Jane Hutt AC/AM
Y Gweinidog dros Fusnes a'r Gyllideb
Minister for Business and Budget

Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Eich cyf/Your ref
Ein cyf/Our ref

Lord Dafydd Elis-Thomas AM
Presiding Officer
National Assembly for Wales

30th November 2010

Dear Dafydd

THE AUDIT AND ASSESSMENT REPORTS (WALES) ORDER 2010

I am writing to inform you that in order to bring the Audit and Assessment Reports (Wales) Order 2010 into force in Wales, it has become necessary to breach the 21-day rule. This Order will be made on 29th November and will come intro force on 30th November 2010.

This Order will change the date by when the Auditor General for Wales should send his audit and assessment reports to Welsh improvement authorities and the Welsh Ministers. Under the provisions of the Local Government (Wales) Measure 2009 (the Measure) the Auditor General for Wales is required to produce an audit and assessment report for each Welsh improvement authority (under the Measure Welsh improvement authorities are all local authorities, National Park authorities and fire and rescue authorities in Wales). Further the Measure requires the Auditor General for Wales to send copies of the audit and assessment reports to Welsh improvement authorities and the Welsh Ministers by 30th November each year.

The Auditor General for Wales has written to the Minister for Social Justice and Local Government to request that the Minister exercises his powers under Section 19(3)(b) of the Measure to change the date by when he should send his audit and assessment reports to 31st January for this year only.

The reasons for the Auditor General's request are two-fold:

- First, this is the first year of the new improvement regime as established by the Measure and some Welsh Improvement Authorities have been slow to publish their improvement objectives for the year. This has inevitably caused a delay in the Auditor General's ability to assess them;

- Secondly, this is the first year that Care and Social Services Inspectorate Wales (CSSIW) will publish their letters to directors of social services having reviewed the directors' own self assessments of their services. However, these letters may not be

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available in time for the Auditor General to include the findings in his reports in the requirement for them to be published by 30 November remains.

The Minister for Social Justice and Local Government believes that the Auditor General for Wales' request to delay the date for sending his audit and assessment reports so that they may include CSSIW assessment of social services is reasonable. Under the provisions of the Measure the Auditor General has a duty to take account of the work of relevant regulators and it would amount to a serious omission from his reports if the findings of CSSIW were omitted from them.

Further, It is in the public interest that the Auditor General's audit and assessment reports are as comprehensive as possible. All Welsh improvement authorities, and local authorities in particular, provide vital services that all the citizens of Wales rely on every day. That they are subject to external scrutiny of both their financial stewardship and the services they provide is a vital component of their public accountability. In changing the date that the audit and assessment reports are published the Auditor General is able to draw on the inspection work of CSSIW in reaching conclusions about the corporate health of the organisation and the social care services that local authorities provide to the most vulnerable members of society.

Changing the date of the publication of the audit and assessment reports will have no financial consequences for Welsh improvement authorities, the Wales Audit Office or for any other public or private body.

The Minister for Social Justice and Local Government is of the opinion that the public interest is best served by delaying the publication of the Auditor General's reports by two months for this year only. This Order has not been subject to a regulatory impact assessment because it will have no adverse impact on business, public bodies or charities or voluntary bodies.

The Order should follow the negative resolution procedure. This means that it is should not normally be brought into force until at least 21 (calendar) days from the date it is made and laid before the National Assembly for Wales.

However, in order to amend the date of 30 November, which is specified in section 19(3)(a) of the Measure as the date by which the Auditor General for Wales must produce his report, it is necessary to breach the 21 day rule. Failure to do so would mean that the Auditor General for Wales would breach his statutory duty to produce a report by 30 November and any report produced by the Auditor General for Wales thereafter could be subject to challenge. As you are aware the Welsh Ministers rely on the Auditor General's reports to take any consequential action against a Welsh improvement authority if the authority is considered to be failing under the Measure. It is therefore essential that the validity of a report issued by the Attorney General is not questionable.

A copy of this letter goes to Janet Ryder AM, Chair of the Constitutional Affairs Committee and to Stephen George, Clerk to the Constitutional Affairs Committee.

Yours sincerely

Jane Hutt AM
Minister for Business and Budget