

# **Trafodaeth o'r cynigion i ddiwygio Deddf Archwilio Cyhoeddus (Cymru) 2013**

Ymatebion i'r Ymgynghoriad

## **Consideration of proposals to amend the Public Audit (Wales) Act 2013**

Consultation Responses

Mai 2019  
May 2019





\*Ar gael yn Gymraeg /Available in Welsh

|             |                                                                        |                                                                          |
|-------------|------------------------------------------------------------------------|--------------------------------------------------------------------------|
| PAWA<br>01  | Cyngor Tref Llanandras a Norton                                        | Presteigne and Norton Town Council                                       |
| PAWA<br>02  | Cyngor Cymuned Llanegryn                                               | Llanegryn Community Council                                              |
| PAWA<br>03  | Kieran Donnelly, Rheolwr ac Archwilydd<br>Cyffredinol Gogledd Iwerddon | Kieran Donnelly, Comptroller and Auditor<br>General for Northern Ireland |
| PAWA<br>04* | Llywodraeth Cymru                                                      | Welsh Government                                                         |
| PAWA<br>05* | Swyddfa Archwilio Cymru ac<br>Archwilydd Cyffredinol Cymru             | Wales Audit Office and the Auditor General for<br>Wales                  |
| PAWA<br>06* | Comisiwn y Cynulliad                                                   | Assembly Commission                                                      |



**Y Pwyllgor Cyllid I Finance Committee**  
**Trafodaeth o'r cynigion i ddiwygio Deddf Archwilio Cyhoeddus (Cymru) 2013**  
**Consideration of proposals to amend the Public Audit (Wales) Act 2013**  
**CFS 01 Cyngor Tref Llanandras a Norton | Presteigne and Norton Town Council**

Dear Sirs,

Presteigne and Norton Town Council wishes to comment on the above proposals. The Council has an annual budget of approx £70,000 and serves a population of around 2500. It is a relatively small local Council but is active in obtaining grants to carry out local projects.

The Council believes that external audit fees charged should relate to the actual time spent and not be a standard fee based on a table of fees relating to budgets. This it feels provides a just system where Councils are rewarded for organised and clear accounting statements and where larger Councils do not end up subsidising smaller ones.

Regards

Tracey Price, CiLCA (Wales), PSLCC  
Town Clerk and Responsible Financial Officer  
Presteigne and Norton Town Council

**Y Pwyllgor Cyllid I Finance Committee**  
**Trafodaeth o'r cynigion i ddiwygio Deddf Archwilio Cyhoeddus (Cymru) 2013**  
**Consideration of proposals to amend the Public Audit (Wales) Act 2013**  
**CFS 02 Cyngor Cymuned Llanegryn | Llanegryn Community Council**

**LLANEGRYN COMMUNITY COUNCIL**

**CONSIDERATION OF PROPOSALS TO AMEND THE PUBLIC AUDIT (WALES) ACT 2013**

Llanegryn is a small village of approximately 240 residents with a small Community Council of 7 members & a clerk. The Councillors are proud to be custodians of this community ensuring that the roads are in good order, the footpaths are cleared, the public toilet is taken care of, small local charities & associations are supported financially & practically & if a problem arises in the village they will do their utmost to sort it out.

The clerk deals with administrative issues & was perfectly content until; 2013 when the Welsh Assembly & BDO (for Audit purposes) came together in an unholy alliance. They are under the misapprehension that all councils are large conglomerates with numerous & well paid Councillors & staff (Llanegryn have refused to accept even the £150 allowance), & the only one who is paid is me (the clerk), & I have not asked for a raise in 7 years.

But clerks of small Councils are rapidly dwindling as during the 'Audit Season' the demands & requirements of BDO & the Assembly are often never ending & unreasonable & I for one am sick of being totally ground down by aggressive bullies.

I haven't fiddled the books, all I do like most other clerks is care & support my community & my aim is to do my best for Llanegryn & the people who live here. Small Councils should be treated differently, they must be audited, but the requirements should not be as stringent as for larger councils who have more facilities, staff & are paid more.

Llywela Hughes

Clerk Llanegryn Community Council



**Kieran Donnelly**  
**Comptroller & Auditor General**

## **Northern Ireland Audit Office**

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Date 1 May 2019

Mr Llyr Gruffydd AM  
Chair of Finance Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

Dear Llyr

### **Public Audit (Wales) Act 2013**

Thank you for your correspondence of 25 March 2019, which sets out the proposal by the Finance Committee of the National Assembly for Wales to conduct post-legislative scrutiny of the Public Audit (Wales) Act 2013. This is following on from an invitation from the Auditor General for Wales (AGW) and the Wales Audit Office (WAO) to amend the legislation and draft a new bill.

As part of this process, you have invited me to provide written evidence addressing the Committee's terms of reference with a particular focus on:

- Fee charging
- Quorum arrangements of the Wales Audit Office board
- Wales Audit Office reporting arrangements
- Issues with laying and reporting accounts

and how equivalent legislation in Northern Ireland operates in relation to the issues raised.

Taking each of these in chronological order:

### **Fees Charging**

One of the main provisions in the draft bill is to remove the prohibition on WAO charging fees that exceed the full cost of exercising the function to which the fee relates; the intention is to introduce a fee scheme provision that seeks to ensure that the sum of the fees charged for work undertaken under specified enactments, taken together and taking one year with another, is broadly equivalent to all of its expenditure in connection with that work.

In comparison, my Office charges for some but not all of its audit work. The audit fees, which are based on charge out rates calculated by my Office on an annual basis, are the actual costs for each of the audits, and are invoiced post-audit completion.

In relation to the audit of central government, the statutory authority for charging of audit fees is within Article 7 of the Audit (Northern Ireland) Order 1987 which states:

*7.—(1) Subject to paragraph (2), the Comptroller and Auditor General may charge a fee for auditing the accounts of any person or body.*

*(2) The Comptroller and Auditor General shall not without the consent of a Northern Ireland department charge a fee for auditing the accounts of a person or body whose functions are discharged on behalf of the Crown; and this Article shall not be construed as authorising the charging of a fee for the audit by agreement of the accounts of any other person or body unless the agreement so provides.*

The audit of central government accounts therefore includes a mixture of charged and notional fees, with hard charging mainly being focused on arms-length bodies. Some of this is prescribed within the legislation of individual bodies or is by agreement.

The audit fees article applies to the financial audits of the accounts only and accordingly my Office does not charge fees for its broad swathe of other central government work including reports (Value for Money)

The NIAO also carries out the audit of local government bodies. The Local Government (Northern Ireland) Order 2005 (Article 8), as amended by the Local Government Act (Northern Ireland) 2014, provides for the charging of this work, as set out below:

*8. There shall be paid to the Comptroller and Auditor General for Northern Ireland by every body whose accounts are audited by the local government auditor such fees as the local government auditor may determine.*

## **Quorum Arrangements of the Wales Audit Office Board**

The proposals include an intention to remove the requirement that the rules in relation to quoracy for WAO meetings cannot be met unless there is a majority of non-executive members.



In commenting on our arrangements, this needs to be considered within the context that the NI Audit Office Advisory Board is not a statutory Board, as in Wales. The NIAO Advisory Board is responsible for providing objective and impartial advice to me in the discharge of my functions and works in partnership with both myself and the Senior Management Team.

We are currently in the process of reviewing our Board's terms of reference. Proposals, which I have already agreed with the new Board Chair, and which will be submitted for formal adoption in their meeting on 30 May 2019 in relation to quorum are as follows:

*A minimum of two non-executives and one executive member of the Advisory Board must be present for the scheduled meeting to be deemed quorate. If appropriate, a meeting may be conducted by conference call. Non-executives members will have free and confidential access to the C&AG and may also meet informally without executive members at any time outside of scheduled meetings. The Advisory Board may meet in private, if necessary.*

There is no quorate requirement that NIAO Advisory Board meetings cannot be met unless there is a majority of non-executive members. Membership comprises two executives (myself and the Chief Operating Officer) and four non-executives. Therefore a meeting cannot take place with a majority of executives.

## **Wales Audit Office Reporting Arrangements**

Under the proposed bill, there is an intention to remove the requirement for the Auditor General and the chair of the WAO to jointly prepare and lay interim reports before the National Assembly on the exercise of their functions. There is no such requirement for reporting within NIAO. Furthermore, there is no statutory requirement for the Chair of the NIAO Board to produce an annual report

## **Laying and Reporting Arrangements**

The audit of my Office's accounts are in keeping with the examination of the resource accounts of any Northern Ireland department as set out in with the provisions of sections 10(1) and 21(2) of the Government Resources and Accounts Act (Northern Ireland) 2001.

Unlike WAO, NIAO has no requirement for either the C&AG or the Board Chairperson to lay an annual report. This responsibility clearly lies with the Department of Finance - under paragraph 4(2) of Schedule 2 to the Audit (Northern Ireland) Order 1987, *on completion of his examination the auditor [of NIAO] shall certify the resource accounts and submit them, together with his report thereon, to the Department [of Finance] for presentation to the Assembly.*

This is an anachronism and an area where our own legislation needs tidied up, as I should be able to lay my Office's audited accounts in the NI Assembly, rather than being dependent upon the Department of Finance.

The requirement to lay the annual report and account together is in keeping with section 5.1.1 of the Government's Financial Reporting Manual (FReM).

Under section 10(4) of the Government Resources and Accounts Act (Northern Ireland) 2001, there is a requirement to lay the report and accounts before the Assembly not later than 15th November of the financial year following that to which they relate. However, in reality, they are laid pre-Summer Recess, typically around the end of June.

In summary, I have considered the proposals for amending the Public Audit (Wales) Act 2013 and am supportive of these amendments.

I trust that this response addresses each of the issues raised. Nevertheless, should you require any further information, please do not hesitate in contacting me.

Yours sincerely

A handwritten signature in black ink, reading 'Kieran Donnelly' in a cursive script.

**KIERAN DONNELLY**  
**Comptroller and Auditor General**

Rebecca Evans AC/AM  
Y Gweinidog Cyllid a'r Trefnydd  
Minister for Finance and Trefnydd



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref

Llyr Gruffydd AM,  
Chair Finance Committee,  
The National Assembly for Wales,  
Cardiff Bay,  
Cardiff  
CF99 1NA

30 April 2019

Dear Llyr,

## **PUBLIC AUDIT (WALES) ACT 2013**

Thank you for referring the changes proposed by the Wales Audit Office (WAO) in respect of the proposal for a bill to amend the Public Audit (Wales) Act 2013 and a draft Public Audit (Amendment) (Wales) bill.

You asked whether I had any comments on the terms of reference. You also asked if I was minded to address the conflicting statutory duties placed on the AGW - or would be supportive of such as change being included in a future committee Bill.

I can confirm that I am content with the proposal to potentially amend the Public Audit (Wales) Act 2013 via a future committee Bill. However, you will appreciate that the Government has its own very full legislative programme and is also dealing with the consequences of Brexit. If the Bill does proceed there will be only very limited technical assistance which the Welsh Government would be able to offer.

As for the terms of reference, I would suggest that the committee may also wish to consider any other proposals the WAO has in respect of charging fees for work undertaken for the Welsh Government, the National Assembly, and Ombudsman. These were outlined in a covering letter on the proposed changes to the Public Audit (Wales) Act 2013 forwarded to your predecessor in June 2018 (IG/18/005/HVT/2856/SD 21 June 2018). Although deemed by WAO not to be legislative in nature, these changes would potentially bring an end to the process whereby WAO hard charge the Welsh Government, National Assembly and Ombudsman. I understand that during the consultation period the Welsh Government questioned whether this was appropriate as the setting and payment of fees plays an

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

important part in the engagement with clients and in ensuring those clients receive value for money.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans". The script is cursive and fluid, with the first name and last name clearly distinguishable.

**Rebecca Evans AC/AM**

Y Gweinidog Cyllid a'r Trefnydd

Minister for Finance and Trefnydd



WALES AUDIT OFFICE  
SWYDDFA ARCHWILIO CYMRU

Wales Audit Office / Swyddfa Archwilio Cymru

Llyr Gruffydd AM  
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**Reference:** AC/143/sd

**3 May 2018**

Annwyl Llyr

### Post-legislative scrutiny of the Public Audit (Wales) Act 2013

Thank you for your letter of 26 March 2019 informing us that the Committee is undertaking post-legislative scrutiny of the Public Audit (Wales) Act 2013. We welcome the Committee's decision, particularly given the issues that we have raised regarding the 2013 Act in our letter of 21 June 2018.

You ask whether there is any additional evidence that we would like the Committee to consider. As you might expect, we think that the material that we set out in our letter of 21 June 2018 addresses the key issues from our perspective and we would urge the Committee to refer to that again. But it may be helpful to provide a summary update in respect of your terms of reference, along with some additional material. We therefore attach such a summary in the annex to this letter.

We should like to put our comments in context by saying that, with the exception of the matters we have drawn to your attention, the governance arrangements brought in by the 2013 Act have worked well and been effective. The Auditor General's audit independence has been protected by such measures as the Code of Practice required by Schedule 2 to the Act, and the transfer of staff and other resources to the corporate body WAO has not caused any problems. We would therefore emphasise that it is in a few particular, but nevertheless significant, areas that we see a need for revision of the Act.

We hope that this is helpful. We should be very happy to discuss these matters further.

Yn gywir

A handwritten signature in black ink, appearing to read 'Adrian Crompton', with a long horizontal stroke extending to the right.

**Adrian Crompton**  
**Auditor General for Wales**

A handwritten signature in black ink, appearing to read 'Isobel Garner', with a stylized, cursive script.

**Isobel Garner**  
**Chair, Wales Audit Office**

## **Annex: Issues relating to the Public Audit (Wales) Act 2013**

### **Fee charging**

1. Section 23 of the Public Audit (Wales) Act 2013 ("PAWA 2013") and other relevant provisions set a "no more than full cost" rule (the "rule"). This rule continues to act as a disincentive to improving audit efficiency and continues to be complex to administer for the reasons set out in paras 3.2 to 3.6 of the explanatory paper appended to our letter of 21 June 2018 ("the explanatory paper"). In short, the rule means that auditors do not benefit from any savings that can be made in audit activity. Indeed, at the individual level such savings may lead to personal loss (e.g. through loss of work), which dampens enthusiasm for efficiency. And the casting of the rule in terms of individual functions (i.e. particular statutory elements of work) at individual bodies, means that there is very extensive record keeping and reconciliation work to be done to ensure that we comply with the rule. This activity is inevitably at the expense of work that adds value.
2. On that point, and in addition to the points in the explanatory paper, a further example of how the rule impedes efficiency is the barrier it presents in terms of moving away from staff having to fill out detailed timesheets. In looking to improve efficiency in the way we work, we have compared our practices with commercial firms and found that such firms are increasingly moving away from timesheets and time-based pricing. Our view is that such a move has the potential to improve productivity and staff morale. Currently, we estimate time recording costs us at least £135,000 a year. We are continuing to explore the possibility of such a change in practice, but at the moment it appears that the rule prevents it.
3. In terms of the complexity of administration caused by the rule, a further unfortunate development has been audited bodies making formal written complaints about the amount of fee charged. While few in number, and usually involving small amounts of fee, such complaints take a considerable and often disproportionate amount of time to deal with.
4. For example, a community council complained that its fee of £495 for 2017-18 was more than double that of the previous year (£240.30), that unnecessary work was being undertaken and that the council was being asked for more information than in previous years. We investigated the complaint, which necessitated examining the work undertaken by the audit firm involved, whether the work was necessary and proportionate, the time recorded and the calculation of the fees. The investigation took 2.5 days of WAO staff time, costing some £1,100. We concluded that while the firm had made a typographical error in the hourly rate for the trainee grade leading to an overcharge of £6.30, overall the work was necessary, and the time spent was proportionate to the audit requirements. We refunded the overcharge. It is clear that the no more than full cost rule creates a situation where individual audited bodies may be incentivised to query audit fees so

as to get them reduced but, in the process, incur wider disproportionate public expenditure.

5. We should also update the Committee on our proposal to address some of the burden of our complex fee arrangements by funding the audits of directly-funded bodies (i.e. directly funded from the Welsh Consolidated Fund) by supply from the Welsh Consolidated Fund. Such an approach replaces cash fees with notional fees. We have been looking at piloting the arrangement with the Public Services Ombudsman for Wales but have found that the approach would merely shift the administrative burden from the WAO to the Ombudsman in terms of making the necessary accounting adjustments. We will therefore be reconsidering whether to proceed with this proposal, which in any case would address only a fraction of the administrative burden that we face as most audited bodies are not directly-funded.

### **Quorum arrangements of the WAO**

6. As set out in paragraphs 3.9 to 3.13 of the explanatory paper, the statutory non-executive majority quorum requirement makes the WAO rather prone to being inquorate. Paragraph 28(3) of Schedule 1 to the PAWA 2013 contains a requirement that “in all circumstances a quorum cannot be met unless a majority of the members present are non-executive members”. This is problematic because with a WAO membership of nine containing a majority of only one non-executive member, any non-executive absence leads to inquoracy.
7. Since our June 2018 letter, the problem has continued with one of the four WAO meetings being inquorate because of non-executive absence. In that case, one of the elected employee members left the meeting to enable a quorum to be reached. Given this unsatisfactory situation, we obtained independent legal advice, which confirmed that in the absence of amendment of the PAWA 2013, removal of employee members from meetings is required to prevent decisions being held to be invalid.
8. This example confirms the point made in our June 2018 evidence that the contribution of employee members, including the elected members, is from time to time reduced (paragraph 3.13 of the explanatory paper). We would add that this effect is at odds with the Government’s stated support for elected employees at the time of the Bill’s consideration by the Assembly<sup>1</sup>.

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<sup>1</sup> “The debate sums up my approval of not only Oscar’s amendment, but the fact that there will be strength in having three employee members of the board. The contributions made by Julie Morgan and Jenny Rathbone express clearly how that can strengthen the representation of staff, which of course, is very important.” [ROP, 28 January 2013, para 21]



## **WAO reporting arrangements**

9. As set out in paragraph 3.14 of the explanatory paper, the PAWA 2013 requires the AGW and the Chair of the WAO to prepare interim reports on the work of the AGW and the WAO. We noted that no other public bodies were subject to such a requirement, and that the Committee's limited consideration of the report and WAO website statistics indicated little interest in such reports. Given an estimated cost of £20,000 for preparing each report, we questioned the proportionality of the requirement. Since our June 2018 letter, we published a further interim report in October. This received 66 page visits in the fortnight following publication. We continue to consider the requirement disproportionate.

## **Issues with laying reports and accounts**

10. Paragraphs 3.17 to 3.19 of our explanatory paper set out that there are overlapping annual reporting requirements—those arising from paragraph 33 of Schedule 1 to the PAWA 2013, in conjunction with the Treasury Financial Reporting Manual, requirements and those arising from paragraph 3 of Schedule 2 to the PAWA 2013. We work around this by laying the same document twice, once by the external auditor and once by the AGW and the Chair of the WAO. However, it is unsatisfactory that the legislation leads to such duplication, and it is not conducive to clarity of responsibility.

## **Other aspects of the PAWA 2013 that may benefit from revision**

### ***The appointment of the auditors of the WAO's accounts***

11. Colleagues in the National Assembly for Wales Commission will be aware that the process for appointing the auditors of the WAO's accounts is rather onerous. Paragraph 34 of Schedule 1 to PAWA 2013 requires the National Assembly to appoint the auditor of the WAO, while allowing the WAO to recommend an auditor. In practice, this means the WAO undertakes a procurement exercise and puts forward the successful tenderer for appointment. However, significant contractual complications arise because the appointing authority (the Assembly) and the "client" (in the usual commercial audit sense) are different bodies. This necessitates a side agreement to cover, for example, the provision of indemnity should the WAO fail to pay the auditor's remuneration.
12. Some revision of paragraph 34 could help reduce the burden on all concerned. We suggest that a sensible approach would be to make provision for the engagement of the auditor of the WAO to be a contractual matter between the WAO and the auditor (including as to terms of appointment and monitoring of performance), but with appointment subject to the approval of the Assembly.

### ***The appointment of non-executive members of the WAO***

13. Paragraph 5 of Schedule 1 to PAWA 2013, requires the Chair of the WAO to be selected from among the non-executive members. This raises a question about the role that an incumbent Chair might play in the process for appointing and re-appointing non-executive members of the WAO. The views of the Chair of a board as to the skills needed, particularly in terms of the balance of complementary skills, are an important factor in ensuring the maintenance of a well-functioning board. So we are pleased that a pragmatic approach has been taken -- involving the Chair in the selection process while protecting the independence of the Committee and Assembly in taking decisions on appointment.

### **Problematic aspects of the AGW's functions**

14. While not strictly an aspect of the PAWA 2013 that requires amendment, it may helpful to consider using the opportunity of amending legislation to tidy up and update other audit-related legislation. The AGW wrote to the Committee on 5 April 2017 setting out the need for such updating to address the inconsistency in provisions across various bodies. Before summarising these problems, we would like to thank the Committee and the wider Assembly for addressing the worst of these issues in its dealings with the audit provisions of the new Public Services Ombudsman (Wales) Act 2019 ("PSOWA 2019"). That Act contains the best central government audit provisions.

15. In brief, the main problems are:

- (a) **The lack of a value for money conclusion duty on the AGW in central government bodies** (with the recent exception of PSOWA 2019). This is in contrast to the requirement in respect of local government and health bodies (under sections 17(2)(d) and 61(3)(b) of the Public Audit (Wales) Act 2004 respectively). The absence of such a duty means that scrutiny of central government bodies is generally somewhat less extensive than that of the NHS and local government.
- (b) **The absence of explicit provision in statute for regularity opinions among many central government bodies**—this means that a fundamental element of Assembly control of central government expenditure is missing from statute in respect of such bodies. The Committee will understand that one of the key functions of the National Assembly is the approval, following scrutiny, of budget motions to authorise government's use of resources. To complete the cycle of control, it is necessary that the National Assembly receives reports on whether the resources it has voted have been used in accordance with its intentions.
- (c) **The inflexibility of certification deadlines**—as illustrated by the case of NRW in 2017, deadlines are sometimes not sufficiently flexible when significant problems arise. With the recent exception, again, of the

PSOWA 2019, for Welsh public bodies, there is no provision in legislation to appropriately vary deadlines as there is, for example, for UK resources accounts under the Government Resources and Accounts Act 2000.

- (d) **Overlapping laying requirements**—the problems mention above in relation to the annual reports of the WAO also apply to some other audited bodies.
- (e) **Welsh data matching powers are now falling behind** those in other parts of the UK. This presents risk of:
  - (i) It not being possible to run complete UK-wide data matching exercises in Wales;
  - (ii) the potential financial benefits of data matching to identify errors and inaccuracies, and assist debt recovery will not be available to Wales;
  - (iii) the potential to achieve additional savings through the inclusion of new mandatory participants not being realised.

Llyr Gruffydd AM  
Chair of Finance Committee  
National Assembly for Wales  
Tŷ Hywel  
Cardiff Bay  
CF99 1NA

9 May 2019

Dear Llyr

### **Public Audit (Wales) Act**

I am writing in response to your letter dated 26 March 2019 and your post-legislative scrutiny of the Public Audit (Wales) Act 2013.

You state that you would like the Commission to provide written evidence addressing the terms of reference and that you are particularly interested in the Commission's views and experiences, as an audited body in Wales, of the fee charging regime.

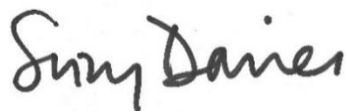
In addition, the Committee is keen to understand the impact the Act has had on the Assembly, and would like the Commission's views on the operation of the Act and the costs of administering the duties placed on the Assembly Commission, such as the appointment of the AGW and WAO Board non-executive members, the procurement of the Auditors of the WAO and whether the Assembly has experienced any notable changes in the audit regime since the introduction of the Act.

We have compiled a response to these requests as set out in the Annex accompanying this letter; I hope you find it helpful. If the Committee requires more detailed costing information we would be happy to provide this following further guidance from the Committee.



As ever, if there is any further information your Committee would like, please let me know.

Yours sincerely

A handwritten signature in black ink that reads "Suzy Davies". The signature is written in a cursive, flowing style.

Suzy Davies

cc Assembly Commissioners, Manon Antoniazzi, Nia Morgan



## **Annex**

### **Fee Charging Regime**

The Auditor General for Wales (AGW) only undertakes financial audit work at the Assembly Commission. He certifies the financial statements, providing his audit opinion and gives an opinion on regularity. No *performance* audit work takes place in respect of the Assembly Commission. Therefore, some of the complexities outlined in paragraphs 3.4-3.6 of the Proposals document are not relevant to the Assembly Commission as the AGW does not undertake a full range of audit functions at the Assembly Commission.

The audit fee does generate significant discussion at the Assembly Commission's Audit and Risk Assurance Committee (ACARAC). Through concerted efforts from the Commission's finance team in tandem with the Wales Audit Office (WAO) engagement team, we have seen some efficiencies and a slightly reduced fee in recent years. The Assembly Commission has also received some very modest refunds in recent years reflecting the fact that the actual outturn of the audit fieldwork has come in slightly under the audit fee initially charged.

From the Assembly Commission's viewpoint, clarity and transparency would be the most important aspects of any future fee charging regime. There has been some frustration in recent years in respect of delays of audit fee estimates being made available to Assembly Commission officials and ACARAC members. One of the reasons the WAO cite for this is on-going internal discussions and moderation of fees. As a client of the AGW and WAO we would welcome a regime which ensured that fee estimates could be communicated in a timely manner to us and that an overview of the calculation and methodology used to arrive at the proposed fee is properly explained by the relevant WAO Engagement Lead.

### **Other Issues in the Terms of Reference**

The Assembly Commission notes the other areas being examined by the Committee as part of its post legislative scrutiny but does not have anything to add in relation to those areas.



## **Impact of the Act on the Assembly**

These are statutory requirements placed upon us by the Public Audit (Wales) Act 2013 and the Government of Wales Act, the provision for which is absorbed within the Commission budget.

For each activity the greatest cost associated with the administration of duties is related to recruitment. However, as appointment terms are set and relatively lengthy, these are planned in advance and this reduces the impact. Costs can vary and more detailed information could be provided if required.

For example, the Assembly Commission's Procurement Team has provided assurance over the process of the last two tenders in relation to the appointment of WAO auditors. This process has not proved to be too onerous or time consuming in terms of workload for the Procurement team.

The Assembly Commission has had sight and input into the specification, but has not been involved in the evaluation of the responses received, as on both occasions, only one bid was returned.

We have not experienced any notable changes in the audit regime since the introduction of the Act.







Ymatebion i'r Ymgynghoriad yn  
y Gymraeg

Consultation Responses in the  
Welsh Language



Rebecca Evans AC/AM  
Y Gweinidog Cyllid a'r Trefnydd  
Minister for Finance and Trefnydd



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref

Llyr Gruffydd AM,  
Chair Finance Committee,  
The National Assembly for Wales,  
Cardiff Bay,  
Cardiff  
CF99 1NA

30 Ebrill 2019

Annwyl Llyr,

## **DEDDF ARCHWILIO CYHOEDDUS (CYMRU) 2013**

Diolch am gyfeirio at y newidiadau a gynigiwyd gan Swyddfa Archwilio Cymru mewn perthynas â'r cynnig ar gyfer bil i ddiwygio Deddf Archwilio Cyhoeddus (Cymru) 2013 a bil drafft Archwilio Cyhoeddus (Diwygio) (Cymru).

Roeddech yn gofyn a oedd gen i unrhyw sylwadau am y cylch gorchwyl. Roeddech hefyd yn gofyn a oeddwn yn bwriadu mynd i'r afael â'r gwrthdaro rhwng y dyletswyddau statudol a osodir ar Archwilydd Cyffredinol Cymru - neu a fyddwn o blaid cynnwys newid o'r fath mewn bil pwyllgor yn y dyfodol.

Gallaf gadarnhau fy mod yn fodlon â'r cynnig ynglŷn â'r posibilrwydd o ddiwygio Deddf Archwilio Cyhoeddus (Cymru) 2013 drwy fil Cynulliad yn y dyfodol. Fodd bynnag, byddwch yn gwerthfawrogi fod gan y Llywodraeth ei rhaglen ddeddfu lawn ei hun a'i bod hefyd yn delio â chanlyniadau Brexit. Os bydd y bil yn mynd rhagddo, dim ond cymorth technegol cyfyngedig iawn y byddai Llywodraeth Cymru yn gallu ei gynnig.

O ran y cylch gorchwyl, byddwn yn awgrymu y gallai'r pwyllgor hefyd ystyried unrhyw gynigion eraill gan y Swyddfa Archwilio o ran codi ffioedd am waith a wneir ar gyfer Llywodraeth Cymru, y Cynulliad Cenedlaethol, a'r Ombwdsmon. Cafodd y rhain eu hamlinellu mewn llythyr am y newidiadau arfaethedig i Ddeddf Archwilio Cyhoeddus (Cymru) 2013 a anfonwyd at eich rhagflaenydd ym mis Mehefin 2018 (IG/18/005/HVT/2856/SD 21 Mehefin 2018). Er bod y Swyddfa Archwilio o'r farn nad yw'r newidiadau hyn yn rhai cyfreithiol eu natur, mae posibilrwydd y byddent yn rhoi terfyn ar y broses lle mae'r Swyddfa Archwilio yn codi ar Lywodraeth Cymru, y Cynulliad a'r Ombwdsmon. Rwy'n deall bod Llywodraeth Cymru wedi cwestiynu, yn ystod y cyfnod

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

ymgyngori, a oedd hyn yn briodol gan fod gosod a thalu ffioedd yn rhan bwysig o'r broses ymgysylltu â chleientiaid ac o sicrhau eu bod yn cael gwerth am eu harian.

Yn gywir,

A handwritten signature in black ink that reads "Rebecca Evans." The script is cursive and fluid.

**Rebecca Evans AC/AM**

Y Gweinidog Cyllid a'r Trefnydd

Minister for Finance and Trefnydd



WALES AUDIT OFFICE  
SWYDDFA ARCHWILIO CYMRU

Wales Audit Office / Swyddfa Archwilio Cymru

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**Cyfeirnod: AC/143/sd**  
**3 Mai 2018**

Annwyl Llŷr

## **Craffu Ôl-ddeddfwriaethol ar Ddeddf Archwilio Cyhoeddus (Cymru) 2013**

Diolch i chi am eich llythyr dyddiedig 26 Mawrth 2019 yn ein hysbysu bod y Pwyllgor yn cynnal gwaith craffu ôl-ddeddfwriaethol ar Ddeddf Archwilio Cyhoeddus (Cymru) 2013. Rydym yn croesawu penderfyniad y Pwyllgor, yn arbennig a derbyn y materion a godwyd gennym ynghylch Deddf 2013 yn ein llythyr dyddiedig 21 Mehefin 2018.

Rydych yn gofyn a oes yna unrhyw dystiolaeth ychwanegol yr hoffem ni i'r Pwyllgor ei hystyried. Fel y byddech yn disgwyl, rydym yn meddwl bod y deunydd y gwnaethom ei gyflwyno yn ein llythyr dyddiedig 21 Mehefin 2018 yn mynd i'r afael â'r materion allweddol o'n safbwynt ni a byddem yn annog y Pwyllgor i gyfeirio at hwnnw eto. Ond efallai y bydd o gymorth i roi diweddariad cryno o ran eich cylch gorchwyl, ynghyd â pheth deunydd ychwanegol. Rydym felly yn amgáu crynodeb o'r fath gyda'r llythyr hwn.

Hoffem roi ein sylwadau yn eu cyd-destun drwy ddweud, ac eithrio'r materion yr ydym wedi eu dwyn i'ch sylw, bod y trefniadau llywodraethu a gyflwynwyd gan Ddeddf 2013 wedi gweithio'n dda ac wedi bod yn effeithiol. Cafodd annibyniaeth archwilio'r Archwilydd Cyffredinol ei ddiogelu gan fesurau megis y Cod Ymarfer sy'n ofynnol dan Atodlen 2 y Ddeddf, ac nid yw trosglwyddo staff ac adnoddau eraill i gorff corfforaethol Swyddfa Archwilio Cymru wedi achosi problemau. Byddem felly yn pwysleisio mai mewn ychydig o feysydd neilltuol, ond arwyddocaol er hynny, yr ydym ni'n gweld angen diwygio'r Ddeddf.

Gobeithio bod hyn o gymorth. Byddem yn falch iawn i drafod y materion hyn ymhellach.

Yn gywir



**Adrian Crompton**  
**Archwilydd Cyffredinol Cymru**



**Isobel Garner**  
**Cadeirydd, Swyddfa Archwilio**  
**Cymru**

## Atodiad: Materion yn ymwneud â Deddf Archwilio Cyhoeddus (Cymru) 2013

### Codi Ffioedd

1. Roedd Adran 23 o Ddeddf Archwilio Cyhoeddus (Cymru) 2013 ("PAWA 2013)) a darpariaethau perthnasol eraill yn gosod rheol "dim mwy na'r gost lawn" (y "rheol"). Mae'r rheol hon yn dal i weithredu fel gwrthanogaeth i wella effeithlonrwydd archwilio ac yn parhau i fod yn gymhleth i'w gweinyddu am y rhesymau a eglurwyd ym mharagraffau 3.2 i 3.6 y papur esboniadol a atodwyd i'n llythyr dyddiedig 21 Mehefin 2018 ("y papur esboniadol"). Yn gryno, mae'r rheol yn golygu nad yw archwilwyr yn elwa o unrhyw arbedion y gellir eu gwneud drwy weithgaredd archwilio. Yn wir, ar lefel yr unigolyn, gall arbedion o'r fath arwain at golled bersonol (e.e. drwy golli gwaith), sy'n bwrw dŵr oer ar y brwdfrydedd dros effeithlonrwydd. Ac mae creu'r rheol yn nhermau swyddogaethau unigol (h.y. elfennau statudol neilltuoel o waith) mewn cyrff unigol, yn golygu bod yna lawer iawn o waith cadw cofnodion a chysoni i'w wneud er mwyn sicrhau ein bod yn cydymffurfio â'r rheol. Mae'r gweithgaredd hwn, yn anochel, ar draul gwaith sy'n ychwanegu gwerth.
2. Ar y pwynt hwnnw, ac yn ychwanegol at y pwyntiau yn y papur esboniadol, enghraifft arall o'r ffordd y mae'r rheol yn llesteirio effeithlonrwydd yw'r rhwystr y mae'n ei osod o ran symud i ffwrdd oddi wrth yr orfodaeth ar staff i lenwi taflenni amser manwl. Wrth geisio gwella effeithlonrwydd yn y ffordd yr ydym yn gweithio, rydym wedi cymharu ein harferion â chwmnïau masnachol ac wedi gweld bod cwmnïau o'r fath yn symud fwyfwy i ffwrdd oddi wrth daflenni amser a phrisio yn ôl amser. Rydym o'r farn fod modd i symudiad o'r fath wella cynhyrchiant ac ysbryd y staff. Ar hyn o bryd rydym yn amcangyfrif bod cofnodi amser yn costio £135,000 y flwyddyn o leiaf i ni. Rydym yn parhau i edrych i mewn i'r posibilrwydd o newid o'r fath yn ein harferion, ond ar hyn o bryd mae'n ymddangos bod y rheol yn atal hynny.
3. O ran y cymhlethdod gweinyddol a achosir gan y rheol, datblygiad anffodus pellach fu bod cyrff a archwiliwyd yn cyflwyno cwynion ysgrifenedig ffurfiol ynglŷn â swm y ffi a godwyd. Er mai ychydig ydynt o ran nifer, ac fel rheol ynghylch symiau bychain o ffi, mae cwynion o'r fath yn cymryd amser sylweddol, ac anghymesur yn aml, i'w trin.
4. Er enghraifft, cwynodd cyngor cymuned fod ei ffi o £495 am 2017-18 yn fwy na dwbl ffi'r flwyddyn flaenorol (£240.30), bod gwaith dianghenraid yn cael ei wneud a bod gofyn i'r cyngor roi mwy o wybodaeth nag yn y blynyddoedd cynt. Fe wnaethom edrych i mewn i'r gŵyn, oedd yn golygu edrych yn fanwl ar y gwaith a wnaed gan y cwmni archwilio dan sylw, i weld a oedd y gwaith yn angenrheidiol ac yn gymesur, beth oedd yr amser a gofnodwyd a chyfrifiad y ffioedd. Cymerodd yr ymchwiliad 2.5 diwrnod o amser staff Swyddfa Archwilio Cymru (WAO) gan gostio tua £1,100. Daethom i'r casgliad, er bod y cwmni wedi gwneud camgymeriad argraffu yn y gyfradd

fesul awr ar gyfer gradd yr hyfforddai, a arweiniodd at godi £6.30 yn ormod, bod y gwaith ar y cyfan yn angenrheidiol, a bod yr amser a dreuliwyd yn gymesur â gofynion yr archwiliad. Fe wnaethom ad-dalu'r arian dros ben. Mae'n amlwg bod y rheol 'dim mwy na'r gost lawn' yn creu sefyllfa lle y gallai cyrff unigol a archwilir gael cymhelliad i gwestiynu ffioedd archwilio er mwyn cael eu gostwng, ond, wrth wneud hynny, achosi gwariant cyhoeddus anghymesur ar lefel ehangach.

5. Dylem hefyd ddiweddarau'r Pwyllgor ynglŷn â'n cynnig i fynd i'r afael â pheth o faich ein trefniadau ffioedd cymhleth drwy ariannu archwiliadau cyrff a ariennir yn uniongyrchol (h.y. eu hariannu'n uniongyrchol o Gronfa Gyfunol Cymru) drwy gyflenwad gan Gronfa Gyfunol Cymru. Mae dull o'r fath yn golygu bod ffioedd tybiannol yn cymryd lle ffioedd arian parod. Rydym wedi bod yn ystyried cynnal peilot ar y trefniant gydag Ombwdsmon Gwasanaethau Cyhoeddus Cymru ond wedi canfod na fyddai'r dull yn gwneud dim ond symud y baich gweinyddol oddi ar Swyddfa Archwilio Cymru i'r Ombwdsmon, o ran gwneud yr addasiadau cyfrifo angenrheidiol. Byddwn felly yn ailystyried a ddylid symud ymlaen â'r cynnig hwn, na fyddai, p'un bynnag, yn mynd i'r afael ond â ffracsiwn o'r baich gweinyddol yr ydym yn ei wynebu gan nad yw'r rhan fwyaf o gyrff a archwilir yn cael eu hariannu'n uniongyrchol.

### **Trefniadau Cworwm Swyddfa Archwilio Cymru**

6. Fel y nodwyd ym mharagraffau 3.9 i 3.13 o'r papur esboniadol, mae'r gofyniad statudol am gworwm gyda mwyafrif anweithredol yn gwneud y WAO yn dueddol i fod heb gworwm. Mae paragraff 28(3) o Atodlen 1 i PAWA 2013 yn cynnwys gofyniad "yn yr holl amgylchiadau ni ellir cyrraedd cworwm oni fydd mwyafrif yr aelodau sy'n bresennol yn aelodau anweithredol". Mae hyn yn broblem oherwydd gan mai naw aelod sydd yn y WAO a hynny'n cynnwys mwyafrif o un aelod anweithredol, mae absenoldeb unrhyw aelod anweithredol yn achosi diffyg cworwm.
7. Ers ein llythyr ym mis Mehefin 2018, mae'r broblem wedi parhau gydag un o bedwar cyfarfod y WAO heb gworwm oherwydd absenoldeb un aelod anweithredol. Yn yr achos hwnnw, gadawodd un aelod etholedig oedd yn gyflogai y cyfarfod er mwyn sicrhau cworwm. A derbyn y sefyllfa anfodddhaol hon, fe wnaethom ofyn am gyngor cyfreithiol annibynnol, oedd yn cadarnhau, os na chaiff PAWA 2013 ei diwygio, ei bod yn angenrheidiol symud aelodau sy'n gyflogeion o gyfarfodydd er mwyn atal penderfyniadau rhag bod yn annilys.
8. Mae'r enghraifft hon yn cadarnhau'r pwynt a wnaed yn ein tystiolaeth ym mis Mehefin 2018, bod cyfraniad aelodau sy'n gyflogeion, gan gynnwys aelodau etholedig, o bryd i'w gilydd yn cael ei leihau (paragraff 3.13 o'r papur esboniadol). Byddem yn ychwanegu bod yr effaith hon yn groes i'r



gefnogaeth a fynegodd y Llywodraeth i gyflogeion etholedig ar yr adeg yr oedd y Bil yn cael ei ystyried gan y Cynulliad<sup>1</sup>.

### **Trefniadau adrodd WAO**

9. Fel yr eglurwyd ym mharagraff 3.14 o'r papur esboniadol, mae PAWA 2013 yn ei gwneud yn ofynnol i Archwilydd Cyffredinol Cymru a Chadeirydd y WAO baratoi adroddiadau interim ar waith Archwilydd Cyffredinol Cymru a WAO. Sylwasom nad oedd yr un corff cyhoeddus arall yn destun gofyniad o'r fath, a bod ystyriaeth fer y Pwyllgor o'r adroddiad ynghyd ag ystadegau gwefan WAO yn dangos mai ychydig o ddiddordeb sydd mewn adroddiadau o'r fath. A derbyn bod y gost amcangyfrifedig o gynhyrchu pob adroddiad yn £20,000, roeddem yn cwestiynu a oedd y gofyniad yn gymesur. Ers ein llythyr ym mis Mehefin 2018, fe wnaethom gyhoeddi adroddiad interim ym mis Hydref. Derbyniodd hwn 66 o ymweliadau â'r dudalen yn y bythefnos yn dilyn ei gyhoeddi. Rydym yn dal i ystyried y gofyniad yn anghymesur.

### **Problemau gosod adroddiadau a chyfrifon**

10. Roedd paragraffau 3.17 i 3.19 yn ein papur esboniadol yn egluro bod yna ofynion adrodd blynyddol sy'n gorgyffwrdd - y rheiny sy'n codi o baragraff 33 o Atodlen 1 i PAWA 2013, yn gysylltiedig â gofynion Llawlyfr Adrodd Ariannol y Trysorlys, a'r rheiny sy'n codi o baragraff 3 o Atodlen 2 i PAWA 2013. Rydym yn gweithio o gwmpas hyn drwy gyflwyno'r un ddogfen ddwywaith, unwaith gan yr archwilydd allanol ac unwaith gan Archwilydd Cyffredinol Cymru a Chadeirydd WAO. Fodd bynnag, mae'n anfoddhaol bod y ddeddfwriaeth yn arwain at ddyblygu o'r fath, ac nid yw'n gymorth i gael eglurder ynghylch cyfrifoldeb.

### **Agweddau eraill ar PAWA 2013 a fyddai'n elwa o gael eu diwygio**

#### ***Penodi archwilwyr cyfrifon WAO***

11. Bydd cydweithwyr yng Nghomisiwn Cynulliad Cenedlaethol Cymru yn gwybod bod y broses ar gyfer penodi archwilwyr ar gyfer cyfrifon WAO braidd yn feichus. Mae paragraff 34 o Atodlen 1 PAWA 2013 yn ei gwneud yn ofynnol i'r Cynulliad Cenedlaethol benodi archwilydd y WAO, tra'n caniatáu i WAO argymhell archwilydd. Yn ymarferol, mae hyn yn golygu bod WAO yn cynnal ymarferiad caffael ac yn rhoi'r tendrwr llwyddiannus gerbron i gael ei benodi. Fodd bynnag, mae cymhlethdodau cytundebol

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<sup>1</sup> "Mae'r ddadl yn crynhoi fy nghymeradwyaeth nid yn unig o welliant Oscar, ond y ffaith y bydd yna gryfder mewn cael tri aelod sy'n gyflogeion ar y Bwrdd. Mae'r cyfraniadau a wnaed gan Julie Morgan a Jenny Rathbone yn mynegi'n glir sut y gall hynny gryfhau cynrychiolaeth y staff, sydd wrth gwrs, yn bwysig iawn." [Cofnod y Trafodion, 28 Ionawr 2013, para 21]

sylweddol yn codi oherwydd bod yr awdurdod sy'n penodi (y Cynulliad) a'r "cleient" (yn yr ystyr archwilio masnachol arferol) yn gyrrff gwahanol. Mae hyn yn ei gwneud yn angenrheidiol cael cytundeb ar yr ochr, er enghraifft, darparu indemniad pe bai'r WAO yn methu â thalu i'r archwilydd.

12. Gallai peth diwygiad i baragraff 34 gynorthwyo i leihau'r baich ar bawb dan sylw. Awgrymwn mai dull synhwyrol fyddai darparu i benodiad archwilydd WAO fod yn fater cytundebol rhwng WAO a'r archwilydd (gan gynnwys termau'r penodiad a monitro perfformiad) ond bod y penodiad yn ddibynnol ar gymeradwyaeth y Cynulliad.

### ***Penodi aelodau anweithredol o Swyddfa Archwilio Cymru***

13. Mae paragraff 5 o Atodlen 1 i PAWA 2013, yn ei gwneud yn ofynnol i Gadeirydd WAO gael ei ddewis o blith yr aelodau anweithredol. Mae hyn yn codi cwestiwn ynghylch y swyddogaeth y gallai Cadeirydd, sydd yn y swydd, ei chwarae yn y broses ar gyfer penodi ac ailbenodi aelodau anweithredol y WAO. Mae barn Cadeirydd bwrdd ynghylch y sgiliau sydd eu hangen, yn enwedig o ran cydbwysedd sgiliau sy'n ategu ei gilydd, yn ffactor bwysig mewn sicrhau cynnal bwrdd sy'n gweithio'n dda. Felly, rydym yn falch bod dull pragmatig wedi cael ei fabwysiadu - yn cynnwys y Cadeirydd yn y broses o ddewis a hefyd yn diogelu annibyniaeth y Pwyllgor a'r Cynulliad wrth benderfynu ar benodiad.

### ***Agweddau problemus ar swyddogaethau Archwilydd Cyffredinol Cymru***

14. Er nad yw hon yn agwedd ar PAWA 2013 sydd angen ei diwygio, efallai y byddai o gymorth ystyried defnyddio'r cyfle i ddiwygio deddfwriaeth i ddacluso a diweddarau deddfwriaeth arall sy'n gysylltiedig ag archwilio. Ysgrifennodd Archwilydd Cyffredinol Cymru at y Pwyllgor ar 5 Ebrill 2017 yn esbonio'r angen am ddiweddariad o'r fath er mwyn mynd i'r afael â'r anghysondeb mewn darpariaethau ar draws cyrff amrywiol. Cyn crynhoi'r problemau hyn, hoffem ddiolch i'r Pwyllgor a'r Cynulliad ehangach am fynd i'r afael â'r gwaethaf o'r problemau hyn wrth ymdrin â darpariaethau archwilio'r Ddeddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2019 ("PSOWA 2019") newydd. Mae'r Ddeddf honno yn cynnwys y darpariaethau gorau ar gyfer archwilio llywodraeth ganolog.

15. Yn fyr, y prif problemau yw:

- (a) **Diffyg dyletswydd ar Archwilydd Cyffredinol Cymru i gyrraedd casgliad gwerth am arian yng nghyrrff y llywodraeth ganolog** (ac eithrio'r PSOWA 2019 diweddar). Mae hyn mewn cyferbyniad â'r gofyniad o ran llywodraeth leol a chyrrff ieuchyd (dan adrannau 17(2)(d) a 61(3)(b) o Ddeddf Archwilio Cyhoeddus (Cymru) 2004 yn y drefn honno). Mae absenoldeb dyletswydd o'r fath yn golygu bod y craffu ar gyrrff llywodraeth ganolog yn gyffredinol braidd yn llai helaeth na'r craffu ar y GIG a llywodraeth leol.

- (b) **Absenoldeb darpariaeth eglur mewn statud ar gyfer barn rheoleidd-dra ymhlith llawer o gyrff y llywodraeth ganolog** - mae hyn yn golygu bod elfen sylfaenol o reolaeth y Cynulliad ar wariant y llywodraeth ganolog ar goll o'r statud o ran cyrff o'r fath. Bydd y Pwyllgor yn deall mai un o swyddogaethau allweddol y Cynulliad Cenedlaethol yw cymeradwyo, yn dilyn craffu, cynigion cyllideb i awdurdodi defnydd y llywodraeth o adnoddau. Er mwyn cwblhau'r cylch rheolaeth, mae'n angenrheidiol i'r Cynulliad Cenedlaethol dderbyn adroddiadau sy'n dangos a yw'r adnoddau y mae wedi pleidleisio drostynt wedi cael eu defnyddio'n unol â'i fwriadau neu beidio.
- (c) **Natur anhyblyg rhai llinellau terfyn ardystio** - fel y darluniwyd yn achos Cyfoeth Naturiol Cymru yn 2017, nid yw llinellau terfyn weithiau yn ddigon hyblyg pan fydd problemau sylweddol yn codi. Gyda'r eithriad diweddar, eto o PSOWA 2019 ar gyfer cyrff cyhoeddus Cymru, nid oes darpariaeth mewn deddfwriaeth i amrywio llinellau terfyn yn briodol fel sydd, er enghraifft, i gyfrifon adnoddau'r DU dan Ddeddf Adnoddau a Chyfrifon y Llywodraeth 2000.
- (d) **Gofynion gosod sy'n gorgyffwrdd** - mae'r problemau y soniwyd amdanynt uchod, gyda golwg ar adroddiadau blynyddol WAO, hefyd yn berthnasol i rai cyrff eraill a archwilir.
- (e) **Mae pwerau cydweddu data Cymru yn awr yn syrthio y tu ôl i'r rheiny yn rhannau eraill o'r DU.** Mae hyn yn peri perygl:
- (i) na fydd modd rhedeg ymarferiadau cydweddu data cyflawn ar draws y DU yng Nghymru;
  - (ii) na fydd manteision ariannol posibl cydweddu data, er mwyn canfod camgymeriadau ac anghywirdebau ac i fod o gymorth i adennill dyledion, ar gael yng Nghymru;
  - (iii) na fydd modd sylweddoli'r potensial o sicrhau arbedion ychwanegol drwy gynnwys cyfranogwyr mandadol newydd.

Llyr Gruffydd AC  
Cadeirydd y Pwyllgor Cyllid  
Cynulliad Cenedlaethol Cymru  
Tŷ Hywel  
Bae Caerdydd  
CF99 1NA

9 Mai 2019

Annwyl Llyr

### **Deddf Archwilio Cyhoeddus (Cymru)**

Rwy'n ysgrifennu mewn ymateb i'ch llythyr dyddiedig 26 Mawrth 2019 a'ch gwaith craffu ar ôl deddfu ar Ddeddf Archwilio Cyhoeddus (Cymru) 2013.

Rydych yn nodi yr hoffech i'r Comisiwn ddarparu tystiolaeth ysgrifenedig sy'n ateb y cylch gorchwyl a bod gennych ddiddordeb arbennig ym marn a phrofiadau'r Comisiwn, fel corff a archwilir yng Nghymru, o'r gyfundrefn codi ffioedd.

Yn ogystal, mae'r Pwyllgor yn awyddus i ddeall yr effaith y mae'r Ddeddf wedi'i chael ar y Cynulliad, a hoffai farn y Comisiwn ar weithrediad y Ddeddf a chostau gweinyddu'r dyletswyddau sydd wedi'u gosod ar Gomisiwn y Cynulliad, fel penodi Archwilydd Cyffredinol Cymru ac aelodau anweithredol Bwrdd Swyddfa Archwilio Cymru, caffael archwilydd Swyddfa Archwilio Cymru ac a yw'r Cynulliad wedi gweld unrhyw newidiadau nodedig yn y gyfundrefn archwilio ers cyflwyno'r Ddeddf.

Rydym wedi llunio ymateb i'r ceisiadau hyn fel y nodir yn yr atodiad sy'n cyd-fynd â'r llythyr hwn; gobeithio y bydd o gymorth i chi. Os oes angen gwybodaeth fanylach am gostio ar y Pwyllgor, byddem yn falch o ddarparu hyn yn dilyn arweiniad pellach gan y Pwyllgor.



Yn ôl yr arfer, cofiwch roi gwybod os hoffai eich Pwyllgor gael unrhyw wybodaeth bellach.

Yn gywir

A handwritten signature in black ink that reads "Suzy Davies". The signature is written in a cursive, flowing style.

Suzy Davies

copi at Gomisiynwyr y Cynulliad, Manon Antoniazzi, Nia Morgan



## **Atodiad**

### **Cyfundrefn codi ffioedd**

Mae Archwilydd Cyffredinol Cymru yn gwneud gwaith archwilio ariannol yng Nghomisiwn y Cynulliad yn unig. Mae'n ardystio'r datganiadau ariannol, gan roi ei farn archwilio a'i farn ar reoleidd-dra. Nid oes unrhyw waith archwilio perfformiad yn digwydd mewn perthynas â Chomisiwn y Cynulliad. Felly, nid yw rhai o'r cymhlethdodau a amlinellir ym mharagraffau 3.4-3.6 yn y ddogfen cynigion yn berthnasol i Gomisiwn y Cynulliad gan nad yw Archwilydd Cyffredinol Cymru yn ymgymryd ag ystod lawn o swyddogaethau archwilio yng Nghomisiwn y Cynulliad.

Nid yw'r ffi archwilio yn cael ei thrafod rhyw lawer ym Mhwyllgor Archwilio a Sicrhau Risg Comisiwn y Cynulliad. Drwy ymdrechion ar y cyd gan dîm cyllid y Comisiwn gyda thîm ymgysylltu Swyddfa Archwilio Cymru, rydym wedi gweld rhai arbedion effeithlonrwydd a ffi ychydig yn is yn ystod y blynyddoedd diwethaf. Mae Comisiwn y Cynulliad hefyd wedi derbyn rhai ad-daliadau gweddol fach yn ystod y blynyddoedd diwethaf, gan adlewyrchu'r ffaith bod alldro gwirioneddol y gwaith maes archwilio wedi bod ychydig yn llai na'r ffi archwilio a godwyd yn wreiddiol.

O safbwynt Comisiwn y Cynulliad, eglurder a thryloywder fyddai'r agweddau pwysicaf ar unrhyw gyfundrefn codi ffioedd yn y dyfodol. Bu peth rhwystredigaeth yn ystod y blynyddoedd diwethaf o ran oedi gyda rhoi amcangyfrifon o ffioedd archwilio i swyddogion Comisiwn y Cynulliad ac aelodau'r Pwyllgor Archwilio a Sicrhau Risg. Un o'r rhesymau y mae Swyddfa Archwilio Cymru yn ei nodi am hyn yw trafodaethau mewnol parhaus a chymedroli ffioedd. Fel cleient i Archwilydd Cyffredinol Cymru a Swyddfa Archwilio Cymru, byddem yn croesawu cyfundrefn sy'n sicrhau bod modd i ni gael amcangyfrifon ffioedd yn brydlon a bod arweinydd perthnasol yn nhîm ymgysylltu Swyddfa Archwilio Cymru yn esbonio'n briodol y cyfrifiad a'r fethodoleg a ddefnyddiwyd i benderfynu ar y ffi arfaethedig.

### **Materion eraill yn y cylch gorchwyl**

Mae Comisiwn y Cynulliad yn nodi'r meysydd eraill y mae'r Pwyllgor yn eu harchwilio fel rhan o'i waith craffu ar ôl deddfu, ond nid oes ganddo unrhyw beth i'w ychwanegu mewn perthynas â'r meysydd hynny.



## **Effaith y Ddeddf ar y Cynulliad**

Mae'r rhain yn ofynion statudol y mae Deddf Archwilio Cyhoeddus (Cymru) 2013 a Deddf Llywodraeth Cymru yn eu rhoi arnom, ac mae cyllideb y Comisiwn yn ysgwyddo'r ddarpariaeth ar gyfer hyn.

Ar gyfer pob gweithgaredd, mae'r gost fwyaf sy'n gysylltiedig â gweinyddu dyletswyddau yn ymwneud â recriwtio, ond gan fod telerau penodi yn rhai sefydlog ac yn gymharol hir, mae'r rhain yn cael eu cynllunio ymlaen llaw, sy'n lleihau'r effaith. Gall costau amrywio a gellir darparu gwybodaeth fanylach os oes angen.

Er enghraifft, mae Tîm Caffael Comisiwn y Cynulliad wedi rhoi sicrwydd ynghylch proses y ddau dendr diwethaf mewn perthynas â phenodi archwilwyr Swyddfa Archwilio Cymru. Nid yw'r broses hon wedi bod yn rhy feichus na chymryd gormod o amser o ran llwyth gwaith i'r tîm Caffael.

Mae Comisiwn y Cynulliad wedi gweld y fanyleb ac wedi cyfrannu ati, ond nid yw wedi bod yn rhan o'r broses o werthuso'r ymatebion a ddaeth i law, oherwydd mai dim ond un cais a ddychwelwyd ar y ddau achlysur.

Nid ydym wedi gweld unrhyw newidiadau nodedig yn y gyfundrefn archwilio ers cyflwyno'r Ddeddf.









