welcomes the removal of the need for the code to be approved by the Welsh Government. However, our view is that some light touch oversight is necessary to ensure the code continues to be relevant and kept up to date. Our understanding is that, under the current arrangements, the AGW comments on updates to the Code in his annual report. This could be retained. The PAC would therefore not have to approve them but should have the opportunity to question where appropriate.

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