

Martin Peters  
Head of Law and Ethics, Audit Wales  
(via email)

2 February 2021

Dear Martin,

**Public Audit (Wales) Act 2013 - Expenses of the Auditor General**

I am writing in response to your letter of 7 February 2020 concerning the provisions in the Public Audit (Wales) Act 2013 (the 2013 Act) relating to the identification of expenses paid to the Auditor General in his separate capacities as:

- Auditor General for Wales - charged on, and paid out of, the Welsh Consolidated Fund (WCF) in accordance with section 7 of the 2013 Act; and
- Member and Chief Executive of the WAO – paid by the WAO without direct charge on the WCF, in accordance with paragraph 13 of Schedule 1 to the 2013 Act.



I note that the WAO is of the opinion that the provisions of the 2013 Act are not clear and, additionally, considers that it is neither practical nor conceptually sound to attempt to separate the Auditor General's expenses. I also understand that to date, the WAO has paid all travel and subsistence expenses of the Auditor General from its annual budget, without direct charge on the WCF.

Having considered the WAO's current approach and sought legal advice from the Senedd's Legal Services and external Counsel, the Committee considers that this approach is not adhering to the provisions of the 2013 Act and a more detailed explanation is annexed to this letter. Therefore, I would invite the WAO to reflect on its current practice of paying expenses to the Auditor General and consider the position with its auditors, if necessary.



Your letter also invited the Committee to consider whether the provisions relating to the payment of expenses to the Auditor General could be revised to provide greater clarity. As the proposed Bill will now be a matter for the next Finance Committee, Members have agreed to suggest that a



**Senedd Cymru**  
Bae Caerdydd, Caerdydd, CF99 1SN

 [SeneddCyllid@senedd.cymru](mailto:SeneddCyllid@senedd.cymru)  
 0300 200 6565

**Welsh Parliament**  
Cardiff Bay, Cardiff, CF99 1SN

 [SeneddFinance@senedd.wales](mailto:SeneddFinance@senedd.wales)  
 0300 200 6565

future committee considers this issue as part of any future work on the draft Public Audit (Amendment) (Wales) Bill, and in light of the WAO's response.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Llyr', is centered within a light yellow rectangular box.

Llyr Gruffydd MS  
Chair of the Finance Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



## Annex

1. The Auditor General may lawfully recover expenses, whether incurred in his capacity as “public auditor” or as chief executive of the WAO, in accordance with the Auditor General’s remuneration arrangements set by the Finance Committee in 2017 pursuant to section 7 of the 2013 Act. This is precisely because, as referred to in paragraph 4 of your letter, the Auditor General is the chief executive of the WAO as a matter of law (under section 16 of the 2013 Act).
2. Any such amounts claimed under those remuneration arrangements must be charged on, and paid out of, the WCF pursuant to section 7(6) of the 2013 Act.
3. The WAO may only pay sums to the Auditor General pursuant to paragraph 13 of Schedule 1 to the 2013 Act to cover expenses which are solely attributable to the Auditor General acting in a “chief executive” capacity, as distinct from that of “public auditor”. The relevant provisions of paragraph 13 provide as follows (**our emphasis added**):

*“(1) The WAO may make provision for **additional payments** to be made to the Auditor General by way of allowances and other benefits to cover expenses properly and necessarily incurred by the Auditor General **in his or her capacity as a member and chief executive of the WAO.***

*(2) Payments made under sub-paragraph(1) may be made **in addition to** the remuneration payable to the Auditor General under section 7....”.*

4. The WAO’s practice of paying all of the Auditor’s General expenses is therefore, in the Committee’s view, only compliant with the requirements of the 2013 Act to the extent that those expenses are attributable to the Auditor General’s functions as a member and chief executive of the WAO. If any such expenses relate (whether wholly or partly) to non-chief executive or member functions, such payments would not be in compliance with the requirements of the 2013 Act and may give rise to issues of irregularity.

