

# Agenda – Public Accounts and Public Administration Committee

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Meeting Venue:	For further information contact:
Video Conference via Zoom	Fay Bowen
Meeting date: 12 January 2022	Committee Clerk
Meeting time: 09.15	0300 200 6565
	<a href="mailto:SeneddPAPA@senedd.wales">SeneddPAPA@senedd.wales</a>

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(The Committee agreed on 1 December 2021, a motion under Standing Order 17.42 to resolve to exclude the public from this meeting)

- 1 Introductions, apologies and substitutions**  
(09.15)
- 2 Review of the Committee's working practices and procedures**  
(09.15 – 09.35) (Pages 1 – 4)
- 3 Committee Timetable**  
(09:35 – 09.55) (Pages 5 – 12)
- 4 Public Administration Remit: Analysis of consultation responses**  
(09:55 – 10.05) (Pages 13 – 69)
- (Break)**  
(10.05 – 10.15)
- 5 Scrutiny of public administration: Roundtable Panel 1**  
(10.15 – 11.00) (Pages 70 – 73)
- (Break)**  
(11.00 – 11.10)
- 6 Scrutiny of public administration: Roundtable Panel 2**  
(11.10 – 12.00)



## **7 Scrutiny of public administration: Consideration of evidence received**

(12.00 – 12.30)

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Senedd Cymru | Welsh Parliament

**Y Pwyllgor Cyfrifon Cyhoeddus a Gweinyddiaeth Gyhoeddus**

**Public Accounts and Public Administration Committee**

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# **Craffu ar weinyddiaeth Gyhoeddus**

## Ymatebion i'r Ymgynghoriad

Rhagfyr 2021

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# **Scrutinising Public Administration**

## Consultation Responses

December 2021



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## Cynnws | Contents

\* Saesneg yn unig | English only

\*\* Cymraeg yn unig | Welsh only

<b>Rhif   Number</b>	<b>Sefylliad</b>	<b>Individual/Organisation</b>
SPA1*	Leighton Andrews  Athro Arfer mewn Arwain ac Arloesi ym maes Gwasanaethau Cyhoeddus, Prifysgol Caerdydd, cyn aelod o Gynulliad Cenedlaethol Cymru ac a fu'n un o Weinidogion Cymru.	Leighton Andrews  Professor of Practice in Public Service Leadership and Innovation, Cardiff University, former member of the National Assembly for Wales and former Welsh Minister.
SPA2*	David Cook  Cyngor Gweithredu Gwirfoddol Cymru	David Cook  Wales Council for Voluntary Action
SPA3	Ania Rolewska  Ombwdsmon Gwasanaethau Cyhoeddus Cymru	Ania Rolewska  Public Services Ombudsman for Wales
SPA4*	Ginger Wiegand  Y Comisiwn Cydraddoldeb a Hawliau Dynol	Ginger Wiegand  Equality and Human Rights Commission
SPA5*	Yr Athro Steve Martin  Canolfan Polisi Cyhoeddus Cymru	Professor Steve Martin  Wales Centre for Public Policy

Rhif   Number	Sefylliad	Individual/Organisation
SPA6*	Grŵp o unigolion sydd wedi cyfrannu at y gwaith o gydgyhyrchu'r adroddiad ' <a href="#">Drws ar Glo</a> ' ar hawliau pobl anabl, a gomisiynwyd gan Fforwm Cydraddoldeb i Bobl Anabl Llywodraeth Cymru.	A group of individuals who contributed to the co-production of the ' <a href="#">Locked Out</a> ' report on Disability Rights, commissioned by Welsh Government's Disability Equality Forum.
SPA7*	Dr Helen Foster Ysgol Fusnes Prifysgol Ulster	Dr Helen Foster Ulster University Business School
PA8	Sophie Howe Comisiynydd Cenedlaethau'r Dyfodol Cymru	Sophie Howe Future Generations Commissioner for Wales
PA9	Archwilio Cymru	Audit Wales

Senedd Cymru

Y Pwyllgor Cyfrifon Cyhoeddus a  
Gweinyddiaeth Gyhoeddus

Craffu ar weinyddiaeth gyhoeddus

PAPA(6) SPA01

Ymateb gan Yr Athro Leighton Andrews,  
Prifysgol Caerdydd

Welsh Parliament

Public Accounts and Public Administration  
Committee

Scrutinising public administration

Evidence from Professor Leighton Andrews,  
Cardiff University

### Scrutinising Public Administration.

A submission to the Public Accounts and Public Administration Committee from Leighton Andrews, Professor of Practice in Public Service Leadership and Innovation, Cardiff University, former member of the National Assembly for Wales and former Welsh Minister.

#### Introduction.

1. I welcome the remit of the new committee. In November 2017 I publicly called for the creation of a committee with a public administration remit. I am pleased that the committee has called for evidence on its role. Democratic devolution in Wales has now existed for over twenty years and it is right that thought and scrutiny is now given to the processes of public administration, including the conventions and assumptions underpinning them, which have developed over that time. The publication this year of 1997 UK Cabinet Committee papers remind us how far Welsh Government has developed from the original very limited ideas for a National Assembly and Welsh Executive<sup>1</sup>.
2. The committee gives an early indication of the areas which it expects to cover in its Consultation Letter, such as matters relating to the machinery of government, including the quality and standards of administration provided by the Welsh Government civil service and Welsh Government Sponsored Bodies. My submission

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<sup>1</sup> See Leighton Andrews (2021) Performing Welsh Government 1999–2016: how insider narratives illuminate the hidden wiring and emergent cultural practices, in *Contemporary British History* <https://doi.org/10.1080/13619462.2021.1996235>

will cover the areas of interest outlined in the committee's Consultation Letter, including:

- a. principles and best practice for scrutiny of public administration;
  - b. what information and evidence the committee will need in order to maintain effective oversight of public administration; and
  - c. priority issues the committee may wish to consider.
3. My submission principally addresses two broad areas and draws on my published and unpublished research, and my teaching, as well as my experience as a member of the former National Assembly for Wales and as a Welsh Minister over the periods 2007-2013 and 2014-16. First, I briefly describe the work of the House of Commons Public Administration and Constitutional Affairs Committee (under various titles) over the last twenty years, as a potential model. Second, I outline a number of areas which the committee might wish to consider worthy of examination.

#### **The scrutiny of Public Administration in the U.K.**

4. The Committee has asked what principles and what best practice should guide the committee in its enquiries. I would like to suggest some operating principles:
- a. To promote good governance in and for Wales by the Welsh Government, local government, and public bodies, in inter-governmental relations, and where relevant, by the U.K. Government and non-devolved bodies
  - b. To promote high standards of conduct in public life in line with the Nolan principles
  - c. To scrutinise, and make recommendations for improvement in, the conduct, governance and delivery of services delivered to the people of Wales by the Welsh Government, local government, devolved public bodies and, where relevant, the UK Government and non-devolved public bodies
5. In terms of best practice, the obvious starting point for consideration of the scrutiny of public administration by the committee is the work of the House of Commons Public Administration and Constitutional Affairs Committee (PACAC) under various titles, over the last 25 years. Former First Minister, the late Rhodri Morgan, devotes a short part of his posthumous autobiography to his role as chair of the committee from 1997-9<sup>2</sup>.

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<sup>2</sup> Rhodri Morgan (2017), *Rhodri – A political life in Wales and Westminster*, UWP, pp 114-116.

6. In terms of evidence, the committee will require evidence from the Welsh Government, including Ministers and civil servants, from Welsh public bodies, and where relevant, from the U.K. Government and non-devolved bodies, as well as from academic experts, former officials and ministers.
  
7. The House of Commons Committee describes its role as being 'to examine: constitutional issues; the quality and standards of administration provided by Civil Service departments; and the reports of the Parliamentary and Health Service Ombudsman (PHSO).' This somewhat understated and dry description masks a variety of work which has been carried out by it and its predecessor committees on a wide range of subjects.
  
8. PACAC and its predecessors have examined areas which *could* be relevant to the Senedd Public Accounts and Public Administration Committee such as (and this is not exhaustive)
  - a. Brexit-related governance issues
  - b. Election administration
  - c. Management of Freedom of Information laws by Government
  - d. Constitutional issues, including devolution and inter-governmental relationships within the UK
  - e. Standards in Public Life, including the Ministerial Code and business appointments
  - f. Public Appointments issues
  - g. UK Statistics
  - h. Ministers and what they do, accountability and questions
  - i. The work of the Cabinet Office, of the Cabinet Secretary, and of the Prime Minister's Office
  - j. Civil Service effectiveness and leadership, and relations with Ministers
  - k. Special Advisers (SpAds) and the SpAd Code
  - l. Government Communications
  - m. Lobbying
  - n. Strategic thinking in government
  - o. Public Services: Outsourcing, targets, delivery,
  - p. The role of Parliament in the UK Constitution
  - q. The conduct of referendums
  - r. The House of Lords
  - s. The Fixed Term Parliaments Act
  - t. Relationships with Arm's Length Bodies/Quangos
  - u. The Ombudsman service, citizen complaints, users of public services
  - v. The Census
  - w. Procurement

- x. IT in Government
  - y. The Honours System, political honours and appointments to the House of Lords, patronage
  - z. Memoirs by former Ministers and Senior Civil Servants
9. The length of this list, which relates to a variety of inquiries undertaken over two decades or so, indicates that the Senedd Public Accounts and Public Administration Committee would be prudent in setting out a limited but clear forward work-plan on the issues it believes would be priorities. Clearly some of the subjects considered by UK PACAC and its predecessors may be more appropriately covered by the remits of other Senedd Committees, such as the Legislation, Justice and Constitution Committee, the Special Purpose Committee on Senedd Reform, the Llywydd's Committee and the Standards of Conduct Committee. How the Committees manage the boundaries of these issues obviously needs to be carefully judged.
10. The UK Committee has also held pre-appointment hearings for a number of public roles including the Chair of the Committee on Standards in Public Life, the Chair of the Advisory Committee on Business Appointments (ACOBA), the Commissioner for Public Appointments, and the Independent Advisor on Ministerial Interests.
11. The Scottish Parliament has a Finance and Public Administration Committee with a remit summarised as covering Scotland's public finances, public service reform, Scotland's National Performance Framework, and public administration in government. It also has a separate Standards, Procedures and Public Appointments Committee, with a remit covering the Parliament's procedures rules for MSPs' behaviour and conduct, rules on lobbying, and elections and referendums. Clearly in the Senedd, some of this is covered by the Standards of Conduct Committee.

**Potential areas for the Senedd Public Accounts and Public Administration Committee to examine**

12. There is no shortage of subjects for the Committee to consider, but I would like to highlight some which I feel might have immediate relevance. I have tried to limit these on the basis of examining the remits of other Senedd Committees, and having reflected on issues which have been under-examined during the development of democratic devolution over the past 20 years. These are:
- a. The Dunlop Review and Inter-Governmental relations in the UK (post Brexit, post Covid?)

- b. Standards in Public Life, Public Appointments, the Welsh Ministerial Code and the Independent Advisor on the Ministerial Code
- c. Special Advisers
- d. Cabinet and Cabinet Committees
- e. Civil Service Effectiveness, including the senior civil service
- f. Public Service Delivery
- g. Use of data and digital services in government
- h. One Welsh Public Service

13. I will comment briefly on each of these issues.

## 1. The Dunlop Review and Inter-Governmental relations in the UK

14. Earlier this year the UK Government published Lord Dunlop's review of intergovernmental relationships which made a number of recommendations for change. Not all of these have been accepted by the UK Government. It is clear that there have been significant changes in inter-governmental relations post-Brexit and post-Covid. How do the Dunlop recommendations deliver for Wales and what should be the next steps?

*Standards in Public Life, Public Appointments, the Welsh Ministerial Code and the*

## 2. Independent Advisor on the Ministerial Code

15. The Public Standards scene in Wales is a confusing one and has never been considered in an integrated fashion. The remit of the Committee on Standards in Public Life (CSPL) does not cover the devolved governments and devolved Parliaments, unless it is requested to become involved by them. The Welsh Government Ministerial Code relies on principles established by the CSPL (the Nolan principles) and on leaving office Ministers are subject to the supervision of the Advisory Committee on Business Appointments (ACOBA), an advisory nondepartmental public body sponsored by the UK Cabinet Office. Members of the Senedd are also expected to abide by the Nolan principles. The Commissioner for Public Appointments has an oversight role in respect of public appointments in England and Wales. An Independent Adviser was announced in 2017 to examine breaches of the Welsh Ministerial Code by Ministers. The existence of an

Independent Adviser role has been reaffirmed in the latest addition of the Welsh Ministerial Code. The initiative for involving the Independent Adviser lies with the First Minister. That may well be the right thing – though at a UK level there have been suggestions that the Independent Adviser should have the right to initiate investigations, but there has been little structured discussion in Wales on that role. The same could be said of the penalties or sanctions for breaching the Ministerial Code, which have not necessarily been consistently applied, the effectiveness of sanctions against breaches by former ministers after they leave office, or the notion of a graduated scale of penalties suggested at a UK level by former Cabinet Secretary Lord O’Donnell, who has suggested that not all breaches of the Code are as serious as each other. In Wales, the current First Minister has rightly been innovative in respect of the Ministerial Code, in relation to the sections of the code referring to Ministerial removal from office, following the Inquest into the death of Carl Sargeant. This whole area might benefit from scrutiny by the committee.

### **3. Special Advisers**

Special Advisers (SpAds) have from time to time been controversial appointments at UK government level. On the whole, this has not been the case in Wales. Special Advisers are appointed by the First Minister, unlike in Westminster where they are usually appointed by Cabinet Ministers (with a recent attempt to centralise oversight by the former chief adviser to the Prime Minister). Rhodri Morgan advertised the role of Special Advisers when he became First Minister. Mark Drakeford also advertised for Special Advisers in early 2019 following his election as First Minister, and a candidate brief and job description were issued, along with the SpAd and Civil Service codes of practice. This seems like exceptionally good practice, but it has not always been the norm. Should it become the norm? Are further safeguards needed in relation to Special Adviser relationships with civil servants and Ministers? These issues have never been publicly aired in Wales in a structured discussion.

### **4. Cabinet, Welsh Ministers and Cabinet Committees**

17. The UK Government has had a Cabinet Manual in Place since 2010 – is there a role for such a document in Wales, and might it absorb some of what is currently in the Ministerial Code, such as commentary on collective responsibility? Why, for example, are Welsh Ministers not classified as Ministers of the Crown? From Rhodri Morgan’s time as First Minister, Cabinet Minutes have been published about six

weeks after Cabinet meetings. The Minutes of the Cabinets held during Alun Michael's time as First Secretary have not been published, though this has been promised for some years. Minutes of Cabinet Committees have on the whole been published and certainly from since 2016, though not all prior to that have been. Welsh Government Cabinet Minutes prior to 2016, which have been transferred to the National Archives for holding, are not always easily discoverable, with html links often broken. This is part of the historical record of Wales and these records should be better preserved and made more easily accessible. Wales has led in Open Government – and the Welsh Government should be commended for this - with the publication of Cabinet Minutes, and their archive management should be enhanced. There are also more general issues about the operation of Cabinet Committees. Are there principles guiding their establishment, and their membership? Why are some subjects chosen for Cabinet sub-committees and others for working groups of Ministers?

## 5. Civil Service Effectiveness, including the senior civil service

18. On the whole, I felt well-supported by the civil service as a minister. However, there are areas such as the balance between policy and delivery which have recently been raised in significant reports by the Commission for Smart Government and by Policy Exchange, which have also been raised in Wales, including in evidence to one of your predecessor committees<sup>3</sup>. It is more than five years since I was a Welsh Minister, and the challenges faced by civil servants post-Brexit and post-Covid are very different. However, the general issue of civil service effectiveness is a reasonable one for the committee to explore, including issues such as performance management, incentivisation, leadership development, and so on. With a new Permanent Secretary now in post, it might be timely to explore these issues. The relationship of the Welsh Civil Service to the Home Civil Service overall might also be a major area for consideration.

### *Public Service Delivery*

19. Public Service delivery is very much linked to the previous issue. It has surfaced again as an issue at UK Government level, with Sir Michael Barber brought back to reinvent

<sup>3</sup> PAC(3) 14-10 (p2& p2a) : 21 October 2010, Paper for Public Accounts Committee, 21<sup>st</sup> October 2010 by Andrew Davies AM; Andrew Davies, Tackling Welsh Sir Humphreys  
<https://www.iwa.wales/agenda/2012/04/tackling-wales%E2%80%99-sir-humphreys/> ;

his previous Delivery Unit for a new time and a new government. Barber has also pioneered work for the UK Treasury on its Public Value Framework. The Delivery challenges post-Covid across public services in Wales, not least in Health and Education, have been well-rehearsed. Prior to Brexit, the Welsh Government was considering, in the light of the Williams Commission, whether and how the range of public service targets and their various performance management regimes and frameworks could be simplified. Brexit and Covid have of course materially changed things, but arguably the need for simplification of target-setting is even more acute.

## **6. Use of data and digital services in government**

20. There has been significant growth in the use of data and in the development of digital services across government in Wales, particularly over the last five years, and this should be commended. There are some key successes, including management of the vaccine rollout. The creation of Digital Health and Care Wales is an important development. Digital services came into their own during the pandemic in Wales, not least in the first lockdown. What are the lessons from that in delivering more personcentred services for the future, and in enhancing delivery by and for those working in our public services?

## **7. One Welsh Public Service**

21. The Welsh Government has had a long-term ambition to create a 'One Welsh Public Service' culture in Wales across the public services. This has been reinforced by the implementation of the Wellbeing of Future Generations Act and the creation of Public Service Boards, and underpinned by Public Service Leadership Summits held in 2015 and 2019 attended by the top 200 public service leaders in Wales in both devolved and non-devolved services. Public services in Wales, including the Welsh NHS, Local Authorities, schools and other services delivered well during the pandemic. A common approach to leadership development, values and behaviours has been rolled out by Academi Wales. The First Minister spoke clearly about the idea of a One Welsh Public Service culture at the Public Service Leadership Summit in 2019:

That sense that in a small country of the sort that we are, we have to think of those people who work in our public services and those who lead them as belonging, not to single strands where the primary loyalty is to the organisation to which you happen to belong at any moment in time, but a sense that those strands in public services, and those strands in Public Service Leadership, belong to a single idea of public service here in Wales,

and where the primary loyalty belongs to that wider sense of what we in this room are all about in trying to provide public services in the different places in which we operate - and the need therefore to create systems that allow a permeable sense of leadership, in which it is as easy as we can make it for people to spend time in different parts of the public service here in Wales. In which it is thought of as an asset for somebody to have spent sometime in the Welsh Government; to have spent some time in a delivery organisation; to have spent some time in one of our academic institutions, where that sense of the walls between the organisations that we belong to are as open and permeable as they can be, because people who work across boundaries, and people who are able to see the world from more than one perspective, bring a different sort of leadership strength to that sense of a single Welsh Public Service<sup>4</sup>.

22. Clearly that objective implies a holistic approach to public service leadership. How is that being taken forward, and how much more urgent is it post-pandemic?

## 8. Final word

23. The new remit for the committee is an important step, marking the maturing of Welsh democratic devolution and public administration. The remit is needed and the time is opportune. I make my suggestions here – and that is all they are, suggestions – in the spirit of seeking to promote good governance in and for Wales, based on high standards of public service.

**24 November 2021**

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<sup>4</sup> Rt. Hon Mark Drakeford AM, First Minister of Wales, Opening Address at the All Wales Public Service Leadership Summit, 10 October 2019, at the Liberty Stadium, Swansea.



Senedd Cymru

Y Pwyllgor Cyfrifon Cyhoeddus a  
Gweinyddiaeth Gyhoeddus

Craffu ar weinyddiaeth gyhoeddus

PAPA(6) SPA02

Ymateb gan David Cook, Cyngor  
Gweithredu Gwirfoddol Cymru (CGGC)

Welsh Parliament

Public Accounts and Public Administration  
Committee

Scrutinising public administration

Evidence from David Cook, Wales Council  
for Voluntary Action (WCVA)

## A RESPONSE FROM WCVA

1. Wales Council for Voluntary Action (WCVA) is the national membership organisation for the voluntary sector in Wales. Our purpose is to enable voluntary organisations to make a bigger difference together.
2. We thank the Public Accounts and Public Administration Committee for the chance to offer our thoughts on this important consultation. We also thank the voluntary sector organisations who engaged with us and provided vital intelligence for our response.

## PRINCIPLES AND BEST PRACTICE FOR SCRUTINY OF PUBLIC ADMINISTRATION

3. There is a need for greater co-ordination and joint understanding across government portfolios of the role of the voluntary sector and its interactions with the public sector. More clarity is required within those portfolios and divisions as to how those relationships are established, grown and maintained. This is necessary for effective scrutiny of public services provided by the voluntary sector, whether independently or in coproduction with the public sector.
4. Regarding the Social Services and Wellbeing (Wales) Act: while the Code of Practice sets out what is expected of organisations and bodies, and the duties placed on them, these organisations and bodies are often not held to real account. There are inspection reports, of course, with a list of recommendations, but how can we be sure that these recommendations are effectively considered and carried out? Accountability and transparency is key here.

5. How the Act's principles of coproduction and service user voice and control are implemented across health and social care must be scrutinised closely.
6. The voluntary sector, via individual charities, experts by experience, and people with lived experience, can all offer excellent insight in relation to situations when public administration may fall short of certain standards or have failed in any way. Being able to comment on complaint themes or trends and give practical advice on how public administrators can really show that they have learned lessons and will not make the same errors in the future is beneficial to the scrutiny process. The opportunity to work with the various inspectorates, regulators, commissioners and ombudsmen is something that it would be useful to consider in the course of this work.
7. Procedural rules must be made available in a wide variety of formats and languages, not just English and Welsh.
8. When citizens and organisations contribute to consultations, engagement events and so on, participants should be kept up to date on how their contributions have been used and the differences they have made.
9. It is important that minutes from strategic partnership meetings are made available in a timely and accessible manner for transparency and clarity.
10. It would be useful if the Committee could publish some case studies showcasing what it considers to be best practice in public administration.

## **INFORMATION AND EVIDENCE THE COMMITTEE NEED TO MAINTAIN EFFECTIVE OVERSIGHT OF PUBLIC ADMINISTRATION**

11. When public bodies work together, they must understand and document the likely long-term impacts of the decisions they make on Wales' progress towards the seven wellbeing goals of the Future Generations Act, with this information available to all, including the Committee. Openness and transparency in evaluating the differences that scrutiny has made in improving public services and practice is vital.
12. Equality Impact Assessments must be co-produced with service users, with clear mechanisms to challenge decisions. There are reports this is not happening consistently. The **Locked Out** report has more on the impact of this on disabled people.

13. The success, or otherwise, of steps taken to involve a diversity of voices, along with the difference citizen's contributions have made, must also be documented.
14. The [Voluntary Sector Data Hub](#) contains a wealth of statistical information about voluntary sector activity, funding and income, going back a number of years. This would be an invaluable tool for the Committee if considering the impact of voluntary sector services.
15. WCVA's [National Principles for Public Engagement](#), endorsed by Welsh Government, are a useful tool for bodies to ensure they are effectively engaging with communities and individuals.

## **PRIORITY ISSUES THEY MAY WISH TO CONSIDER**

16. As a priority, the committee should look to examine the ongoing delivery of the Wellbeing of Future Generations Act, in terms of both monitoring progress against the national milestones and indicators, and in terms of how it is applied by public bodies at various levels. The committee's report [Delivering for Future Generations: The story so far](#) from March 2021 is a valuable starting point here, but noting that this work is still being embedded across public bodies. Its implementation also varies across Wales.
17. Openness and transparency in evaluating the differences that scrutiny has made in improving public services and practice is vital. The success, or otherwise, of steps taken to involve a diversity of voices, along with the difference citizen's contributions have made, must be documented.
18. Regional Partnership Boards are invaluable for scrutiny of the Social Services and Wellbeing Act, but it is important the Committee is aware of issues facing voluntary sector and citizen representatives on these Boards. Across many RPBs, sector representatives are hugely outnumbered by statutory representatives. Often, one person is expected to be a voice for the whole of the voluntary sector – which is impossible for as diverse a sector as ours – and reports suggest that person is often made to feel very much the junior partner on the Board. Similar issues arise for citizen and carer representatives. Citizen representatives and voluntary representatives require greater support to achieve the stated requirement that RPBs 'demonstrate citizen engagement and co-production'. Other partners on RPBs must also be helped to understand the importance of these particular representatives.
19. Corporate Joint Committees will be important in shaping how local government collaborates regionally. It is vital that high quality scrutiny mechanisms are put in place so that we can be sure that CJsCs are encouraging coproduction of public services.

20. Once the Race Equality Action Plan and LGBTQ+ Action Plan are launched, bodies must be scrutinised as to how they are meeting the aims of these documents.

## DISCUSSION

21. WCVA will be pleased to discuss these or any other points relating to this consultation response with officials, committees, Members of the Senedd or Ministers if requested.

*David Cook,  
Policy Officer, WCVA*

*December 2021*

Senedd Cymru

Welsh Parliament

Y Pwyllgor Cyfrifon Cyhoeddus a  
Gweinyddiaeth Gyhoeddus

Public Accounts and Public Administration  
Committee

Craffu ar weinyddiaeth gyhoeddus

Scrutinising public administration

PAPA(6) SPA03

Ymateb gan Ombwdsmon Gwasanaethau  
Cyhoeddus Cymru

Evidence from Public Services Ombudsman  
for Wales

## ‘Scrutinising Public Administration’

### 1. Summary

- I warmly welcome the establishment of a Senedd committee dedicated to public administration.
- I am hopeful that the Committee will see administrative justice as an integral part of its brief.
- It would be a powerful statement of intent for the Committee to adopt the ‘right to good administration’ as the guiding principle of its work.
- I would like to take this opportunity to invite the Committee to take full advantage of the expertise of my office and the data that we collect in respect of our caseload as well as our work as Complaints Standards Authority.
- I would like to suggest several areas for consideration by the Committee:
  - Impact of Covid-19 on quality and standards of administration and complaint handling
  - Systemic oversight of administrative justice mechanisms in Wales
  - Public Administration and Administrative Justice Code
  - Administrative Procedure Act for Wales.

## 2. Our role

As Public Services Ombudsman for Wales (PSOW), I investigate complaints made by members of the public who believe they have suffered hardship or injustice through maladministration or service failure on the part of a body in my jurisdiction, which essentially includes all organisations that deliver public services devolved to Wales. These include:

- local government (both county and community councils)
- the National Health Service (including GPs and dentists)
- registered social landlords (housing associations)
- the Welsh Government, together with its sponsored bodies.

I can consider complaints about privately arranged or funded social care and palliative care services and, in certain specific circumstances, aspects of privately funded healthcare.

I also investigate complaints that elected members of local authorities have breached their Codes of Conduct, which set out the recognised principles of behaviour that members should follow in public life.

The 'own initiative' powers I have been granted under the Public Services Ombudsman (Wales) Act 2019 (PSOW Act 2019) allow me to investigate where evidence suggests there may be systemic failings, even if service users themselves are not raising complaints. The Act also establishes the Complaints Standards Authority (CSA) to drive improvement in public services by supporting effective complaint handling through model procedures, training and collecting and publishing complaints data.

## 3. General comments

I warmly welcome the establishment of a Senedd committee dedicated to public administration. I am delighted that, in addition to economic and efficient use of resources in the discharge of public functions in Wales, the Committee will focus on the quality and standards of administration. This area is the bread and butter of our work at PSOW, and I believe that it will benefit from a stronger parliamentary oversight.

At the same time, I hope and trust that the Committee’s attention will extend also to administrative justice – the pathways to redress against incorrect or poor-decision making and the mechanisms for learning and systemic improvement. Research by Dr Sarah Nason,<sup>1</sup> to which I will be referring to also further in this response, states that ‘a difficulty for administrative justice has been that in the absence of any Senedd Committee, or Government Minister, with specific responsibility for ‘justice’ there has been no political body to champion the concept’. I am hopeful that the Committee will see administrative justice as an integral part of its brief.

#### 4. Principles and best practice for scrutiny of public administration

Although the roles of the Committee and my office differ in many respects, I think it is useful to draw attention to the Principles of Good Administration adopted by my office and many of my colleagues in the broader ombudsman community. I see these principles as relevant to the operations of the bodies in my jurisdiction: they help me clarify the expectations against which I will judge performance and support a shared understanding of what is meant by good administration. However, these principles are just as central to the operations of my own office, shaping how we undertake our scrutiny work. We are currently reviewing these principles, but in their current form they state:

<p>1 Getting it right</p>	<p>Acting in accordance with the law and with regard for the rights of those concerned.</p> <p>Acting in accordance with the public body’s policy and guidance (published or internal).</p> <p>Taking proper account of established good practice.</p> <p>Providing effective services, using appropriately trained and competent staff.</p> <p>Taking reasonable decisions, based on all relevant considerations.</p>
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<sup>1</sup> Dr Sarah Nason, The Senedd and Administrative Justice (Part 1) Public Administration: Rights, Principles and Administrative Law, Research Briefing (July 2020); and The Senedd and Administrative Justice (Part 2): Constituency Work, Redress Design and Oversight, Research Briefing (July 2020).

2 Being service-user focused	<ul style="list-style-type: none"> <li>• Ensuring people can access services easily.</li> <li>• Informing service users what they can expect and what the public body expects of them.</li> <li>• Keeping to its commitments, including any published service standards.</li> <li>• Dealing with people helpfully, promptly and sensitively, bearing in mind their individual circumstances.</li> <li>• Responding to service users' needs flexibly, including, where appropriate, coordinating a response with other service providers.</li> </ul>
3 Being open and accountable	<ul style="list-style-type: none"> <li>• Being open and clear about policies and procedures and ensuring that information, and any advice provided, is clear, accurate and complete.</li> <li>• Stating its criteria for decision making and giving reasons for decisions.</li> <li>• Handling information properly and appropriately.</li> <li>• Keeping proper and appropriate records.</li> <li>• Taking responsibility for its actions.</li> </ul>
4 Acting fairly and proportionately	<ul style="list-style-type: none"> <li>• Treating people impartially, with respect and courtesy.</li> <li>• Treating people without unlawful discrimination or prejudice, and ensuring no conflict of interests.</li> <li>• Dealing with people and issues objectively and consistently.</li> <li>• Ensuring that decisions and actions are proportionate, appropriate and fair.</li> </ul>
5 Putting things right	<ul style="list-style-type: none"> <li>• Acknowledging mistakes and apologising where appropriate.</li> <li>• Putting mistakes right quickly and effectively.</li> <li>• Providing clear and timely information on how and when to appeal or complain.</li> <li>• Operating an effective complaints procedure, which includes offering a fair and appropriate remedy when a complaint is upheld.</li> </ul>
6 Seeking continuous improvement	<ul style="list-style-type: none"> <li>• Reviewing policies and procedures regularly to ensure they are effective.</li> <li>• Asking for feedback and using it to improve services and performance.</li> <li>• Ensuring that the public body learns lessons from complaints and uses these to improve services and performance.</li> </ul>

I would also like to draw the Committee's attention to the principles formulated by the [Committee for Administrative Justice and Tribunals, Wales](#) (CAJTW) in 2016. CAJTW argued that the following principles should underpin the distinctive Welsh approach to administrative justice:

<p>A FUNDAMENTAL RIGHT Everyone has the right:</p> <ul style="list-style-type: none"> <li>• to be notified, either specifically or by public notification, of any administrative decision affecting them;</li> <li>• to express views on or voice complaints about any such decision; and</li> <li>• to appeal against or require a review of any administrative decision adversely affecting them.</li> </ul>
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And to that end:

#### Decision Making

- All legislation under which administrative decisions are made should be reasoned, unambiguous and coherent and its implications should be effectively communicated to the public, those who advise them, the legal professions and those whose role it is to administer the decisions
- All administrative decisions should identify the legislation under which they are made and should be lawful, reasoned, unambiguous, coherent, clearly communicated to those whom they affect and should indicate how they may be appealed or reviewed.
- All administrative decisions should be underpinned by integrity and good governance and should be made by those with the expertise and up to date knowledge and experience needed to make fair, accurate and informed decisions.
- All decision making and redress processes should be grounded in continuous improvement and learning, including from the outcomes of complaints and appeal processes.

Systems and Procedures. All appeal and review systems and procedures should:

- include opportunities for reviewing decisions and for informal dispute resolution prior to any formal process of appeal, provided that the citizen's right to a fair and open appeal is not thereby impaired
- be prompt, accessible, independent, impartial and open
- be proportionate, efficient and effective
- demonstrate respect for human rights, equalities, sustainability and the needs of the most vulnerable
- ensure the interests of unrepresented parties are accommodated and that they are not disadvantaged.

#### Values and Behaviours

- Citizens' rights and needs should be treated with respect at all times
- Appellants should be kept informed throughout dispute resolution processes and enabled to seek resolution of their problems as expeditiously as possible

- All decisions, including decisions made on appeal or review, should ensure equal treatment of all citizens regardless of language preference between the English and Welsh languages.

I believe it is important to underline the concept of a right to good administration included in CAJTW's contribution. The right to good administration is provided for by Article 41 of the EU Charter of Fundamental Rights and has been proposed in the past by the Administrative Justice and Tribunals Council (AJTC). I am aware of the debates around enforceability of such a right and do not propose to offer a solution to this complex issue. Nevertheless, I do want to point out that, according to the [Welsh Government](#), CAJTW principles 'closely reflect existing values and legislative provisions that inform working practices'. Considering this, I believe that it would be a powerful statement of intent for the Committee to adopt the 'right to good administration' as the guiding principle of its work.

## **5. Information and evidence the Committee will need in order to maintain effective oversight of public administration**

I would like to take this opportunity to invite the Committee to take full advantage of the expertise of my office and the data that we collect.

We publish annually a wide range of information on the complaints we receive against public bodies in Wales. Apart from clinical decisions in healthcare settings, all these complaints involve maladministration. Thus, trends in these complaints offer an important insight into the administrative practices of the bodies in my jurisdiction, including issues such as quality of communication with the public, accessibility, record keeping, and, of course, complaint handling. We would be delighted to provide the Committee with an update on this data on a more regular basis, or to respond to requests for specific data. We will always endeavour to provide it, our case management system and confidentiality duties permitting.

I would like to draw attention also to a new type of data that we collect which may be of particular interest to the Committee. As the Committee members will be aware, the PSOW Act 2019 equipped my office with new powers to drive systemic improvement of public services. These include the power to set model complaint handling procedures

for bodies in my jurisdiction and to monitor complaint handling by these bodies. We have recently published the relevant data received from Local Authorities for the first quarter of 2021/22. I believe that quarterly data publications will drive transparency and consistency, as well as give new context to what complaints performance means. Again, we would be happy to provide the Committee with a digest of this data on a regular basis.

Beyond that, we would be delighted to organise briefing sessions for the Committee members on our work, as well as to invite the members to visit our offices in Pencoed and meet the casework staff (public health advice allowing).

## **6. Priority issues we may wish to consider**

I would like to suggest several areas for consideration:

### **Impact of Covid-19 on quality and standards of administration and complaint handling**

In June 2020, I submitted evidence to the Equality, Local Government and Communities Committee, drawing attention to the impact of Covid-19 on some areas of interest to the Committee, primarily complaint handling practices of Local Authorities. At that point, we were experiencing an overall decrease in the volume of casework reaching the office - the tendency we attributed at least in part to the unwillingness of members of the public to complain at the time of the unprecedented public health crisis. However, we also had grounds to believe that some Local

Authorities had reduced access to their complaint handling processes during the 'lockdown'. As expected, we are now experiencing a surge in complaint numbers. Not only that – we are seeing far more complaints where Covid-19 has been a factor in the alleged maladministration. We'd expect that other complaint handling bodies in Wales would see similar trends. We would therefore welcome attention by the Committee to the effect of Covid-19 on administrative standards and complaint handling.

## **Systemic oversight of administrative justice mechanisms in Wales**

CAJTW recommended in 2016 that the Assembly – now the Senedd - developed a role in effectively scrutinising the operation of existing redress mechanisms in Wales - ensuring that ‘the voice of Welsh citizens is being heard, that services being offered are cost-effective, timely and efficient, and that data from address mechanisms are being used to inform the development of policy’. I echo that recommendation. Whilst aspects of administrative justice sit across the remits of various Senedd Committees, and different mechanisms of administrative justice – my office included – are, of course, scrutinised individually, there is an argument to be made for a single committee taking on the more strategic oversight of the broader administrative justice system, identifying areas for improvement and promoting coherence.

## **Public Administration and Administrative Justice Code**

Dr Sarah Nason called in her research for the creation of a Public Administration and Administrative Justice Code, containing primary and secondary legislation and guidance relating to, for instance, Audit Wales, PSOW, Inquiries, Records & Information and the Welsh tribunals. She argued that ‘A Code bringing together relevant institutions, their procedures, roles, and to whom such integrity bodies are accountable would help improve public awareness and has the potential to establish more consistency in functions and oversight’. I support the calls for more coherence and public awareness of the administrative justice system in Wales and would suggest that the Committee’s brief places it in a convenient position to take such a project forward.

## **Administrative Procedure Act for Wales**

I am also interested in Dr Nason’s suggestion that Welsh Government and the Senedd consider the case for the future drafting of an Administrative Procedure Act for Wales, to include a consolidated set of human rights, well-being and equality based procedural duties. This recommendation stems from the observation that public bodies in Wales currently operate within increasingly complex frameworks of duties and principles guiding their procedures – spanning well-being, equality and socioeconomic considerations. Such an Act should also set in law arrangements for redress for breach of its provisions. Exploring further potential for such an Act and taking forward its development could be a fruitful line of work for the Committee.

## 7. Closing remarks

I trust that you will find my comments useful. Should you wish to discuss any of my points further, please do not hesitate to contact Ania Rolewska, my Head of Policy ([ania.rolewska@ombudsman.wales](mailto:ania.rolewska@ombudsman.wales)).



## 8. Nick Bennett Public Services Ombudsman for Wales December 2021

Senedd Cymru	Welsh Parliament
Y Pwyllgor Cyfrifon Cyhoeddus a Gweinyddiaeth Gyhoeddus	Public Accounts and Public Administration Committee
Craffu ar weinyddiaeth gyhoeddus	Scrutinising public administration
PAPA(6)SPA04	
Ymateb gan Ginger Wiegand, Y Comisiwn Cydraddoldeb a Hawliau Dynol	Evidence from Ginger Wiegand, Equality and Human Rights Commission

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## 1. Introduction

### About the Equalities and Human Rights Commission

The Equality and Human Rights Commission ('the Commission') is Great Britain's national equality body and has been awarded an 'A' status as a National Human Rights Institution (NHRI) by the United Nations. Our job is to help make Britain fairer. We do this by safeguarding and enforcing the laws that protect people's rights to fairness, dignity and respect. The Commission has been given powers to advise Governments across England,

Scotland and Wales on the equality and human rights implications of legislation and policy. We can also publish information or provide advice, on any matter related to equality, diversity and human rights.

## **Scrutinising Public Administration – The Legal Context**

The Equality Act 2010, the Public Sector Equality Duty (PSED), Section 149(1) of the Equality Act, the Specific Duties for Wales under the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 and the forthcoming Socio-economic Duty, include obligations on all sectors that if embraced by organisations, could lead to significantly improved equality and diversity outcomes for the people of Wales across all areas of life. The PSED requires that equality considerations are built into the design of policies and the delivery of services and that they are kept under review.

The three general aims of the PSED require that public bodies give due regard to

- Eliminating unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- Advancing equality of opportunity between people who share a protected characteristic and those who do not; and
- Fostering good relations between people who share a protected characteristic<sup>1</sup> and those who do not.

Wales-specific duties include the requirement for listed bodies to state strategic equality objectives and report on progress toward them, to engage with people with protected characteristics when making policy decisions, and to consider the impact of policy decisions on people with protected characteristics through Equality Impact Assessments. The purpose of the specific duties in Wales is to aid transparency and to help listed bodies in their performance of the general duty<sup>2</sup>.

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<sup>1</sup> Age, Civil Partnership, Disability, Gender, Race, Pregnancy and Maternity, Religion or Belief, Sexual Orientation and Gender Reassignment.

<sup>2</sup> For a full discussion of the Wales specific duties, see the Commission's **[Essential Guide to the Public Sector Equality Duty: An Overview for Listed Public Authorities in Wales](#)**

Furthermore, the Socio-Economic Duty requires that Government officials and listed bodies consider the impact of policy decisions on those who are disadvantaged due to low income or other material deprivation.

## 2. Response to the Consultation Letter

### Principles and best practice in scrutinising public administration

Effective scrutiny of public administration should give central consideration to how effectively Welsh Government and other public bodies are meeting their duties in relation to the Equality Act 2010, including general and specific Public Sector Equality Duties as well as the Socio-economic Duty.

**Equality Objectives:** Welsh Government and other public bodies are required to publish strategic equality plans which identify outcomes and priorities for addressing the most pressing inequalities and to publish reports on progress toward those objectives. Equality objectives should be expressed as SMART outcomes, be ambitious and aimed at tackling the most entrenched inequalities in society. They should be based on the most relevant and up to date evidence and also underpinned by engagement with people considered representative of one or more of the protected groups and who have an interest in how an authority carries out its functions.

**National Priorities:** In our response to Welsh Government's consultation on the Socio-economic Duty (SED), the Commission recommended that Welsh Government identifies and sets out in its Interim Guidance the National Inequalities of Outcome to be addressed by public bodies in complying with the duty. Our Equality and Human Rights Measurement Framework, referenced below, may be helpful in setting those priorities and in ensuring greater transparency and accountability, which in turn, would assist the Committee with its scrutiny work.

**Procurement:** This committee also has potential to scrutinise whether Welsh Government and public bodies are using all the levers available to them, including in procurement processes, to influence other organisations in Wales including in voluntary and private sectors to address inequality. Contracting authorities must have due regard to whether it would be appropriate for the award criteria for a contract to include considerations to help meet the general duty and also to have due regard to whether it would be appropriate to stipulate conditions relating to the performance of the contract to help meet the three aims of the general duty. It is vital that any new commissioning practices are underpinned

by strong compliance with the PSED in that they aim to eliminate discrimination, advance equality of opportunity and seek to foster good relations between groups with protected characteristics as well as complying with the Welsh specific duties at each stage. For example, assessing the equality impact of proposals and engaging with groups with protected characteristics throughout the process.

**International Human Rights Obligations:** Scrutiny of public administration must also consider Welsh Government obligations regarding seven United Nations (UN) human rights treaties. The Commission has recommended that UK and Welsh Governments establish a national mechanism for reporting, implementation and follow up of UN recommendations relating to human rights. In absence of such a mechanism, we have developed a **Human Rights Tracker**, a searchable online tool which you can use to review the progress the Welsh & UK governments have made towards fulfilling their international human rights obligations and find out what the UN has said about a particular human rights issue (such as education, living standards or work) or population group (such as disabled people or children) in the UK.

## **Information and evidence needed to maintain effective oversight of public administration**

Data on equalities in Wales has numerous gaps, especially relating to certain characteristics including ethnicity and sexual orientation. The Commission's report **Is Wales Fairer? 2018** makes a number of recommendations to improve the collection of data in Wales. Improved data would enhance public bodies' ability to analyse and take better account of inequalities, particularly those related to intersectionality, where the most pressing inequalities in Wales are found.

The Commission welcomes the Welsh Government commitment to create an Equalities Data Unit and a Race Disparity Unit. Key to its effectiveness will be: a commitment to address data gaps, improving the quality of data, and ensuring comparability in collection of data across departments and public bodies.

The Commission's **Measurement Framework for Equality and Human Rights** includes five components of evidence collection and analysis: protected characteristics; socio-economic group; geographical analysis; people at risk of harm, abuse discrimination or disadvantage; and intersectional analysis. We recommend that where possible each of these components is considered in analysis of progress towards equality objectives.

Providing such disaggregated data is essential to understanding progress on equality and human rights in Wales. Where such data is not currently available we recommend that Welsh Government plan to improve data collection to allow for further disaggregation and more sophisticated analysis.

In addition, the Committee may find the following sources of data useful:

- Strategic Equality plans for Welsh Government and specific bodies as well as their commitments within other equality action plans relating to specific characteristics such as the Race Equality Action Plan, LGBTQ Action Plan and others.
- Equality Impact Assessments relating to specific Government departments, public bodies or policies under scrutiny, particularly those relating to major policy changes or new initiatives. How transparent and detailed are these assessments and have they been central to administration?
- Taking evidence from people who are impacted by public policy and administration, being sure to engage people who share groups of protected characteristics and also people who experience socio-economic disadvantage to understand the impact on their lived experience.
- The recent report **Implementing the socio-economic duty: a review of evidence on socio-economic inequalities of outcome**<sup>3</sup> employs our measurement framework to summarise key existing evidence on how socio-economic disadvantage affects people in Wales, focusing on those with protected characteristics and communities of place and interest.
- **Is Wales Fairer? 2018** Is the most comprehensive review of how Wales is performing on equality and human rights across all areas of life, including; education, work, living standards, health, justice and security and participation in society. This is the Welsh supplement to the Commission's report on equality and human rights progress in England, Scotland and Wales, **Is Britain Fairer? 2018**.

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<sup>3</sup> Mills, C. (2021). Implementing the Socio-economic Duty: A review of evidence on socio-economic disadvantage and inequalities of outcome. Cardiff: Welsh Government, GSR report number 68/2021> Available at: <https://gov.wales/evidence-review-socio-economic-disadvantageand-inequalities-outcome>

## Priority Issues

Priority areas for scrutiny include the following:

- Ensuring that Welsh Government and public bodies mitigate the impact of the pandemic on the groups which have been most effected by Coronavirus pandemic, which has exacerbated existing inequalities. The Commission's report **How Coronavirus Has Impacted Equality and Human Rights** details how certain groups including older people, younger people, disabled people, some ethnic minority groups, and people at socio-economic disadvantage are more likely to have had adverse employment, health or education outcomes during the pandemic.
- Ensuring that economic development efforts, including initiatives relating to recovery from the pandemic, greening and decarbonising, and City deals are inclusive, benefit those at most disadvantage in society and do not further entrench existing inequalities. For instance, women and some ethnic minority groups are underrepresented in the construction and green economy sectors underpinning most of these initiatives. Likewise, disabled and ethnic minority people are underrepresented in apprenticeships, which also continue to be characterised by occupational gender segregation.
- Scrutinising how effectively Welsh Government departments and public bodies are implementing and aligning various equalities plans such as the Right to Independent Living Framework, the Gender Review, the LGBTQ+ Action Plan and Race Equality Action along with their own Strategic Equality Plans.
- Scrutinising how effectively Welsh Government and other public bodies are delivering on their Public Sector Equality Duties and the Socio-Economic Duty, including whether action taken is focused on the most entrenched and persistent inequalities and whether action taken has achieved positive outcomes in meeting the PSED gender duty and impact.
- Scrutinising Equality Impact Assessments for new Government initiatives or major policy changes.



Senedd Cymru

Y Pwyllgor Cyfrifon Cyhoeddus a  
Gweinyddiaeth Gyhoeddus

Craffu ar weinyddiaeth gyhoeddus

PAPA(6) SPA05

Ymateb gan Yr Athro Steve Martin,  
Canolfan Polisi Cyhoeddus Cymru, Prifysgol  
Caerdydd

Welsh Parliament

Public Accounts and Public Administration  
Committee

Scrutinising public administration

Evidence from Professor Steve Martin,  
Wales Centre for Public Policy, Cardiff  
University

## 1. Introduction

1.0 This note has been prepared in response to an invitation of the Chair of the Public Accounts and Public Administration Committee to suggest issues relating to the machinery of government which the committee might wish to consider.

2.0 It is informed by multiple research projects and involvement in a range of advisory roles over the last 20 years. I acknowledge with gratitude the contributions that colleagues have made to these endeavours and the support provided by funding bodies<sup>1</sup>. However, the note offers a personal view and it should not be assumed that it is necessarily shared by funders or colleagues.

## 2. Context

3.0 The impact of the Coronavirus pandemic, and the public sector response to it, have demonstrated many of the strengths of the 'machinery of government' at both national and local level in Wales. But it has also highlighted some

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<sup>1</sup> Funders include the Economic and Social Research Council, Welsh Government, Welsh Local Government Association, Welsh Council for Voluntary Action, Society of Local Authority Chief Executives, the Wales NHS Confederation, Joseph Rowntree Foundation, Big Lottery and Carnegie UK.

longstanding challenges in terms of policy making, governance and implementation.

4.0 In theory, a small country with a close knit policy community should be well placed to deliver effective public administration and good governance. In practice, tackling major challenges, such as increasing economic productivity, improving public services and reducing inequalities, has proved to be as difficult in Wales as in other parts of the UK.

5.0 There are a number of reasons for this, many of which have been examined by reviews commissioned by the Welsh Government over the last two decades. Previous analyses have highlighted in particular important questions about the culture and capacity of national and local government, and the complexity of governance arrangements in Wales (Welsh Government 2006).

6.0 The Committee might wish to focus its scrutiny of public administration on some of these longstanding, but as yet largely unresolved, challenges, in order to help identify the best ways of addressing them in a post-pandemic Wales.

### 3. Policy making

7.0 **Building policy capacity** – The Welsh Government and other institutions in Wales have strengthened their policy capacity as the devolution settlement has evolved. But the era of austerity took its toll, particularly in local government as councils understandably stood down policy teams and data analysts, in order to protect spending on ‘frontline’ services (Taylor-Collins et al. 2021). The committee may wish to examine the capacity and capabilities that the Welsh Government, local government and other public services in Wales currently possess and what they will need in the aftermath of the Coronavirus pandemic, and in light of other developments such as advances in digital technology and changing ways of working.

**8.0 Effective use of powers and policy levers** – The Welsh Government has a range of powers and policy levers at its disposal including legislation, taxation, finance, powers of persuasion, and inspection and regulation regimes. But it has a stronger record of creating new duties and guidance than of supporting public bodies to deliver on these and holding them to account for doing so (Connell 2019). The committee might wish to consider whether the Welsh Government’s powers and policy levers are currently being deployed to best effect and if there would be benefits to be had from adopting a more rounded approach to governing.

**9.0 Joined up government** – All governments find it challenging to ‘join up’ policy making. But the absence of a ‘strong centre’ in the Welsh Government, equivalent to the Treasury and Cabinet Office in Whitehall, arguably makes this particularly difficult. This is important because many of the ‘cross-cutting issues’ that matter most to the public (for example, good jobs, safe public transport, improving educational attainment, reducing obesity, providing decent homes)

require a joined-up, whole government approach. There is good practice that Wales could learn from (Connell et al. 2019), and the committee might wish to scrutinise how well Wales is currently achieving joining up policy making, and where it remains fragmented what might be done to address this.

**10.0 Independent evidence and advice** – Wales has very few independent, evidence-based sources of new policy ideas, and policy makers often struggle to find the time to engage with the evidence that is available. The committee might wish to consider whether there is a need for further investment in efforts to ensure that policy makers and those on the ‘frontline’ (including teachers, social workers and health professionals), can access reliable independent evidence about what works and are equipped to use it in ways which improves policy decisions and public services.

## 4. Collaboration

**11.0 One Public Service** – Collaboration has been at the heart of the public service reform agenda in Wales for the last 20 years. There have been efforts to embed partnership working at the local level through legislation and funding, and

collaboration is one of the ways of working endorsed by the Wellbeing of Future Generations (Wales) Act 2015. Leadership development provided by Academi Wales has sought to nurture behaviours and cultures that facilitate partnership working (Price et al. 2020). However, these are often impeded by formidable practical obstacles. The difficulty of integrating health and social care is the most prominent example, but there are many others. The committee might want take a look at the barriers to collaboration and explore ways of tackling them.

**12.0 Simplifying governance arrangements** – Independent reviews conducted by Sir Jeremy Beecham in 2006 and Sir Paul Williams in 2013 both concluded that the system of local and regional governance in Wales was complex, confusing and bureaucratic. A more recent undertaken by the WLGA and Welsh Government (Welsh Government 2019), and an OECD report on multi-level governance reached the same conclusions (OECD 2020). All of these reports have pointed out that the co-existence of multiple public bodies, with overlapping objectives and priorities, covering different areas, and governed by differing funding streams and performance regimes, gets in the way of coordinated approaches to cross-cutting issues. The number and diversity of local and regional partnerships in Wales risks blurring accountability. The effort needed to service them consumes valuable staff time, and risks ‘co-ordination fatigue’. There is little appetite for the ‘significant rationalisation’ of partnerships which the OECD recommended. Nevertheless, the committee might wish to examine whether there are ways to simplify current governance arrangements without jeopardising effective collaborations.

**13.0 Central steering** - Across a range of policy areas, the Welsh Government has successfully established broad policies, and devolved to local or regional actors the responsibility for analysing needs and developing solutions. Where this has worked well, the Welsh Government has played an active role in supporting public bodies and their partners, providing constructive challenge and assistance, and ensuring that policy initiatives, accountability frameworks and funding streams are properly aligned. The committee might wish to scrutinise the ways in which the Welsh Government has supported and empowered local partners in this way, and how this approach might be adopted more widely.

## 5. Delivery

14.0 **The delivery gap** – Wales has an admirable record of consultation and consensus building, with a plethora of advisory and consultative bodies involved in policy formulation. But it has often performed less well when it comes to policy delivery. The Welsh Government has been praised for some ‘worldleading’ legislation, but the outcomes sometimes fall short of ambitious policy statements and ‘action plans’ ([Audit Wales 2020](#)). The Public Accounts Committee’s recent report on the implementation of the Well-being of Future Generations (Wales) Act 2015 ([Welsh Parliament 2021](#)) bears this out. One of the problems is that policy makers focus on *what* to do and sometimes fail to give sufficient attention to *how* to do it. The committee might usefully consider the reasons for this, and seek to identify ways of building up delivery capacity at both national and local level.

15.0 **Performance and transparency** – Wales has a range of processes and mechanisms for assessing the performance of government and public bodies and supporting them to improve - including the work of the Auditor General, the inspectorates, and the new peer review framework in local government. However, we have continued to see examples where services have failed to meet expectations and/or operate within their allotted budgets. The committee may wish to consider what more the Welsh Government can do to hold public bodies and public services to account and ensure that they act on lessons highlighted by audit and inspection reports.

16.0 **Good practice** – Public services in Wales are often said to be ‘patchy’, and as a previous PAC committee report noted, good practice often seems to be a ‘poor traveller’ ([National Assembly for Wales 2016](#)). As a result, well run services still sit alongside sub-standard provision, sometimes within the same organisation. Although there have been numerous efforts to encourage sharing of ‘what works’, it seems that public bodies are still not sufficiently adept at learning from each other’s successes or from what has worked in other countries. The committee might wish to consider how the Welsh Government can facilitate a more effective approach to harvesting, disseminating and adopting good practice.

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Senedd Cymru

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Gweinyddiaeth Gyhoeddus

Craffu ar weinyddiaeth gyhoeddus

PAPA(6) SPA06

Ymateb gan: Grŵp o unigolion sydd wedi cyfrannu at y gwaith o gydgyhychu'r adroddiad 'Drws ar Glo' ar hawliau pobl anabl, a gomisiynwyd gan Fforwm Cydraddoldeb i Bobl Anabl Llywodraeth Cymru.

Welsh Parliament

Public Accounts and Public Administration  
Committee

Scrutinising public administration

Evidence from A group of individuals who contributed to the co-production of the 'Locked Out' report on Disability Rights, commissioned by Welsh Government's Disability Equality Forum.

## **Response to Senedd Cymru / Welsh Parliament Public Accounts and Administration Consultation**

- 1) We are responding to the consultation as individuals and organisational representatives who contributed to the co-production of the 'Locked Out' (<https://gov.wales/locked-out-liberating-disabled-peoples-lives-and-rights-wales-beyond-covid-19>) report on Disability Rights, commissioned by Welsh Government's Disability Equality Forum.
- 2) The 'Locked Out' report details evidence of disabled people experiencing medical discrimination, restricted access to public services and social support, exclusion from public spaces and public life, restrictions on independent living and an erosion of basic human rights, exacerbated by, but pre-existing the pandemic. We would like to take this opportunity to highlight some key elements of the report which we believe are relevant to any scrutiny of public administration.

### **Citizen Involvement in Decision-Making**

- 3) During the writing of 'Locked Out', participants were particularly keen to explore how unconscious bias and institutionalised ableism can go some way to explain exclusion and disadvantage, but also wanted to examine how processes and administration in public services are not adequate to ensure the consistent presence

of disabled people (and other diverse communities) as equals in decision-making.

- 4) 'Locked Out' calls on the Welsh Government to implement UN recommendations that nations fully involve disabled people in the planning stages of both future responses to public crises but also in the day-to-day running of public services. We welcome the establishment of a new fund to support disabled people seeking elected office for the 2021 Senedd elections and the 2022 Local Government elections. However, this initiative needs to apply to all aspects of government, policy-making and public service provision in Wales.
- 5) With regards to Regional Partnership Boards (RPBs), the bodies responsible for social (and associated) health service prioritisation and funding, we are concerned that citizen and carer representation is tokenistic rather than co-productive. We are unsure of any consistent mechanism in place across Wales to support those individuals and to assist them in engaging with the wider community so that they are able to represent diverse voices and experiences adequately. We would like to know what mechanisms are in place across Wales to support this activity, and how far those mechanisms are monitored and evaluated.
- 6) Whilst the presence of citizens on such boards is essential to ensure services meet the needs of those who use them, it requires adequate investment financially and structurally to make their involvement meaningful. Given that the RPBs are such an important instrument in local decision-making and administration, close examination of the level and type of support being provided to citizen and carer representatives across Wales is vital.

## **Equality Impact Assessments**

- 7) We are equally concerned about policy development and its implications for services 'on the ground', particularly how far they are being designed and evaluated with users as equal partners in the process. In particular, the 'Locked Out' report focuses on the use of Equality Impact Assessments as a key protocol requiring service-user involvement. However, participants found that they are not always being undertaken meaningfully or consistently, and with limited involvement of those who will be affected.
- 8) The 'Locked Out' report highlights that, during the pandemic, Welsh Government, unlike those in Scotland and Northern Ireland, agreed to sign emergency provisions that rescinded their obligations to provide some services to disabled people. This was a human rights concern that ran throughout much of the report. It meant that

all other provisions and safeguards, including EQIAs, became irrelevant, something that had a disastrous effect on disabled people's lives and wellbeing. This, we believe, could have been avoided had robust mechanisms for coproduction been in place from the start, as per the Social Services and Wellbeing Act (2014).

- 9) In terms of scrutiny of public administration, therefore, we would like to see a renewed focus on the processes underpinning the use of EQIAs, an audit of how far they are being conducted, and subsequently revisited and evaluated in partnership with service-users, and what mechanisms and support are available to challenge decisions where citizens do not believe their rights and needs have been considered. We would ask that this extends to the Public Sector Equality Duty more generally and that learning is applied equally to the implementation of the Socio-Economic Duty and related impact assessments.

### **Variation and Inequality in Local Service Provision across Wales**

- 10) We are concerned with how far Welsh Government, and partners responsible for delivering its objectives, ensure accessibility, inclusion, and parity. In co-producing the 'Locked Out' report, participants raised concerns about a 'lack of transparency' in local decision-making during lockdown, resulting in service inequalities and confusion, including, just as one example, the varying provision of free school meals or financial equivalents by local authorities.
- 11) Equally, a report entitled 'Rehabilitation for People with Sight Loss in Wales' ([http://www.wcb-ccd.org.uk/downloads/rehabilitation\\_for\\_people\\_with\\_sight\\_loss\\_in\\_wales.pdf](http://www.wcb-ccd.org.uk/downloads/rehabilitation_for_people_with_sight_loss_in_wales.pdf)) produced by the Wales Council of the Blind, in partnership with WROF (Welsh Rehabilitation Officers Forum) found that only 8 out of 22 local authorities meet the minimum standards for the number of qualified Rehabilitation Officers per head of population. Needs assessments have been badly affected by COVID-19 and there is now even less consistency in provision, with each local authority taking a different approach.
- 12) We would like to know what level of oversight and accountability is levelled at service providers to ensure that statutory requirements and expectations are being met when funds are administered and how far service users' voices are considered in this process.

## **The Social Services and Wellbeing (Wales) Act 2014**

- 13) The key principles of 'Voice, Choice and Control', regarded as central to the philosophy underlying the Social Services and Wellbeing Wales Act (SSWBA) 2014 (and other key Welsh legislation), were seriously eroded during the pandemic which, in turn, had implications for disabled people's human rights. Access to public transport, access to health services, accessibility of direct payments, and availability of independent advocacy were amongst those negatively impacted by the pandemic but, reports suggest, were inconsistent and poorly administered beforehand.
- 14) Disabled People's Organisations (DPOs) reported inaccessible information and poor (or absent) consultation with their members, resulting in serious detrimental effects on disabled people's human rights. Easements to the SSWBA in the Coronavirus Act 2020 disproportionately affected disabled and older people, leading to significant reductions in essential support and resulting in physical and mental deterioration. As we emerge from the pandemic, we would like to know how far and how quickly we can expect to see public services reinstated across Wales, and to what degree is any reinstatement being done fairly and consistently, not least to address pre-existing variations and inequality of provision.
- 15) In further consideration of the SSWBA, we would like Welsh Government to clarify exactly how far the Act is designed to bring social services and health services together, particularly with regards to the principles of voice, control, and coproduction. We note reports that suggest that these principles are not being applied consistently in users' interactions with health services, an issue which needs addressing, not least to bring the Act's implementation in line with recent NICE Guidance on Shared Decision-Making.
- 16) We are concerned that Welsh Government-commissioned scrutiny of the Act is targeted only at those people using social services and the organisations / projects in place to support them, when a more rounded analysis is needed, to include those using health services and, equally, the third sector services supporting them. In light of the pandemic, it is even more important that there be a focus on the health-related implications of the SSWBA, as disabled people and people living with chronically illness are now in an even more precarious position following delayed, cancelled, and increasingly inaccessible health services.

## **Social Housing and Accessibility**

17) With regards to scrutiny of the social housing sector and its administration, we note that there is a significant shortage of accessible and appropriate housing available to disabled people in Wales, who are currently concentrated in the rented sector. We would like to know what level of guidance is available to local authorities regarding the prioritisation of disabled people's accessibility needs and, if such guidance exists, how far has it been coproduced, and to what extent is it being universally applied.

## **Digital Exclusion**

18) Evidence from surveys of disabled people suggest isolation, already twice as high amongst disabled people of all ages, is now, as a result of the pandemic, even more acute. Limited access to broadband, computer technologies and skills were amongst key contributory factors.

19) Digital Communities Wales has begun to address digital exclusion by improving access to digital devices and training. However, further focus is needed on the digital requirements of disabled people who have encountered significant barriers accessing on-line services, as well as isolation and loneliness. The likelihood is that some public services will continue to operate remotely in the future, making it necessary to be able to evaluate and act upon the extent of digital poverty and variables influencing it in Wales for example geography, income, education, disability, age, gender and ethnicity and accessibility. We would suggest that this should be an important part of any future scrutiny of public administration.

## **The Equality Act 2010 – Reasonable Adjustments**

20) Finally, we would ask that there be an analysis of the provision of reasonable adjustments in public appointments. The Equality Act 2010 requires service providers and employers to make reasonable adjustments to enable disabled people to fully access services and employment. What is 'reasonable' depends on factors such as affordability but most significantly, on whether it helps to remove the substantial disadvantage that a disabled person is placed at if an adjustment is not made.

21) Many adjustments are very straightforward and inexpensive and benefit non-disabled people, for example, flexible working practices. Some adjustments can be funded by Government agencies such as Access to Work, who provide advice and

resources to fund assistive technologies and equipment. We would ask that there be a detailed examination of how far and how effectively both reasonable adjustments and Access to Work funds are being utilised by public employers across Wales, and that employees themselves be vital contributors to any such audit activity.



Senedd Cymru

Y Pwyllgor Cyfrifon Cyhoeddus a  
Gweinyddiaeth Gyhoeddus

Craffu ar weinyddiaeth gyhoeddus

PAPA(6) SPA07

Ymateb gan Dr Helen Foster

Ysgol Fusnes Prifysgol Ulster

Welsh Parliament

Public Accounts and Public Administration  
Committee

Scrutinising public administration

Evidence from Dr Helen Foster

Ulster University Business School

## 1. Introduction

This paper is presented in response to an invitation to make a written submission on how the committee can discharge its responsibility in the scrutiny of the quality and standards of administration provided by the Welsh Government civil service and Welsh Government Sponsored Bodies.

My research interest is in the discharge of accountability with a special focus on how accountability is discharged through PAC. I have studied the devolved PACs from their establishment and presented my findings to a range of audiences. I have found that the committee in Wales has been innovative in its approach. For example, the PAC in Wales introduced its own committee-led inquiries, following innovations in Westminster led by Dame Margaret Hodge during her tenure as PAC chair.

PAC has a unique role in discharging public accountability. To date, this has been through the lens of public finance. Public administration has now been added to its remit and provides an opportunity to improve the quality of public administration.

### 1.1. Accountability

Accountability has been described as a cultural icon for our time<sup>1</sup> and as a “magic concept”<sup>2</sup>. It has a wide scope with positive connotations - no one can be against it. Every media report about failings in public services is accompanied by a call for more accountability, often without any debate about what is meant by the term. What is accountability? There are varied definitions but at its simplest it is:

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<sup>1</sup> Dubnick (2014) p.25 Accountability as a Cultural Keyword. In: Bovens, M., Goodin, R., and Schillemans, T., eds. *Oxford Handbook of Public Accountability*. Oxford: Oxford University Press, 25-34.

<sup>2</sup> Pollitt and Hupe 2011 Talking About Government. *Public Management Review*, 13(5), 641-658.

“The obligation of those entrusted with particular responsibilities to present an account of, and answer for, their execution.”<sup>3</sup>

Accountability is the means by which authorities are held accountable by citizens. In democracies accountability mechanisms provide citizens with tools “to force those rested with public power to speak the truth.”<sup>4</sup>

While the public might at one time have accepted what those in authority told them, this is no longer the case. The demands of the general public have changed<sup>5</sup>; nothing is taken on trust. Public accountability is seen as an essential precondition for democratic processes to work. A better educated and less deferential public, more organised and vocal interest groups and the growth of social media fuels these demands<sup>6</sup>. In the modern context accountability is sometimes perceived as being exercised by the media who demand answers for conduct. However, while the media may highlight issues it has no formal power to orchestrate change in public administration.

Formal mechanisms are “of crucial importance in democracies as they aim to ascertain appropriate behaviour and organisation performance”<sup>7</sup>. The committee previously acted as an accountability mechanism for financial matters and the extension of its remit to include public administration provides a formal mechanism for that area also.

## 1.2. Accountability Mechanisms

Accountability mechanisms has three phases<sup>8</sup>:

- Information
- Discussion
- Consequences

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<sup>3</sup> Organisation for Economic Co-operation and Development (OECD) (2005) p.2 *Public Sector Modernisation: Modernising Accountability and Control*, OECD Policy Brief. Paris: OECD.

<sup>4</sup> Bovens, M., Schillemans, T. and 't Hart, P. (2008) Does public accountability work? an assessment tool. *Public Administration*, 86(1), 225.

<sup>5</sup> Keane, J. (2009) *The life and death of democracy*. Sydney: Simon and Schuster.

<sup>6</sup> Aucoin, P. and Heintzman, R. (2000) The dialectics of accountability for performance in public management reform. *International Review of Administrative Sciences*, 66(1), 45-53.

<sup>7</sup> Schillemans, T. (2016) Calibrating public sector accountability: Translating experimental findings to public sector accountability. *Public Management Review*, 18 (9), 1401-1420

<sup>8</sup> Bovans M.(2007) Analyzing and assessing accountability: a conceptual framework. *European Law Journal*, 13 (4), 447-468: Day and Klein (1987) Day, P. and Klein, R. (1987) *Accountabilities: five public services*. London: Tavistock Publications

Each phase needs to be of good quality if accountability is to be achieved. Information is key to achieving accountability:

“ at the heart of the accountability process is an assessment of the information, where provided data are set against predetermined or emerging norms”<sup>9</sup>

The provision of information is necessary but insufficient for the discharge of accountability<sup>10</sup>. It is how this information is used in the next phase, the discussion, that lies at the heart of accountability. This is where the committee adds value. Evidence sessions are a public manifestation of public accountability and having to appear before one is a major influence on behaviour <sup>11</sup>.

However, while the act of giving an account is sometimes regarded as an end in itself, accountability is incomplete if there is not some means of rectification<sup>12</sup> - there must be consequences as a result of the accountability mechanism <sup>13</sup>.

In the short term, the consequences of committee inquiries are media attention <sup>14</sup> and reports and recommendations. In the longer-term changes brought about as a result of recommendations should result in improved public services.

### 1.3. Unique Features of PAC

The unique features that set PACs apart from other parliamentary committees, identified as prerequisites for effectiveness<sup>15</sup> are:

- The close working relationship with the Supreme Audit Institution (SAI), which in this case is Audit Wales. The independent expert reports provided by the SAI benefit from unique access to departments and public bodies in receipt of public funds;

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<sup>9</sup> Brandsma, G.J. and Schillemans, T. (2013 p.959) The accountability cube: Measuring Accountability. *Journal of Public Administration Research and Theory*, 23 (4), 953.

<sup>10</sup> Harrison, T and Sayogo, D. (2014) Transparency, participation and accountability practices: a comparative study. *Government Information Quarterly* 32, 513-525

<sup>11</sup> Russell, M and Crowley, P. (2016) The power of the Westminster parliament: “the parliamentary state” and the empirical evidence. *Governance: An International Journal of Policy, Administration and Institutions*, 29 (1).

<sup>12</sup> Mulgan, R. (2000) “Accountability” an ever0expanding concept? *Public Administration*, 78 (3), 555-573.

<sup>13</sup> Day, P. and Klein, R. (1987) *Accountabilities: five public services*. London: Tavistock Publications.

Bovens, M. (2007) Analyzing and assessing accountability: a conceptual framework. *European Law Journal*, 13 (4), 447-468

<sup>14</sup> McNair, B. (2009) The media in parliament. In: Jeffrey, C and Mitchell, J. eds. *The Scottish Parliament 1999-2009: The First Decade*. Edinburgh: Luath Press, 120-132

<sup>15</sup> Overseas Development Institute (ODI) (2008) Enhancing accountability for the use of public sector resources: How to improve the effectiveness of Public Accounts Committees, *Triennial Conference of Commonwealth Auditors General*, 2008.

- The close working relationship between committee members from different political parties – the committee must speak with one voice if it is to be most effective. PACs achieve this to varying degrees; and
- Policy neutrality. Standing orders state that the committee must not question the policy objectives of the government or public body. The literature would also support this approach. However, no clear definition of policy is provided and the distinction between policy and implementation is not always clear-cut.<sup>16</sup>

Any changes to the remit of a PAC must not impede these characteristics, which have been built up by previous committees.

I would like to issue a word of caution. While I acknowledge that scrutiny of public administration in Wales is required, the “traditional” public accounts remit of the committee is very demanding and very important. The addition of the public administration remit should in no way dilute the primary focus of the committee, but it must complement the good work already undertaken, especially if the committee wishes to continue its own committee-led inquiries in addition to its new responsibility. The committee in Wales has proved to be both hard working and influential over the years and that must not be lost.

I note in particular that the remit of the Scottish Parliament Public Audit Committee was extended in 2016 to include post legislative review. However, in its Legacy Report<sup>17</sup> in 2021 the committee reported that this additional remit impacted on its ability to carry out more detailed scrutiny of individual audit reports and its broader key audit themes work and improvement agenda. As a consequence, the committee recommended that post legislative scrutiny be removed from its remit. The 2021 PAC does not have this additional responsibility within its remit.

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<sup>16</sup> Gay, O. and Winetrobe, B. (2003) *Parliamentary audit: The Audit Committee in comparative context, a report to the Audit Committee of the Scottish Parliament*. London: Constitution Unit UCL

<sup>17</sup> Scottish Parliament (2021) Public Audit and Post-legislative Scrutiny Committee Session 5 Legacy Paper <https://digitalpublications.parliament.scot/Committees/Report/PAPLS/2021/3/15/4f0f838b-3e50-479a-8721-621037bca0a0> [accessed 17th November 2021].

## 2.Principles and Best Practice for scrutiny of Public Administration

The principles that apply to the scrutiny of public administration have much in common with the principles for financial scrutiny.

The public administration remit set out in standing orders is broad. Before progressing, the committee needs to establish its approach. The issue of standards of administration is already addressed to an extent through its traditional PAC role. However, this extension to its remit allows it to delve more deeply into areas where previously it might have encountered push-back.

“The performance of public organisations cannot be reduced to a single dimension, and is inescapably contestable”<sup>18</sup>

When scrutinising public administration the focus is usually on results. However, this raises questions of results for whom, defined by whom, against what criteria and in pursuit of what objectives<sup>19</sup> Is the approach to be outputs focused, outcome focused or focused on the processes and practices used to deliver services. This will determine the information needed.

### 2.1.Essential Requirements.

The following are prerequisites for scrutiny

- Good quality information must be available to enable it to carry out its remit, that is, the information must be reliable, objective and professional.
- Benchmarks against which information is measured must be established. Before any inquiries are undertaken benchmarks need to be established. What are the standards to which comparison is to be made? Any benchmark established must take account of local needs<sup>20</sup>

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<sup>18</sup> Boyne, G, Meier, K, O’Toole, L and Walker, R (2006) *Public Service Performance: Perspectives on Measurement and Management*. Cambridge: Cambridge University Press.

<sup>19</sup> Pollitt, C. and Bouckaert, G. (2011) *Public Management Reform. A comparative analysis: new public management, governance and the Neo-Weberian State*. Oxford: Oxford University Press

<sup>20</sup> Pollitt, C. and Bouckaert G. (2011) *Public Management Reform*. 3<sup>rd</sup> Edition. Oxford: Oxford University Press

- A number of frameworks have been developed by organisations such as the World Bank Worldwide Governance Indicators (WGIs) and OECD. However any benchmarks established would need to be tailored to the conditions and local culture. Moreover, while the committee cannot question the policy, the policy objectives should be clear.
- Appropriate processes and procedures for scrutiny must be established.
- All stakeholders must be involved in the process.
- Recommendation follow up. The provision of information is not the discharge of accountability. It is merely the starting point of the accountability mechanism. Therefore, appropriate follow up on reports and recommendations must be undertaken.

### **3. Information and Evidence required by the Committee**

In carrying out its financial scrutiny remit expert independent reports, together with briefings are provided by Audit Wales. Most inquiries undertaken by the committee have been on foot of Audit Wales reports. For committee-initiated inquiries calls have been made to the public for evidence. This is unusual for PAC, but it is likely to be important in the fulfillment of the extended remit. However, if used excessively, this may change the unique nature of the committee and make it more like other parliamentary committees.

Information on objectives, processes and organisation culture is required. This information must be timely, reliable, objective and professional.

The sources of information and evidence are likely to be:

- Audit Wales reports, which address economy, efficiency, effectiveness and value for money, but which can also identify other areas of interest.
- Reports by the Public Services Ombudsman for Wales (PSOW) to identify areas of concern. The Public Services Ombudsman (Wales) Act 2019 gave the PSOW powers to initiate his own initiative investigations, not on foot of a complaint. However, the discussion phase of the accountability mechanism in this instance is held behind closed doors. The committee could explore these reports in public

to demonstrate public accountability. Furthermore, only 18% of recommendations made by the PSOW relate to processes and a further 14% described as feedback to staff <sup>21</sup>, with little evidence of appropriate follow up disclosed.

- Public consultations, as this is a means of capturing elements that are essential to people's lives <sup>22</sup>. However, information is influenced by (i) who is asked to respond (ii) how they are asked to respond and (iii) under what conditions <sup>23</sup>
- Welsh Parliament Research Service.
- Staff surveys

## 4. Priority Issues

- Set the strategy for the public administration remit for this mandate and an annual work programme while retaining some flexibility for unexpected events. This should take account of the other demands on the committee.
- Make arrangements for stakeholder engagement, including the general public.
- Establish who the principal witnesses at evidence sessions will be- civil servants or politicians. If ministers appear as witnesses there is a danger that the committee may become politicised and lose credibility as a result.
- Establish a formal process for feedback. The aim should be to create continuous evidence-based feedback loops resulting in a learning culture culminating in improvements in public service delivery.

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<sup>21</sup> Public Service Ombudsman Wales (2021) available at: <https://www.ombudsman.wales/wp-content/uploads/2021/07/Annual-Report-and-Accounts-2020-21-Delivering-Justice-FINAL.pdf> [accessed 28.11.2021]

<sup>22</sup> OECD (2017) *Government at a Glance 2017*, OECD Publishing. available at: Paris[http://dx.doi.org/10.1787/gov\\_glance-2017-en](http://dx.doi.org/10.1787/gov_glance-2017-en) [accessed 28.11.2021]

<sup>23</sup> Connolly, T., Conlon, E.J. and Deutsch, S.J. (1980) Organisational Effectiveness: A multiple Constituency Approach. *Academy of Management Review*. 5 (2),549-559



Senedd Cymru

Y Pwyllgor Cyfrifon Cyhoeddus a  
Gweinyddiaeth Gyhoeddus

Craffu ar weinyddiaeth gyhoeddus

PAPA(6) SPA08

Ymateb gan Gomisiynydd Cenedlaethau'r  
Dyfodol Cymru

Welsh Parliament

Public Accounts and Public Administration  
Committee

Scrutinising public administration

Evidence from Future Generations  
Commissioner for Wales

Dear Mark,

I would like to thank you for the opportunity to respond to the Committee's consultation on 'how the Public Accounts and Public Administration Committee should approach the public administration part of its remit'.

As you are aware, I have published extensive advice and recommendations on the implementation of the Well-being of Future Generations Act. In particular, in the last 18 months I have presented my findings to Senedd Committees and published my advice in my statutory Future Generations Report. I would like to draw the Committee's attention once again to the findings and reflections in these documents, as they still provide relevant steer, evidence and focus for scrutiny.

1. Future Generations Report 2020 – Full Report
2. Future Generations Report 2020 – Chapter 2
  - a. Welsh Government - The role of Welsh Government in implementing the Act
  - b. Public Bodies – Changing our public sector culture
3. Progress towards the Well-being of Future Generations Act – Overall Findings (2019)
4. Future Generations Commissioner for Wales' Written Evidence to Public Accounts Committee (2020) - Correspondence

## Implementation

Most public bodies are making progress on implementing the Act but in different ways - some are delivering the 'what' and some are delivering the 'how'. There is further work needed to fully demonstrate the 'double test' of the Act – applying both. 'What' you decide to do should use the five ways of working to find the solution that best contributes to all your local well-being objectives and the national goals. But 'how' you deliver that solution must also use the ways of working and seek to contribute to the goals. I would welcome the Committee's focus on scrutinising and supporting public bodies to apply this 'double test'.

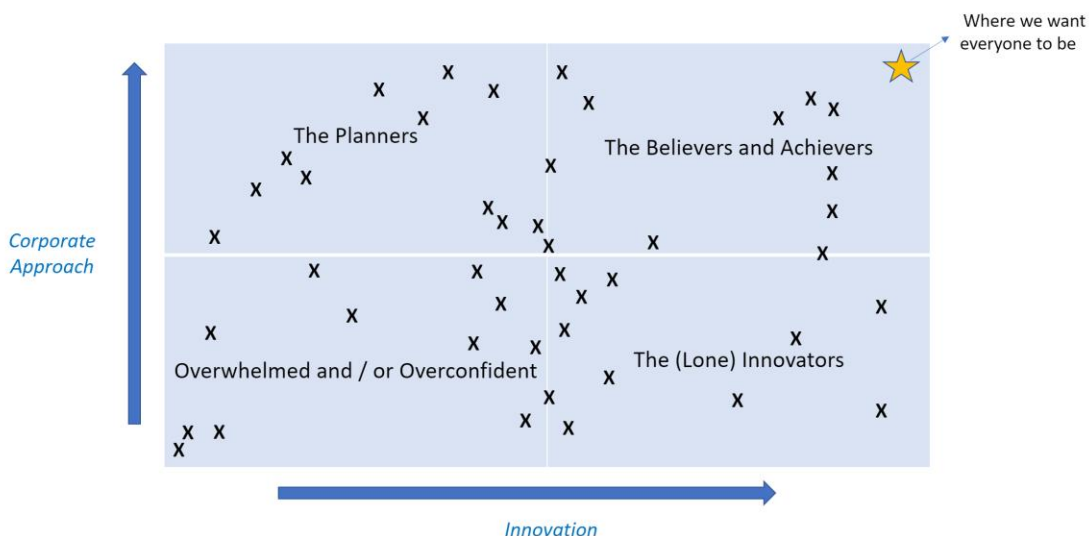
My analysis of implementation loosely categorised the 44 public bodies (in 2019) into the following four groups, illustrated by the graphic below:

1) **The Planners:** Organisations that have started with their corporate planning and strategies, set a strategic direction but are at different stages of changing their culture, delivering differently and demonstrating progress. Some of these organisations have funded dedicated resources, training and staff to encourage change.

2) **The (sometimes lone) Innovators:** Organisations who have sometimes struggled to fit the corporate direction into their well-being duties but are thinking and delivering differently because of the Act. These can be pockets of individuals or teams who are seeking to change culture, sometimes against the corporate centre reluctant to transform. These organisations typically ‘undersell’ themselves because they struggle to align corporately and affect wider change across the organisation.

3) **Believers and Achievers:** Organisations where there are examples of innovative practice, change makers and champions of the Act – sometimes daring to deliver differently against ingrained culture, other times fully supported by leaders. Public bodies should be in this space. There are many examples of individuals and teams who understand using the Act as a framework for change, but the pockets of innovation vary from place to place.

4) **The Overwhelmed and / or Overconfident:** Organisations who are either overwhelmed through responding to perceived and real crises and those who see the Act as a side-line to their core business or believe they have already ‘cracked’ the Act.



My **recommendations** to public bodies include (a sample);

- In setting their well-being objectives, public bodies should undertake horizon scanning exercises to think, plan and resource for the long-term future with others in collaboration – public, private, voluntary sector and members of their community.
- In setting their well-being objectives, public bodies should move towards better involving people throughout the decision-making process from defining a problem to delivery and evaluation, being open to real change as a result.

- In considering their steps, all public bodies should Clearly align financial planning and decisions across the seven corporate areas of change to the achievement of their well-being objectives.
- In testing and demonstrating how public bodies are applying the Act, they should ensure they move beyond paper-based exercises, increase staff understanding and provide constructive challenge to show how the Five Ways of Working have been applied, specifically how contribution goals and objectives can be maximised.
- In testing and demonstrating how public bodies are applying the Act, they should build challenge from other departments, experts and stakeholders into their internal decision-making processes.

The full list of recommendations can be found in the Chapter 2 links above.

In 2019, I published a [Future Generations Framework for Scrutiny](#) – an aid to support elected representatives, officials and stakeholders to scrutinize public bodies. I would encourage the Committee to consider how it can use this framework in discharging its responsibilities.

I have written extensively to other Senedd Committees on the prioritisation of their work programmes. Better integration of policy areas will ensure collective scrutiny, the ability to identify implementation gaps and offer solutions across the Senedd's work. You can find my letters to other Committees [here](#).

The implementation of the Well-being of Future Generations Act, and in particular the machinery and processes in place to support this implementation will continue to be of interest to me in the coming year. I look forward to working collaboratively with the Public Accounts and Public Administration Committee and the Equality and Social Justice Committee on the development and delivery of this work.

Best wishes,



**Sophie Howe**

Future Generations Commissioner for Wales

Senedd Cymru

Y Pwyllgor Cyfrifon Cyhoeddus a  
Gweinyddiaeth Gyhoeddus

Craffu ar weinyddiaeth gyhoeddus

PAPA(6)SPA09

Ymateb gan Archwilio Cymru

Welsh Parliament

Public Accounts and Public Administration  
Committee

Scrutinising public administration

Evidence from Audit Wales

## Scrutinising public administration

- 1 We have set out below some initial observations in response to the Public Accounts and Public Administration Committee's consultation on how it should approach the public administration part of its remit. We will look to support the Committee in whatever way we can as it considers the wider responses from other stakeholders and confirms its plans in this regard.
- 2 The remit of the previous Public Accounts Committee already provided broad scope to explore matters relating to public administration where relevant in considering the overall economy, efficiency and effectiveness with which resources are employed in the discharge of public functions of Wales. Notably, the scrutiny of accounts work undertaken by the previous Committee provided a platform for considering how central government bodies are governed and their general administration and performance.
- 3 In our view, the expanded remit of the new Committee provides an impetus for considering where the Committee might go further by taking forward more detailed inquiry work on issues that flow from public bodies' accounts and the reporting on administrative performance and governance that goes with them.
- 4 For example, before the COVID-19 pandemic intervened, the previous Committee showed interest in scrutinising in more detail the work of the Welsh Government's Public Bodies Unit. Among other things, the Unit oversees matters relating to public appointments, including efforts to increase diversity. The effectiveness of Boards and their relationship with management is key to good governance and has often been at the heart of concerns that have emerged about the performance of some public bodies in Wales. Ensuring effective public appointment arrangements and ongoing support for board members is therefore a crucial part of the wider public service administration picture.
- 5 The Public Bodies Unit also supports the creation of new public bodies and is developing a programme of 'Tailored Reviews' of arm's length bodies. The Committee may wish to take an interest in that programme of work and to ensure that the outputs and recommendations flowing from those reviews are subject to wider scrutiny through the life of the Sixth Senedd.
- 6 Beyond this, there is no shortage of issues that the Committee could potentially explore under its expanded remit. This could include matters specific to individual bodies or cross-cutting themes, such as the work undertaken by the Public Accounts Committee in the Fourth Senedd on senior management pay. Topics explored by equivalent committees elsewhere also provide food for

thought, for example the work being undertaken in Westminster on freedom of information or the management of major projects. Or there could be scope for the Committee to explore how the Welsh Government is making the principle of 'One Wales Public Service' a reality and any barriers to progress.

- 7 We think that the Committee faces quite a challenge in the short-term in terms of how it will balance the different aspects of its remit within a business timetable that provides less capacity than was the case for its predecessor. To help, however, our own audit programme should continue to be relevant to broader themes around public administration. For example, we are currently completing work looking at how public bodies are discharging their responsibilities around equality impact assessment. We would also look to consider what we can build into our work programme that might support the Committee in examining topics of interest.



# Agenda Item 5

By virtue of paragraph(s) vii of Standing Order 17.42

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