

Scrutinising public administration: summary of evidence

Pwyllgor Cyfrifon Cyhoeddus a Gweinyddiaeth Gyhoeddus | 9 Chwefror 2022
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Introduction

This paper provides an overview of evidence the Committee has received to date to help identify priorities and how best to discharge the public administration area of its remit.

The paper draws upon evidence received following a consultation held in the autumn term and a roundtable meeting of interested parties held on 12 January 2022.

Section 6 of the paper provides some recommendations for potential next steps that the Committee may wish to explore in light of the evidence received.



1. Principles and best practice

Respondents to the public consultation and witnesses at the round-table stakeholder sessions welcomed the addition of public administration to the Committee's remit.

Some respondents suggested principles and aims to inform the Committee's work in scrutiny of public administration. They proposed that the Committee should focus on principles of:

- good governance;
- improving the conduct, governance and delivery of public services;
- high standards of conduct in public life;
- the right to good administration and access to redress; and
- the effective implementation of duties in equalities law and the Future Generations Act.

2. Ways of working

Respondents offered a range of suggestions for how the Committee could go about scrutinising public administration, including:

- building on the Committee's existing work with Audit Wales on accounts;
- learning from the experience of scrutiny of public administration elsewhere, including internationally, and in particular from the approach of the UK Parliament's Public Administration and Constitutional Affairs Committee;
- taking evidence from the Welsh Government and relevant public bodies, external experts, and former officials and ministers;
- taking evidence from a diverse range of people affected by public administration, engaging with people who share protected characteristics and people who experience socioeconomic disadvantage; and
- using evidence and data collected by relevant public and third sector bodies.

The Public Service Ombudsman for Wales (PSOW) also offered to share findings of data they capture on areas such as public bodies' attitudes towards capturing and responding to complaints. The PSOW indicated that this work was ongoing but

that over the coming years the data will provide valuable insight into how public bodies engage with the public and use that data to improve services.

Dr Helen Foster highlighted some risks for the Committee in taking on scrutiny of public administration alongside scrutiny of public accounts. She argued that the Committee would need to:

- ensure that scrutiny of public administration doesn't dilute scrutiny of public accounts, but complements that work; and
- consider carefully whether to take evidence from Ministers as well as civil servants, recognising that the Committee is obliged not to question the merits of the policy objectives of the government and the risk that the Committee could become politicised and lose credibility.

3. Welsh Government

Some respondents to the consultation focused on the Committee's remit to scrutinise the quality and standards of administration in the Welsh Government, focusing on the role and performance of the civil service, special advisors and Ministers.

3.1. The Welsh Government organisation

Some respondents suggested that the Committee might wish to examine the effectiveness of the Welsh Government as an organisation. They highlighted that the Committee might wish to consider:

- how effectively the Welsh Government is **joining up policymaking** across directorates and ministerial portfolios, and whether there is a need for stronger direction from the **centre of government**;
- civil service **performance management, incentivisation, and leadership development**;
- if the Welsh Government and other public bodies are **structured and organised** in such a way as to effectively implement the policy objectives of the Government;

- what lessons have been learned about the **effectiveness of the machinery of government** and public bodies following their response to COVID-19, and what impact remote working has had on civil service capacity and delivery;
- the relationship between the **devolved Welsh civil service and the wider British civil service**.

3.2. Ministers and special advisors

In his written response, Leighton Andrews proposed the Committee might wish to examine the roles of Ministers and special advisors. In particular, he suggested that the Committee could explore:

- **Cabinet and the Welsh Ministers**, including whether a Cabinet Manual for Wales is needed (a document which sets out rules and procedures for the operation of government), principles for setting up Cabinet Committees, and archiving of Cabinet minutes;
- **public standards**, including the Ministerial Code and the role of the Independent Advisor on the Ministerial Code;
- **special advisors**, including whether there are adequate safeguards in the relationship between special advisors, civil servants and ministers; and/or
- **intergovernmental relations** and the impact of the **Dunlop review of UK Government Union Capability** on public administration.

4. Policymaking and delivery

4.1. Making policy

Some respondents outlined their views that the Welsh Government has taken an ambitious approach to policymaking. However, some responses highlighted challenges for policymaking in Wales, suggesting that the Committee could examine:

- how well the Welsh Government is using the powers and policy levers at its disposal;
- how well the Welsh Government is tackling policy issues that cut across directorates or ministerial portfolios;
- ensuring that people affected by public policy are fully engaged in the development of that policy;
- building up policy capacity outside Welsh Government (particularly in local authorities); and
- supporting the development of independent sources of policy advice and evidence.

4.2. Delivering public services and managing performance

Some respondents argued that the Welsh Government and the public sector have sometimes been better at making ambitious law and policy than delivering on it. In his response, Steve Martin suggested that the Committee might wish to explore reasons for gaps between policy and delivery and how delivery capacity can be built up.

Respondents suggested a range of areas that the Committee could explore, including:

- how effectively the Welsh Government has provided **central steering** to local and regional bodies, providing support and ensuring that policy initiatives, accountability frameworks and funding streams are aligned;
- the Welsh Government's role in **overseeing public bodies** (including making public appointments and supporting boards to provide good governance);
- the use of **public service targets and performance management regimes** and whether they need to be simplified;
- the role of **co-production** between public service providers and service users;
- **spreading good practice** and ensuring that organisations can learn from each other; and
- addressing **variation, inconsistency and inequality** in the provision of services.

Some respondents suggested the Committee might wish to explore the role of **data and digital services** and **procurement** in the delivery of public services.

4.3. Delivering in key areas of law and policy

Some respondents suggested that the Committee explore the implementation of particular areas of law and policy, and in particular:

The Well-being of Future Generations (Wales) Act

The Future Generations Commissioner and the WCVA highlighted the role of the Committee in supporting and scrutinising public bodies to implement the Act. This would build on work by the previous Committee in the Fifth Senedd.

The Social Services and Wellbeing (Wales) Act

The WCVA and Locked Out contributors suggested that the Committee examine the implementation of the Act, focusing on:

- ensuring that organisations are held to account for duties set out in the Code of Practice and recommendations in inspection reports are implemented;
- the impact of easements to the Act under the Coronavirus Act 2020 for support for disabled people and older people;
- understanding how far and how consistently principles of voice, control, and coproduction in the Act are being applied;
- exploring the scope of Welsh Government-commissioned scrutiny of the Act, including whether there is a need to include a wider range of service users and third sector support organisations.

Equalities law and policy

The EHRC, WCVA and Locked Out contributors suggested that the Committee explore the implementation of equalities law and policy, and particularly of:

- the Public Sector Equality Duty and the Socioeconomic Duty;
- equalities plans, such as the Right to Independent Living Framework, the Gender Review, the LGBTQ+ Action Plan and Race Equality Action;

- the use of Equality Impact Assessments, including how far they are conducted and evaluated in partnership with service users, and how effectively they can be challenged.

4.4. Challenging government and public sector decisions

The PSOW's response highlighted the importance of ensuring that people can challenge public sector decisions and get redress. It argued that the Committee might wish to:

- provide oversight of the system of administrative justice in Wales, identifying areas for improvement and promoting coherence; and
- investigate the impact of the COVID-19 pandemic on the quality and standards of administration and complaint handling, in view of a surge in complaint numbers;

Drawing attention to recommendations by Dr Sarah Nason at Bangor University, the PSOW argued that in the longer term the Committee might wish to pursue:

- 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; and/or
- future drafting of an Administrative Procedure Act for Wales, to include a consolidated set of human rights, well-being and equality based procedural duties and provide arrangements for redress.

5. Collaboration

Respondents recognised the importance of collaboration and partnership for the delivery of public services and for the implementation of key areas of law and policy such as the Future Generations Act.

The respondents were also mostly positive about the approach taken in Wales to partnership working between public bodies. However, some raised concerns

about the complexity of partnership arrangements and how these can often lead to obstacles to collaborative working.

5.1. One Welsh Public Service

Some respondents highlighted the Welsh Government's ambition to create a **One Welsh Public Service** across the devolved public sector. They suggested that the Committee explore how this ambition is being taken forward and barriers to implementation.

5.2. Partnership working: across the public sector and beyond

Steve Martin's response highlighted the complexity of local and regional governance arrangements in Wales, recommending that the committee might wish to examine whether there are ways to simplify current governance arrangements without putting effective collaborations at risk.

Audit Wales and PSOW highlighted the lack of clarity around lines of accountability in delivering public services. In particular, Audit Wales raised the issue of long standing weaknesses in partnership working across public bodies in tackling issues where multi-agency responses are needed, such as homelessness.

The WCVA's response highlighted the importance of coordination between the voluntary sector and the public sector, and said there was a need for 'more clarity' about how those relationships should be established and maintained. It also called for transparency about how effectively partnership bodies were engaging with third sector and citizen representatives and supporting the co-production of services.

The WCVA and Locked Out contributors raised concerns about citizen, carer and voluntary sector representation on Regional Partnership Boards, arguing that their involvement was not always meaningful.

6. Future programme of work

A number of potential areas of work for the Committee were highlighted as part of the evidence gathering process.

In their evidence, Leighton Andrews and Helen Foster urged the Committee to concentrate on a limited number of priorities for this Senedd term given the importance of the Committee's public accounts remit.

On that basis, an outline of some areas of work which draw upon the key themes that emerged from the Committee's evidence is outlined below, including potential approaches for how the Committee can take these forward.

6.1. Possible inquiries

A number of potential inquiries were suggested by contributors. However, the inquiry suggestions made remain broad; they would require further scoping work to be conducted by the Committee to develop and refine terms of reference for any future inquiries.

Welsh Government and public sector workforce

The Committee may wish to

- invite the new Permanent Secretary to update the Committee on his predecessor's initiative to 'future proof' the civil service, and to outline his own priorities for the Welsh Government organisation going forward; and
- explore the Welsh Government's ambitions for a 'One Welsh Public Service', including how the work of Academi Wales and the proposed new National School of Government included as part of the Welsh Government and Plaid Cymru Cooperation Agreement contributes towards this aim.

Policymaking and delivery

One of the recurring themes raised by stakeholders was the delivery gap and effective implementation of Welsh Government policy across the public sector. A number of potential areas of work could emerge from this which the Committee could explore:

- the process of 'co-production' between public service providers and service users and how it's working in practice;
- spreading good practice and ensuring that organisations can learn from each other; and

- the use of public service targets, performance management regimes and frameworks, and whether they need to be simplified.

Collaboration across the public sector

The previous Committee looked at the implementation of the **Future Generations Act** across public bodies, finding that a 'complex and bureaucratic landscape of partnership bodies' had made it more difficult for public bodies to adopt the Act. The Committee may wish to follow-up on this area of work. There are number of potential areas of work to explore in this context:

- The emerging principles and approach to a 'one Welsh public service' including potential for shared services;
- Opportunities to redesign public services in the post pandemic landscape looking at how responsive and flexible public services have been in working together including; networking, collaboration as public services move into a different phase in the way in which the work together in Wales.

6.2. Monitoring of public sector data and reports

The PSOW offered to support and provide the Committee with information to inform its scrutiny of public administration across public bodies relating to its functions.

Audit Wales already works closely with the Committee and provides briefings and reports to support its scrutiny of accounts. In written evidence, Audit Wales suggested that there was scope to consider issues that flow from public bodies' accounts and the reporting on administrative performance and governance that goes with them.

The Committee may wish to engage with those organisations, and identify others, to formalise what information the Committee could receive regularly to inform its future programme of work.

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