

National Assembly for Wales
Finance Committee

Fourth Assembly
Legacy Report

March 2016

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Committee remit:

The Finance Committee's role is to carry out the functions set out in Standing Order 19. This includes consideration of the use of resources by the Assembly Commission or Welsh Ministers, and in particular reporting during the annual budget round. The Committee may also consider any other matter relating to expenditure from the Welsh Consolidated Fund.

The Finance Committee's remit also includes specific statutory powers under the Public Audit (Wales) Act 2013 relating to responsibilities for governance oversight of the Wales Audit Office.

Committee membership:

Committee member	Party	Constituency or Region
Jocelyn Davies	Plaid Cymru	South Wales East
Peter Black	Welsh Liberal Democrats	South Wales West
Christine Chapman	Welsh Labour	Cynon Valley
Mike Hedges	Welsh Labour	Swansea East
Alun Ffred Jones	Plaid Cymru	Arfon
Ann Jones	Welsh Labour	Vale of Clwyd
Julie Morgan	Welsh Labour	Cardiff North
Nick Ramsay	Welsh Conservatives	Monmouth

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Chair's foreword

This legacy report is the culmination of the work of the Finance Committee over the past five years. Whilst not a comprehensive, detailed analysis of every piece of work the Committee has undertaken, the report provides a commentary on some aspects of our work, hopefully providing a setting for the next Committee with responsibility for finance to build on the work we have undertaken whilst working towards their own aims over the course of the Fifth Assembly.

One of the primary roles of the Committee is in relation to scrutiny of the use of resources and expenditure from the Welsh Consolidated Fund. This results in the annual scrutiny of the Welsh Government's draft Budget and the associated Supplementary Budget motions, additionally we scrutinise the various budgets and estimates of the Assembly Commission, the Wales Audit Office and the Auditor General for Wales, and the Public Service Ombudsman for Wales. In our legacy consultation each of the budget holders has said that the scrutiny of the Committee has proved helpful to them and I am pleased that this has been the case. In 2012 we agreed a Budget Protocol with the Welsh Government which covers specific principles underpinning the budget process. It will be for the next Committee to consider whether this protocol still meets the requirements of the Committee, and the Government, but I believe agreeing a protocol such as this should be one of the first actions of the next Committee.

The Committee also undertakes scrutiny of the cost implications of Bills, and we have made a number of recommendations for improving the financial information accompanying Bills. In preparing this legacy report the Committee heard evidence from the Permanent Secretary, and we were pleased to hear his view that changes are taking place. I hope that these changes result in improvements to the detail included in Regulatory Impact Assessments which accompany Bills in the Fifth Assembly.

When undertaking inquiries we have worked to ensure the inquiries will have effective outcomes and we are proud of the quality of the reports we have produced. One of our reports was used to inform the work of the Silk Commission, and we also reported on the collection of devolved taxes, which informed the Minister in making her decisions in relation to the collection of these taxes. Most recently we have published two reports, on future funding for Wales and further powers for the Public Service Ombudsman for Wales. Both of these reports warrant further consideration in the Fifth Assembly and I would urge Members to look to these reports when considering their initial work programme.

During the course of this Assembly the work of the Finance Committee has changed, with the introduction of the Public Audit (Wales) Act and the Committee being allocated the role of 'responsible Committee' for the purpose of oversight of the Wales Audit Office and the Auditor General for Wales. The implementation of the Act has been a change for the Committee and we were pleased to have had the opportunity of an informal briefing from WAO officials on how they were working within the confines of the Act. I would recommend that the next Committee with this oversight role considers requesting a similar briefing to inform their work in relation to the WAO. As part of our considerations regarding this Act the Auditor General and the WAO Chair have raised some issues with the legislation, and whilst we thought the legislation needed further time to embed we have recommended that the next Committee considers undertaking post legislative scrutiny of the Act.

Clearly, one of the major changes to the role of the Committee in the Fifth Assembly will be the scrutiny of the powers devolved by the Wales Act 2014, and the accompanying changes to the budget procedure and the scrutiny of devolved taxes and borrowing. As a Committee we hope the initial work we have undertaken in this area provides a starting point for the next Committee to take forward this work. In preparing for the devolution of these taxes the Minister and the Committee have been able to have an open and receptive relationship which has allowed us to work together to take forward the new budget procedures. I sincerely hope that this constructive relationship is maintained between the Committee and the Finance Minister in the next Assembly.

I would like to extend my thanks to the stakeholder organisations and individuals that have taken the time to engage with the Committee over the course of the Fifth Assembly. Without the evidence we receive for each inquiry the ability of the Committee to undertake effective scrutiny sessions would have been diminished. Additionally, the Committee has been supported by a number of expert advisers, whose advice has been invaluable, and Assembly Commission staff. The professionalism displayed by the Commission staff over the past five years has been truly appreciated, not just by myself but by all Members of the Committee.

A handwritten signature in black ink, reading "Jocelyn Davies". The signature is written in a cursive, flowing style.

Jocelyn Davies AM

Chair

BUDGET SCRUTINY BY THE THE FINANCE COMMITTEE DURING THE FOURTH ASSEMBLY

During the Fourth Assembly, the Committee scrutinised



5 ESTIMATES BY THE PUBLIC SERVICES OMBUDSMAN FOR WALES



5 WELSH GOVERNMENT DRAFT BUDGETS
8 WELSH GOVERNMENT SUPPLEMENTARY BUDGETS

3

ESTIMATES BY THE AUDITOR GENERAL FOR WALES AND THE WALES AUDIT OFFICE



WALES AUDIT OFFICE
SWYDDFA ARCHWILIO CYMRU



5 NATIONAL ASSEMBLY FOR WALES COMMISSION DRAFT BUDGETS

THE COMMITTEE MADE A TOTAL OF



158

RECOMMENDATIONS TO THESE ORGANISATIONS

01. Budget scrutiny

Background

1. In view of previous budget rounds and in anticipation of a new budget process, the Finance Committee (“the Committee”) wished to reflect on what impact it has had on scrutiny of the budget during the Fourth Assembly as part of its legacy.
2. The Committee considered the role of policy committees feeding into the process and how engaged stakeholders are with budget scrutiny. The Committee also considered if the right expertise has been utilised and if the timescales for reporting are appropriate, particularly those subscribed in Standing Orders.
3. The Committee wrote to the four budget holders, namely the Welsh Government, Public Services Ombudsman for Wales, Auditor General for Wales and Wales Audit Office Board, and the Assembly Commission. The Committee invited views on the effectiveness of the approach to budget scrutiny, and asked for suggestions for ways of improving the overall process as the Committee looks to the Fifth Assembly.

Introduction

4. The backdrop to scrutiny of the Welsh Government budget in the Fourth Assembly has been continued public sector austerity, welfare reform and increasing demographic pressures. In these circumstances the Assembly’s role in challenging the Welsh Government to ensure that funding decisions are prioritised to *maximise the* impact and value for money of public resources is becoming increasingly important. The Committee firmly believe that it is also crucial that services are transformed to focus on prevention and the long term sustainability.

The Welsh Budget

5. The Welsh Government budget allocates around £15 billion to departments. Over the past five years this budget has been relatively stable in cash terms. Accounting for inflation, in “real terms” there have been significant cuts to the Welsh Government budget.
6. The Welsh Government estimates that the Welsh budget will have experienced real terms cut of 10% in revenue and 20% in capital by the end of this decade¹.

¹ Welsh Government, **Written Statement – Response to UK Government Spending Review and Autumn Statement**, 26 November 2015

7. The following charts show how real term funding available to the Welsh Government reduced during this Assembly term and is projected to reduce in the coming years.

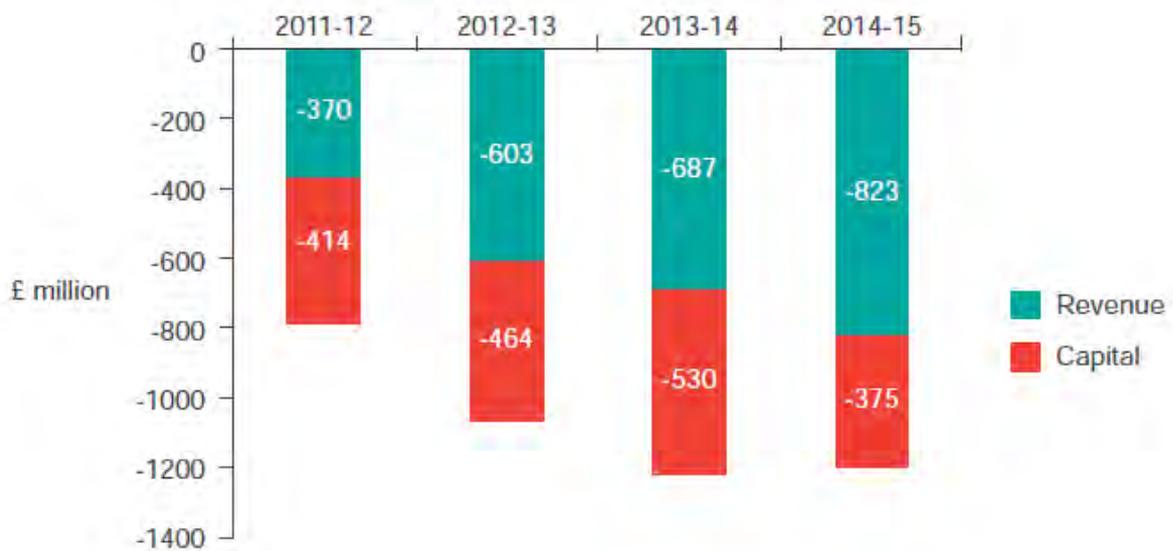


Figure 1 – Cumulative changes to the Welsh block grant, including council tax benefit from 2010-11 (2014-15 prices). Source: Wales Audit Office, Picture of Public Services 2015

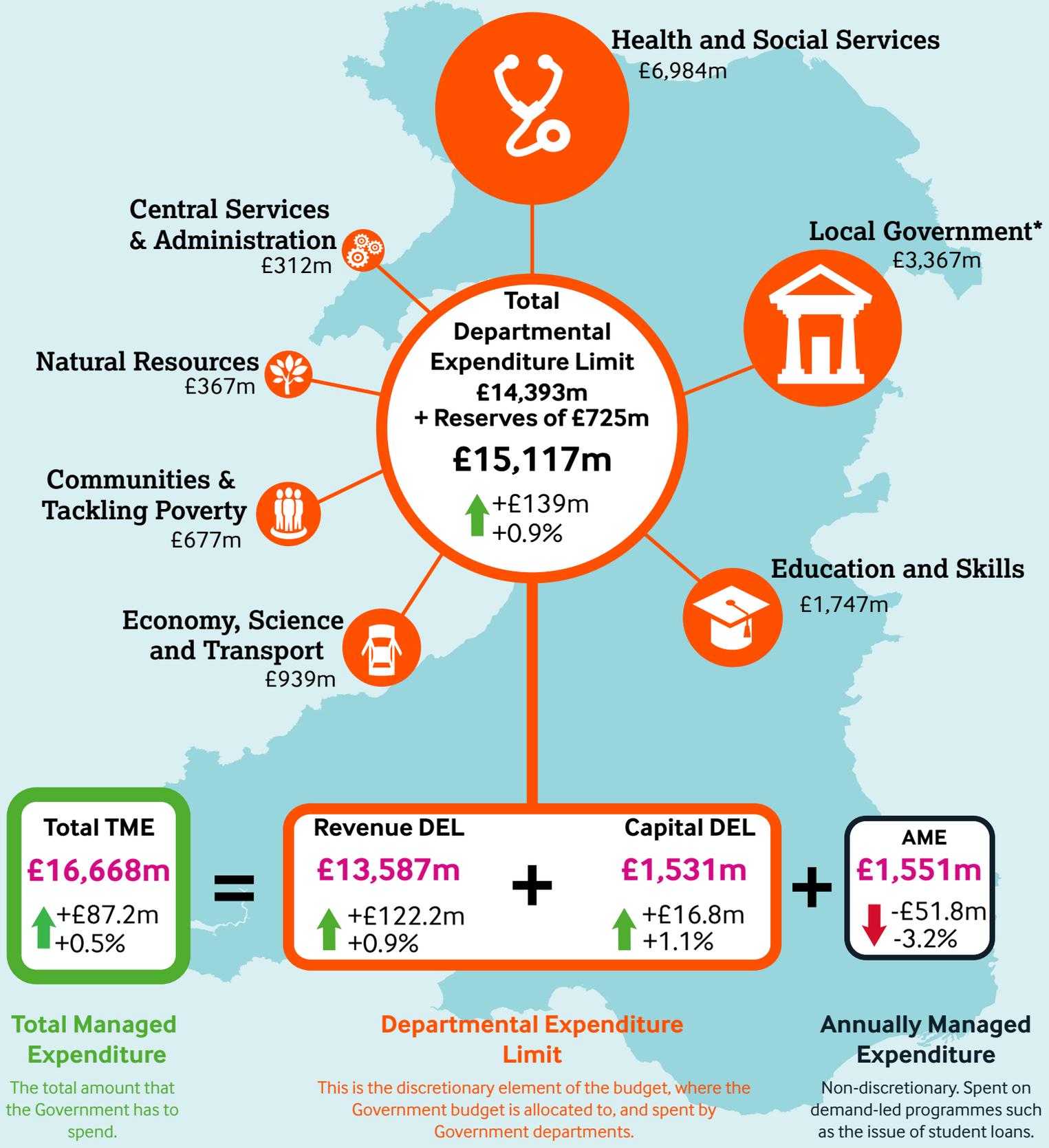
	2015-16	2016-17	2017-18	2018-19	2019-20
Block grant revenue	12.7	12.6	12.5	12.3	12.2
Non-domestic rates	0.9	0.9	1.0	1.0	1.0
Capital	1.5	1.5	1.4	1.5	1.5
Total	15.2	15.0	14.9	14.8	14.7

Figure 2 – Welsh block grant and non-domestic rates 2015-16 to 2019-20 (2014-15 prices) - £ billion. Source: Wales Audit Office, Picture of Public Services 2015. Note: Non domestic rates are included for consistency of long term comparisons, though no longer part of the block grant.

8. The following graphic shows how funding is allocated between Welsh Government departments.



Headline figures from the draft budget 2016-17, showing changes from the first supplementary budget 2015-16



*Following the full devolution of business rates earlier this year £1 bn non-domestic rate AME income will be added to £3.4 bn local government allocation shown above.

Figures show cash movements between years.

Figures are rounded, please refer to the Welsh Government Draft Budget paper for exact figures

9. In recent years, the proportion of spending on Health has increased until it accounts for almost half of the Welsh Government revenue budget. Figures in the chart below are at 2015-16 prices.

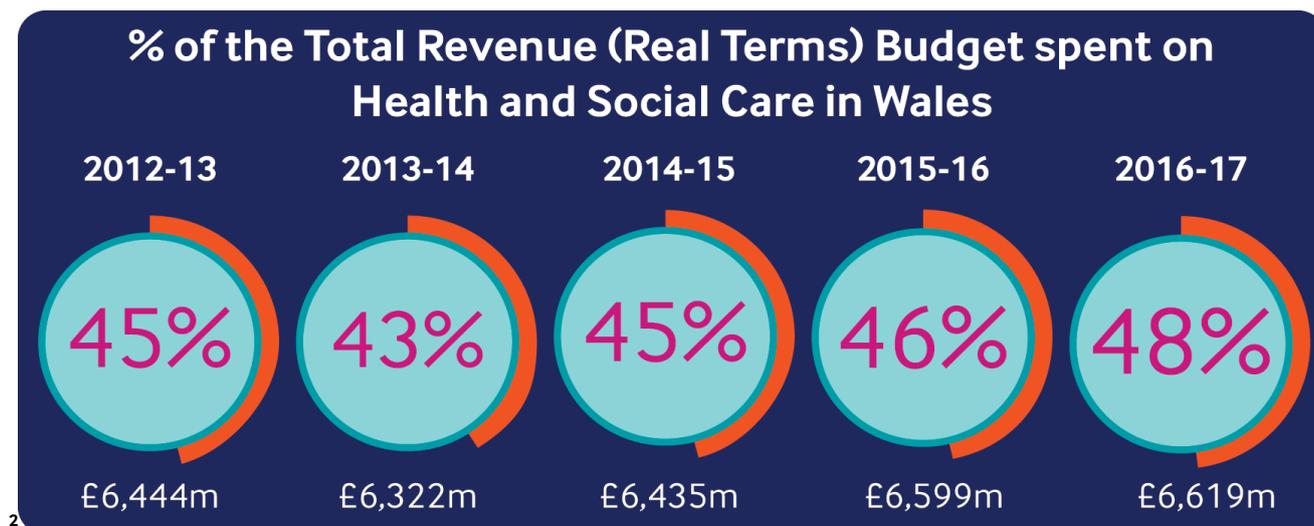


Figure 3 – Percentage of Total Revenue (Real Terms) Budget spent on Health and Social Care in Wales. Source: Welsh Government budgets

General approach to budget scrutiny

10. The Chartered Institute of Public Finance and Accountancy (“CIPFA”) provided advice to the Committee during scrutiny of Welsh Government Draft Budgets in 2012, 2013 and 2014. CIPFA encouraged the Assembly to consider the following four objectives when undertaking scrutiny of the Welsh Government Budget:
- **Affordability** – Is the big picture of total revenue and expenditure appropriately balanced?
 - **Prioritisation** – Is the division of allocations between different sectors/programmes justifiable and coherent?
 - **Value for money** - Are public bodies spending their allocations well – economically, efficiently and effectively? ie outcomes
 - **Budget processes** - Are they effective and accessible? Is there integration between corporate and service planning, and performance and financial management?
11. The Committee has focused particularly on preventative spending and sustainability of public services, including:
- the balance between preventative and demand led spending;
 - evidence on the value for money of preventative spending initiatives;
 - whether the funding allocated is sufficient to achieve intended outcomes;

² Due to the full devolution of non-domestic rates income in April 2015, this income is no longer included in departmental revenue allocations. For consistent comparison, non-domestic rate income for 2016-17 is included in the above figures for 2016-17.

- what choices/decisions have been made in order to pursue these programmes and were these decisions sufficiently evidence based; and
 - consider prudent healthcare and the cross departmental support of health and social care needs.
12. The Committee has also focused on the impact of and how the Welsh Government’s legislative programme is reflected in budgets.
 13. Before the Welsh Government’s draft budgets have been published the Committee has written to other Assembly Committees to set out the suggested focus of financial scrutiny for that year and also encouraged other Assembly Committees to follow this approach to provide more coordinated approach to scrutiny.

Recommendation 1. The Committee considers this approach along with the use of the four overarching objectives of financial scrutiny has enabled the whole institution to work in a more structured and integrated way and recommends any future responsible committee considers working in a similar way.

Time available for scrutiny

14. The Standing Orders for the 4th Assembly provide five weeks for consideration of the Government’s draft budget. While this is less than the Finance Committee considers ideal, it is probably a realistic timescale within the Government’s current operating parameters – i.e. a draft budget that cannot be agreed until after the summer recess and a final budget that has to be agreed before Christmas.
15. Responses from Assembly Committees highlighted that insufficient time was being allocated to budget scrutiny in subject committees. This is due to the short time to report and the fact that Committee’s continue existing business concurrent with budget scrutiny.
16. In a letter to the Committee, the Chair of the Enterprise and Business Committee stated that:

“As changes are made to the Assembly’s budget process, we would hope that extra time will be made available for subject committees to engage with stakeholders over areas of concern, and to allow this to happen so that we can properly feed in to Finance Committee’s broader consideration of the draft budget.”³
17. The current time available for draft budget scrutiny is clearly insufficient to enable for sufficient scrutiny of the complex issues relating to the prioritisation and allocation of the Welsh Government budget. Chapter 7 looks at the inquiries which have considered the devolution of taxes which will necessitate a new budget setting and scrutiny process. It is important that transparent information on the forecasts of future devolved tax income including non-domestic rates is made available to the next Assembly.

³ Finance Committee, **Letter from the Chair of the Enterprise and Business Committee to the Chair**, 9 December 2015

Recommendation 2. The Committee is concerned that the lack of time available to scrutinise the Welsh Government’s budget limits the impact and influence of the Assembly and recommends that the time available for scrutiny is considered when implementing new budget procedure.

Engagement with stakeholders

18. The Committee has strived to maximise scrutiny opportunities for stakeholders within the time restrictions by inviting stakeholders and individuals to comment on expected draft budget proposals based on indicative figures and also on the Welsh Government’s strategic approach to setting the budget, prioritising resources, the outputs and the outcomes that they plan to achieve.
19. The Committee acknowledges that stakeholders’ resources are limited and greatly appreciate their input.
20. The Minister for Finance and Government Business (“the Minister”) acknowledged in her letter to the Finance Committee that “the Finance Committee’s pre-scrutiny of the budget and engagement with stakeholders has helped to shape our thinking on priorities and inform our budget preparations”⁴.
21. In Autumn 2015 the Spending Review took place later than expected which resulted in the draft budget being laid shortly before the Christmas recess, later than other years. Whilst appreciating this timing was not ideal, the Committee felt this provided an opportunity to consult on the actual figures contained in the draft budget (as opposed to the usual consultation on expected allocations). The Committee received 32 responses to this consultation⁵, which is significantly more than has been received in previous years. This shows the benefit of a consultation taking place after the draft budget has been published.

Recommendation 3. The Committee would like to see this practice of consulting on actual figures rather than expected figures continue and recommends that changes implemented to the budget process that will take place before the devolution of tax raising powers in 2018, are such that will allow any future responsible committee to continue this practice.

Recommendation 4. The Committee recommends that in the next Assembly committees should continue to ensure stakeholders and the public are engaged in the budget scrutiny process, and this should continue to be strengthened.

Information requirements

22. The Committee has worked with the Minister to continually improve the quality and transparency of information provided by the Welsh Government accompanying their budgets. The Committee believes that the ability to undertake quality financial scrutiny depends critically on the financial and activity information that is available.

⁴ Finance Committee, **Letter from the Minister for Finance and Government Business to the Chair**, 11 January 2016

⁵ Finance Committee, **Consultation on the Welsh Government Draft Budget for 2016-17**

23. Towards the beginning of this Assembly the Committee agreed a protocol⁶ with the Welsh Government covering specific principles underpinning the budget process. The protocol specifies the level of detail required in budgets and associated documentation, transparency with regard to in-year changes and the provision of end of year outturn figures. The Committee at the same time relaxed restrictions so the Welsh Government's Annual Budget Motion had a single expenditure limit rather than individual budget control totals for each department. The Minister acknowledged that:
- “this step increased our flexibility to manage resources more effectively and, importantly, to align funding with our priorities, particularly towards the end of the financial year.”⁷*
24. The Committee's scrutiny has had an impact in terms of improving the quality of budget documentation. The transparency of information in narrative documentation and the evolving equality and strategic integrated impact assessments have improved annually. There is still a need for information to show a more coordinated view of the impact of policies across departments and the impact of budget reductions on partners, such as local government and the third sector.
25. The Committee recognises that there is still work to be done to ensure that Welsh Government budgets are transparent and the public can clearly see how their priorities are driving changes to allocations and what figures in the budget mean in terms of outputs and to track these commitments into outcomes. The Committee has been particularly disappointed by the inability to see how the preventative agenda and service transformation was reflected in Government budgets. This is a particular issue in the Health and Social Services budget.
26. The late publication of the UK Spending Review in November 2015 caused problems for both the Welsh Government and the Assembly. The Welsh Government published their draft budget two weeks after the Spending Review was published. The draft budget included the provision of provisional funding figures which was appreciated by local government and other stakeholders, and the Committee recognises the pressure this put on the Welsh Government to provide this detail in two weeks.
27. However, the Committee was concerned by the different approach to the presentation of year-on-year changes in allocations in both the Draft and Final Budget 2016-17. The removal of £460 million from the 2015-16 baseline figures led to an “overly positive picture of Welsh public finance for 2016-17”⁸, when the Welsh Government budget was experiencing real terms public sector cuts. The Auditor General for Wales commented that “there is very little explanation of the rationale for the adjustments and the difference between the two sets of figures”.
28. The Committee's report on the Draft Budget for 2016-17 recommended that where such significant changes are being made the Welsh Government should consult with the Committee beforehand.

⁶ Finance Committee, **Protocol on changes to the Budget Motion**, March 2012

⁷ Welsh Government, **Letter from the Minister for Finance and Government Business to the Chair of the Finance Committee**, 11 January 2016.

⁸ Wales Audit Office, **Letter from the Auditor General for Wales to Chair of the Finance Committee**, 29 February 2016

Recommendation 5. The Committee believes that the different presentation of year-on-year comparisons has reduced transparency and recommends that the Welsh Government consult with any responsible committee when significant changes to budget presentation are made, as has been made in the draft budget for 2016-17.

29. The Committee reports on the Welsh Government Draft Budget 2015-16 and 2016-17 both recommended that the Welsh Government agree a firm and consistent definition of preventative spend. This should be used in budgets to show the proportion of the budget being directed towards preventative spend and how this is increasing over time.

Recommendation 6. The Committee recommends that any responsible committee continues to focus scrutiny on how the Prudent Healthcare initiative is developing and the balance of investment into preventative services. It will also be important to monitor the extent to which the health service is investing and transforming services to ensure the long term sustainability of the NHS.

Certainty of funding for delivery partners

30. Chapter 4 of this report sets out the Committee's view on the NHS Finances (Wales) Act, which provides a medium term planning framework with a planning horizon and relative certainty of funding for NHS organisations over three years. There was universal support for this policy and there have been growing calls for more certainty of funding for other delivery partners, in particular local government.

Recommendation 7. The Committee understands the limitations of the UK funding arrangements, however the Committee recommends that the next Welsh Government uses the relative assurance of the Spending Review 2015 to provide more certainty for local government as they approach a period of significant financial constraint and change.

Financial scrutiny framework

31. The Committee valued the input of CIPFA into the budget scrutiny process, including the development of the four objectives of financial scrutiny and the financial scrutiny framework promoted by CIPFA. The Committee have encouraged Assembly Committees to extend financial scrutiny to be part of the committee cycle, through in-year scrutiny, scrutiny of end of year financial position and to incorporate financial scrutiny into inquiry work.
32. This has necessitated a change of culture. The Committee has been particularly encouraged by the experience of in-year scrutiny sessions in the Health and Social Care and Environment and Sustainability Committees and also the Public Accounts Committee's focus in the past two years on scrutiny of the accounts of public bodies.
33. The response from the Children and Young People and Education Committee agreed that Committees in the next Assembly needed to embed financial scrutiny into their work and that this scrutiny should not be limited to the time of the draft budget⁹.

⁹ Children and Young People Committee, **Letter from the Chair to the Chair of the Finance Committee**, 17 December 2015

34. The Spending Review 2015 has confirmed that public funding will be constrained going into the Fifth Assembly and with the devolution of tax powers it is even more important that financial scrutiny is prioritised and embedded in committee work.

Recommendation 8. The Committee would recommend that the Business Committee and Assembly Committees prioritise and promote the cycle of continual financial scrutiny and the mainstreaming of financial scrutiny within policy and legislative work in the Fifth Assembly to strengthen the Assembly’s potential to hold the Welsh Government to account for delivering value for money.

Working with the UK Government

35. The Independent Commission on Funding and Finance for Wales recommended¹⁰ that a Treasury Minister should be invited to meet the National Assembly for Wales’s Finance Committee at least once in every spending review period to discuss the funds made available to Wales. The previous Finance Committee met Danny Alexander, the then Chief Secretary to the Treasury, on 22 November 2010 for the first such meeting, but there has been no follow up meeting this Assembly. While there are limits on the extent to which an Assembly Committee can ‘scrutinise’ a UK Government Minister, a meeting would allow the Committee to gain a better understanding of the operating relationship between the funding of the National Assembly for Wales and the UK Government.
36. The Committee has been frustrated by the reluctance of both the Chief Secretary to the Treasury and the Secretary of State to attend the Committee when invited to attend for the Best Practice Budget Processes Inquiry and the Future Funding Inquiry and scrutiny of the Wales Act 2014 implementation.
37. The Committee shares the Minister’s concerns that there are a number of decisions being made by the UK Government that will impact on current and future budgets over which the Welsh Government has limited influence. These include the:
- budget exchange system,
 - consistent application of the Barnett formula,
 - setting of an enduring funding floor for Wales,
 - agreement of borrowing powers for Wales, and
 - adjustments to the Welsh block for tax devolution.

Recommendation 9. The Committee recommends that the UK Government should commit to regularly send a Treasury Minister to attend any future responsible committee. This would enable any future responsible committee to gain a better understanding of the operating relationship between the funding of the National Assembly for Wales and the UK Government and how this is set to change over the next Assembly.

¹⁰ Independent Commission on Funding and Finance for Wales, **First Report: Funding devolved government in Wales: Barnett & Beyond**, July 2009

Recommendation 10. The Committee recommends fostering links with the committees of the UK Parliament, such as the Welsh Grand Committee and the Welsh Affairs Committee, as a mechanism to encourage dialogue between Wales and Westminster on funding arrangements.

The Assembly Commission budget

38. The Assembly Commission budget is normally the first to be approved by the Assembly during the budget round each year. Whilst it is relatively small, compared with the budget for the Welsh Government, its consideration by the Committee is probably one of the main forms of scrutiny given to the Commission's financial management.
39. The Presiding Officer's letter to the Committee acknowledges that the Commission has enhanced its accountability and transparency as a result of the Committee's work¹¹. This has included the development and reporting of corporate performance indicators and additional evidence sessions in relation to ICT and Official Languages. The Presiding Officer also noted that the agreement of a multiple year budget at the start of the Fourth Assembly was hugely important in taking a strategic planning approach and would appreciate a similar approach in the Fifth Assembly.
40. The Commission has provided assurance that resources are in place in relation to preparing the Assembly for the new fiscal and legislative powers¹².
41. The Committee was pleased that the ICT transformation project was delivered on time and under budget and keen that learning from this success should be shared with the wider public sector¹³.
42. The Committee notes the Presiding Officer's comments regarding the timescale for scrutiny of the Assembly Commission's Budget which suggests the responsible committee should report on the Commission's budget no later than 22 October¹⁴. The Committee agrees and believes that the current Standing Order which requires the Committee to report "no later than three weeks after it has been laid"¹⁵ does not allow adequate time for scrutiny of the Assembly Commission Budget.

Recommendation 11. The Committee recommends that any future responsible committee follows up the recommendation in the 2016-17 Draft Budget report concerning the use of underspends in funds associated with the Remuneration Board's determination for Assembly Members' pay and allowances.

Recommendation 12. The Committee recommends that the Business Committee may wish to consider the Presiding Officer's request that the requirement of Standing

¹¹ National Assembly for Wales, **Letter from the Presiding Officer to the Chair of the Finance Committee**, 2 December 2015

¹² National Assembly for Wales, **Letter from the Presiding Officer to the Chair of the Finance Committee**, 2 December 2015

¹³ National Assembly for Wales, **Letter from the Presiding Officer to the Chair of the Finance Committee**, 2 December 2015

¹⁴ National Assembly for Wales, **Letter from the Presiding Officer to the Chair of the Finance Committee**, 2 December 2015

¹⁵ National Assembly for Wales, **Standing Orders**, Standing Order 20.14

Order 20.14 is amended to enable more flexibility for reporting by the responsible Committee.

Public Service Ombudsman for Wales Estimate

43. Standing Orders 27.28 and 27.29 provide for the Finance Committee to exercise a scrutiny function in relation to the financial estimates of the Public Service Ombudsman Wales¹⁶.
44. The Ombudsman makes the following comments in his letter to the Committee in relation to the legacy inquiry:
- “As regards the Finance Committee’s scrutiny of my budget estimate, I have found this very useful. In particular, the questions put to me by Committee Members have provided me with the opportunity to publicly demonstrate that I take seriously my responsibility for ensuring proper, efficient and effective use of the public money I receive.”¹⁷*
45. The Ombudsman makes a number of requests in this letter:
- A long budgetary planning horizon, maybe 4 years;
 - The ability to retain unspent cash at the end of the financial year; and
 - A letter from the Assembly to confirm funding at the end of the budget process.¹⁸
46. The Committee note a marked improvement in financial information provided to the Committee by the Ombudsman over the Fourth Assembly period.

Recommendation 13. The Committee recommends that any future responsible committee considers the requests from the Public Service Ombudsman for Wales in relation to:

- A long budgetary planning horizon, maybe 4 years;
- The ability to retain unspent cash at the end of the financial year; and
- A letter from the Assembly to confirm funding at the end of the budget process.

Recommendation 14. The Committee recommends the Public Service Ombudsman for Wales should contribute evidence to a fully costed regulatory impact assessment to accompany the draft Public Services Ombudsman (Wales) Bill (see Chapter 7) that can be tracked through future budgets presented by the Ombudsman to the Assembly.

¹⁶ National Assembly for Wales, **Standing Orders**, Standing Orders 27.28, 27.29

¹⁷ Public Services Ombudsman for Wales, **Letter to Chair of the Finance Committee**, 27 November 2015

¹⁸ Public Services Ombudsman for Wales, **Letter to Chair of the Finance Committee**, 27 November 2015

Wales Audit Office budget

47. The Public Audit (Wales) Act 2013 requires the accounts of the Wales Audit Office (“WAO”) to be laid before the Assembly and for their appointed auditor to report on the certified accounts. The Committee has been responsible for the scrutiny of the WAO budgets for the past two years.
48. The Auditor General for Wales made the following comments in his letter to the Committee in relation to the legacy inquiry:

“We have felt well engaged with the Finance Committee, in terms of its consideration of our budget (the Estimate) and related documents (Fee Scheme, Annual Plan, Interim Report, and Annual Report & Accounts). We have found the level of scrutiny provided by the Committee to be challenging and constructive, and this has helped us to strengthen our overall approach.

The questions raised by the Committee are generally clear and insightful, and help to inform future iterations of the Estimate, as we can provide appropriate detail and narrative to support the Committee in its deliberations. This includes the Committee’s request to provide details of our 3 year capital programme in the Estimate.”¹⁹

49. The Committee is the responsible Committee for the oversight role of the Wales Audit Office and the Auditor General for Wales as required by the Public Audit (Wales) Act 2013 and Standing Orders 18.10 and 18.11. The Committee’s role is covered further in Chapter 6.

¹⁹ Wales Audit Office, **Letter from the Auditor General for Wales to the Chair of the Finance Committee**, 3 December 2015





02. Well-being of Future Generations (Wales) Act 2015

Background

50. The Well-being of Future Generation (Wales) Act 2015 (“the Future Generations Act”) places statutory obligations on public bodies in Wales to set well-being objectives towards the achievement of well-being goals. The Future Generations Act sets out these well-being goals as achieving the following:
- A prosperous Wales.
 - A resilient Wales.
 - A healthier Wales.
 - A more equal Wales.
 - A Wales of cohesive communities.
 - A Wales of vibrant culture and thriving Welsh language.
 - A globally responsible Wales.²⁰
51. The Future Generations Act sets out that Ministers must publish indicators and milestones in reaching these goals²¹, and places a duty on an appointed Future Generations Commissioner for Wales to monitor and assess the extent they are met by public bodies²².
52. The Future Generations Act also sets out 5 ways of working for public bodies to enable them to act in accordance with a “sustainable development principle” to reach their well-being objectives: balancing short and long-term needs; taking an integrated approach; involving other interested persons; acting in collaboration; and deploying resources to prevent problems occurring or getting worse²³.
53. The provisions in the Future Generations Act relating to the commencement of the work Future Generations Commissioner were implemented on 1 February 2016, with the well-being goals coming into force on 1 April 2016²⁴.

Best Practice Budget Processes inquiry

54. The Committee considered the implications of the Future Generations Act as part of its inquiry into Best Practice Budget Processes²⁵. The Committee took evidence from the Minister during the course of the inquiry, who stressed that the implementation of the Act should not be “another technical exercise” and that a time of “declining budget and declining public finance” provides a challenge to make the Act meaningful²⁶.

²⁰ Well-being of Future Generations (Wales) Act 2015, Section 4

²¹ Well-being of Future Generations (Wales) Act 2015, Section 10

²² Well-being of Future Generations (Wales) Act 2015, Section 18(b)

²³ Well-being of Future Generations (Wales) Act 2015, Section 5(2)

²⁴ The Well-being of Future Generations (Wales) Act 2015 (Commencement No. 2) Order 2016

²⁵ Finance Committee, Best Practice Budget Process Part 2, Chapter 3

²⁶ Finance Committee, RoP 10 December 2014, paragraph 115

55. The Committee made two recommendations in relation to the Future Generations Act in its report on Best Practice Budget Processes:
- that an integrated approach is taken to ensure that well-being indicators and budget headings align with one another where possible.²⁷
 - that the Welsh Government should consider further how key targeted output or delivery measures could be linked to budget allocations as part of the budget process.²⁸
56. In response to the Committee’s recommendations, the Minister stated that while work was already done in this area the Future Generations Act provided “a further opportunity to clarify the alignment between indicators, outcomes and budget decisions”.²⁹

Welsh Government Draft Budget 2016-17

57. The Welsh Government Draft Budget for 2016-17 provided the first opportunity for the Committee’s recommendations to be exercised. The budget narrative described the approach taken in preparing the draft budget:

“We have adopted the five key ways of working established by the Well-being of Future Generations Act. These ensure that public bodies take a long-term perspective when making decisions; that they consider what actions are required to prevent problems arising in future, or to prevent current problems from getting worse; that they take an integrated and collaborative approach to decision making; and that they involve users in the planning and delivery of services. This approach has been crucial in dealing with the uncertainty of a late Spending Review.”³⁰

58. However, the budget narrative indicated that “further work will be required in the run up to full implementation of the Future Generations Act from April 2016”³¹.
59. Ahead of the publication of the draft budget the Minister for Finance and Government Business noted that the five ways of working established by the Future Generations Act had been “particularly influential” in preparing the draft budget³². In oral evidence to the Committee on the draft Budget 2016-17 the Minister further stressed that the Act was “crucial in terms of the way we move forward.”³³
60. In terms of Ministerial portfolio spending, the Minister highlighted that the five ways of working provided in the Future Generations Act had to be “at the forefront”³⁴ of decision-making by Ministers and that the Act provided a challenge for them to “think hard about prevention”³⁵.

²⁷ Finance Committee, **Best Practice Budget Process Part 2**, page 19

²⁸ Finance Committee, **Best Practice Budget Process Part 2**, page 21

²⁹ Welsh Government, **Response to recommendations from Best Practice Budget Process Part 2**, April 2015

³⁰ Welsh Government, **Draft Budget 2016-17 – Draft Budget narrative**, paragraph 1.8

³¹ Welsh Government, **Draft Budget 2016-17 – Draft Budget narrative**, paragraph 1.10

³² Welsh Government, **Letter from the Minister for Finance and Government Business to the Chair of the Finance Committee**, 30 November 2015

³³ Finance Committee, **RoP 20 January 2016**, paragraph 15

³⁴ Finance Committee, **RoP 20 January 2016**, paragraph 196

³⁵ Finance Committee, **RoP 20 January 2016**, paragraph 84

61. Jo Salway, Deputy Director of Strategic Budgeting for the Welsh Government, expanded on the approach taken in preparing the draft budget alongside the requirements of the Future Generations Act:

“What we tried to do this year was trial the kind of approaches that it needs, because a lot of it is actually about the behaviours, as you say, departmentally, as well as the strategic ministerial ones. So, it is about trying to shift some of the processes and starting to use the future trends report to look at and identify the pressures, and then trying to work differently across the organisation—so not being bound by ministerial responsibilities, but looking at how portfolios overlap and looking at the areas and understanding everything that we do in the name of, for example, schools or social services or further education.”³⁶

62. Echoing the budget narrative, in further written evidence the Minister explained the approach taken in preparing the draft budget as “a preparation for the changes which we required once the Act is fully implemented”³⁷. In oral evidence the Minister also highlighted the “very difficult” nature of the draft budget at it was created at a “very late time in terms of budget-setting cycles” due to the UK Government’s Spending Review.³⁸

Our view

63. The Committee recognises the difficulties for the Welsh Government caused by the lateness of the UK Government’s Spending Review in terms of preparing the draft budget for 2016-17.
64. The Committee also recognises the positive approach taken in the draft budget to mainstream the five ways of working in the Future Generations Act within spending decisions.
65. However, the Committee is disappointed that further preparatory work was not undertaken during the drafting of the budget to align budget headings with the proposed well-being indicators. It was the expectation of the Committee that key targeted output measures would be linked with the budget allocations in the draft budget.

Recommendation 15. The Committee recommends that the Welsh Government continues to work on aligning budget headings with the proposed well-being indicators before the Act comes into force on 1 April 2016.

³⁶ Finance Committee, **RoP 20 January 2016**, paragraph 28

³⁷ Welsh Government, **Letter from the Minister for Finance and Government Business**, 28 January 2016

³⁸ Finance Committee, **RoP 20 January 2016**, paragraph 17



03. Legislation

Background

66. During the Fourth Assembly, 32 Bills were introduced, of which 27 have completed the legislative process to become Acts at time of publication.
67. Two of these Bills were referred by the Business Committee for Finance Committee (“the Committee”) consideration. The Committee undertook post-legislative scrutiny of the first, the National Health Service Finance (Wales) Act 2014, in November 2015; the findings of which are detailed in Chapter 4. An overview of the Committee’s work during the passage of the second, the Tax Collection and Management (Wales) Bill, can be found in Chapter 7.
68. The Committee scrutinised the financial implications of a further 15 Bills, which included the scrutiny of these Bills’ Regulatory Impact Assessments (“RIAs”).

Scrutiny of Regulatory Impact Assessments

69. Standing Order 26.6(vi) of the National Assembly for Wales states that the financial information accompanying each introduced Bill should set out the best estimate of:
 - The gross administrative, compliance and other costs to which the provision of the Bill would give rise;
 - The timescales over which such costs would be expected to arise; and
 - On whom the costs would fall.³⁹
70. The Government of Wales Act 2006 (“GOWA”) notes that the requirement for Welsh Ministers to establish a code of practice setting out their policy for undertaking RIAs on subordinate legislation. Unlike the Standing Orders of the Assembly, GOWA requires RIAs for subordinate legislation to consider the benefits of the legislation in addition to its costs⁴⁰.
71. Following its scrutiny of the Environment (Wales) Bill and the Public Health (Wales) Bill, the Committee raised concerns of potential confusion due to the presentation of costs alongside benefits in the Bills’ RIAs, and made recommendations to the Welsh Government in this regard⁴¹⁴². The Welsh Government accepted the Committee’s recommendations in principle⁴³⁴⁴.
72. The Committee made a further recommendation for the Welsh Government to undertake a post-legislative review of the costs arising from the Environment (Wales) Bill after four to five years⁴⁵. The Welsh Government also accepted this recommendation in principle⁴⁶.

³⁹ National Assembly Wales, **Standing Orders of the National Assembly for Wales**, 26.6 (vi)

⁴⁰ UK Parliament, **Government of Wales Act 2006, Section 76** (2)(a)

⁴¹ Finance Committee, **Report on the Environment (Wales) Bill**, September 2015, Recommendations 1 and 2

⁴² Finance Committee, **Report on the Public Health (Wales) Bill**, September 2015, Recommendations 1 and 2

⁴³ Welsh Government, **Response to Stage 1 Committee reports on the Environment (Wales) Bill**, 4 November 2015, page 26

⁴⁴ Welsh Government, **Response to Finance Committee Stage 1 Report on the Public Health (Wales) Bill**, 26 January 2016

⁴⁵ Finance Committee, **Report on the Environment (Wales) Bill**, September 2015, Recommendation 3

73. The Committee also expressed concern about the RIA for the Regulation and Inspection of Social Care (Wales) Bill during its scrutiny of the Bill. In particular, that there were two provisions in the Bill that would give Welsh Ministers powers to make subordinate legislation that had not been costed. In this regard, the Committee expressed its belief that “all costs in relation to legislation should be accounted for, whether the intention is to use these or not”⁴⁷.
74. The Committee made a similar recommendation following its scrutiny of the Public Health (Wales) Bill, as no estimates for costs associated with subordinate legislation arising from the Bill were provided⁴⁸. The Welsh Government responded by expressing its intention to publish separate RIAs for subordinate legislation made under the Bill, “as is current Government practice”⁴⁹.

Presentation of costs and benefits in RIAs

75. The Auditor General for Wales echoed concerns raised by the Committee in relation to the presentation of costs and benefits in RIAs. In a consultation response to the Constitutional and Legislative Affairs (“CLA”) Committee’s Making Laws in Wales inquiry⁵⁰, he explained that a review of Explanatory Memoranda accompanying Assembly Bills introduced since November 2011 was undertaken by the Wales Audit Office (“WAO”). The main findings arising from the review were that there was:
- a general lack of clarity in the presentation of estimates of costs and timescales within Explanatory Memoranda regarding the proposed legislation;
 - variations in the completeness of estimates of costs, leading to a lack of an overall view of the cost of the legislation⁵¹.
76. The WAO review also determined that “the reader has to do a fair amount of work to arrive at an overall understanding of (a) the costs, (b) the timescales and (c) on whom the costs would fall.”⁵² To resolve this concern, the WAO suggested amending Standing Order 26.6(vi) to require the completion of a table summarising these estimates “so as to provide greater clarity”.⁵³
77. The Auditor General for Wales also raised concerns regarding the presentation of benefits in RIAs, as was done by the Committee. In a letter to the Health and Social Care Committee regarding the Explanatory Memorandum for the Regulation and Inspection of Social Care Bill he explained:

“There is nothing wrong with providing monetised valuations of benefits, but I consider it potentially misleading for such benefits to be mixed in the middle of a table of cash figures ... The mixing of monetised benefits with cash costs

⁴⁶ Welsh Government, **Response to Stage 1 Committee reports on the Environment (Wales) Bill**, 4 November 2015, page 26

⁴⁷ Finance Committee, **Letter from the Chair to the Chair of the Health and Social Care Committee**, 11 June 2015

⁴⁸ Finance Committee, **Report on the Public Health (Wales) Bill**, September 2015

⁴⁹ Welsh Government, **Response to Finance Committee Stage 1 Report on the Public Health (Wales) Bill**, 26 January 2016

⁵⁰ Constitutional and Legislative Affairs Committee, **Making Laws in Wales inquiry**

⁵¹ Constitutional and Legislative Affairs Committee, **ML 20**, paragraph 2

⁵² Constitutional and Legislative Affairs Committee, **ML 20**, paragraph 6

⁵³ Constitutional and Legislative Affairs Committee, **ML 20**, paragraph 11

appears to me to make the Explanatory Memorandum fall short of the requirement of Standing Order 26”.⁵⁴

78. The Children and Young People (“CYPE”) Committee expressed the view that the financial scrutiny of Bills had proved difficult during the Fourth Assembly as the information contained in Explanatory Memoranda were often “very complex and unclear”⁵⁵. In this regard it agreed with a recommendation made by the Committee Chairs’ Forum in its Fourth Assembly Legacy Report:

“Committees could be more assertive in ensuring that legislation is ‘fit for purpose’ by returning Bills to the Welsh Government where they are ill-thought through or clearly not ready”.⁵⁶

Financial implications of subordinate legislation

79. The CLA Committee raised concerns similar to those the Committee made regarding subordinate legislation during its scrutiny of the Regulation and Inspection of Social Care (Wales) Bill. In its report on Making Laws in Wales it raised the potential of a “financial scrutiny gap” if significant changes were made to a Bill after Stage 1, and believed that Committees “should thoroughly consider the cost implications of amendments”.⁵⁷
80. In this regard, the CLA Committee recommended that the Welsh Government “review its approach to Explanatory Memoranda and publish the outcome in readiness for the Fifth Assembly”⁵⁸.

Accuracy and post-legislative reviews of RIAs

81. During its scrutiny of the Environment (Wales) Bill, the Committee highlighted concerns raised by consultees regarding the “robustness” of the cost estimates provided in the RIA for the Bill⁵⁹. It also noted that “as most Bills” the RIA stated that it was not possible to quantify all the identified benefits of the Bill⁶⁰. The Committee’s recommendation that a future Finance Committee should undertake post-legislative scrutiny of the costs associated with the Bill arose from these issues.
82. The Auditor General for Wales’ review of the RIA for the Well-being of Future Generations (Wales) Bill raised concerns about its accuracy. In particular, that the calculations and assumptions related to Welsh Government officers’ cost rates and time commitments were not sufficient⁶¹.
83. In a similar vein, the Residential Landlords Association asserted that the RIA for the Housing (Wales) Act 2014 underestimated the cost of landlord licensing fees, as well as the additional

⁵⁴ Health and Social Care Committee, **RISC 48**, paragraphs 11-12

⁵⁵ Children and Young People Committee, **Letter from the Chair to the Chair of the Finance Committee**, 17 December 2015

⁵⁶ National Assembly for Wales, **Committee Chairs’ Forum Report: Legacy from Fourth Assembly Committees**, November 2015

⁵⁷ Constitutional and Legislative Affairs Committee, **Making Laws in Wales**, paragraph 210

⁵⁸ Constitutional and Legislative Affairs Committee, **Making Laws in Wales**, Recommendation 18

⁵⁹ Finance Committee, **Report on the Environment (Wales) Bill**, September 2015, paragraphs 11-12

⁶⁰ Finance Committee, **Report on the Environment (Wales) Bill**, September 2015, paragraph 17

⁶¹ Wales Audit Office, **Review of the Regulatory Impact Assessment of the Well-being of Future Generations (Wales) Bill**, page 9

number of officers that would be required to administer the increase in landlord registrations arising from the Bill⁶².

84. The CYPE Committee questioned the accuracy of financial information provided in draft legislation. During its scrutiny of the Draft Additional Learning Needs and Education (Tribunal) Wales Bill the CYPE Committee expressed the following concern:

*“there is currently insufficient detail on costs contained in the draft Explanatory Memorandum ... to enable proper scrutiny of the legislative proposals”.*⁶³

Evidence from the Permanent Secretary

85. In a paper to the Committee, the Permanent Secretary to the Welsh Government asserted the following in response to the Committee’s concerns:

“While I acknowledge and support the Committee's view that it is quality, not quantity, that is important, it is nevertheless the case that the organisation has had to develop its legislative capacity substantially to deliver this programme, and at times it has been a steep learning curve. Overall I believe that my colleagues have achieved a considerable amount in supporting Ministers to propose new laws for the benefit of people in Wales.

*At the same time, this is the first term in which this has been done and this means there is much to learn and improve.”*⁶⁴

86. The paper went on to explain their intentions with regard to the presentation of costs alongside benefits in RIAs:

*“The Welsh Government recognises that concerns have been raised by the Auditor General for Wales and Finance Committee around the presentation of costs and benefits in RIAs and in particular that the presentation of monetised benefits alongside cash costs is potentially misleading - this is certainly not the intention. The presentation of monetised benefits alongside costs is a standard approach in economic appraisal and is intended to support the Value for Money assessment.”*⁶⁵

87. In light of the Finance Committee’s recommendations and those arising from the CLA’s Committee’s Making Laws in Wales inquiry the paper also asserted that an internal review had been commissioned into “the structure, content and presentation of RIAs and how best to meet the requirements set out under Standing Order 26.6(vi)”⁶⁶. In addition, it referred to a forthcoming report by the Public Policy Institute for Wales (“PPIW”) on the Welsh

⁶² Residential Landlords Association Wales, **The Truth About Landlord Licensing Fees**, 30 November 2015

⁶³ Children, Young People and Education Committee, **Letter from the Chair to the Minister for Education and Skills**, 10 December 2015

⁶⁴ Finance Committee, **FIN(4)-04-16 Paper 1**

⁶⁵ Finance Committee, **FIN(4)-04-16 Paper 1**, paragraph 13

⁶⁶ Finance Committee, **FIN(4)-04-16 Paper 1**, paragraph 14

Government's impact assessment processes, which the Permanent Secretary advised in oral evidence would be completed in time for the Fifth Assembly⁶⁷.

88. In oral evidence, the Permanent Secretary noted that the Welsh Government were currently agreeing on a template table to present cost and benefit estimates, as suggested by the Auditor General for Wales, in order to gain a consistent approach in meeting the requirements of Standing Order 26.6(vi)⁶⁸.
89. In response to the specific concerns raised by the Auditor General for Wales on the accuracy of the RIA for the Well-being of Future Generations (Wales) Bill the Permanent Secretary acknowledged in oral evidence that it "wasn't really good enough". He further stated that the Welsh Government were currently in discussions with the Auditor General for Wales to gain improvements in the drafting of RIAs for the Fifth Assembly⁶⁹.
90. With regard to the presentation of figures in the RIAs for the Environment (Wales) Bill, the Welsh Government, also recognised the Committee's concerns and stated that the RIA for the Bill, as well as for the Public Health (Wales) Bill were in the process of being amended⁷⁰.
91. In relation to producing RIAs for subordinate legislation, the Permanent Secretary's written evidence stated that although the code of practice specified in GOWA⁷¹ identifies a "limited a number of exceptions" where an RIA would not be required, in the majority of cases an RIA would be completed for subordinate legislation⁷². The paper further stated that the approach taken in developing subordinate legislation was "broadly similar" to that for Bills⁷³.
92. In oral evidence, the Permanent Secretary acknowledged that the requirements for producing RIAs for subordinate legislation was "something of an anomaly" between GOWA and Standing Order 26.6(vi):

*"Part of the anomaly is that the Act also defines regulatory impact in respect of secondary legislation, and it defines it differently from the Standing Orders requirement in 26.6. So, the Act for the secondary legislation defines a regulatory impact assessment as an analysis of the costs and the benefits of the secondary legislation; the Standing Orders requirement only refers to costs. There's potentially a bit of tidying up that could be done for the next session."*⁷⁴

93. The Permanent Secretary also recognised the concerns raised by the CYPE Committee in relation to level of detail in the Explanatory Memorandum for the Draft Additional Learning Needs and Education (Tribunal) Wales Bill. He acknowledged that while being a "first-go" exercise at creating a RIA for a draft bill, the result was "unsatisfactory" due to the quality of external expertise it had received during its drafting. Further, he noted that the First Minister had made a commitment that draft bills would be required to be accompanied by an RIA.⁷⁵

⁶⁷ Finance Committee, **RoP 3 February 2016**, paragraph 154

⁶⁸ Finance Committee, **RoP 3 February 2016**, paragraph 59

⁶⁹ Finance Committee, **RoP 3 February 2016**, paragraph 26

⁷⁰ Finance Committee, **RoP 3 February 2016**, paragraph 50

⁷¹ UK Parliament, **Government of Wales Act 2006, Section 76** (1)(a)

⁷² Finance Committee, **FIN(4)-04-16 Paper 1**, paragraph 16

⁷³ Finance Committee, **FIN(4)-04-16 Paper 1**, paragraph 17

⁷⁴ Finance Committee, **FIN(4)-04-16 Paper 1**, paragraph 77

⁷⁵ Finance Committee, **FIN(4)-04-16 Paper 1**, paragraph 129

94. With regard to the accuracy of RIAs and undertaking post-legislative reviews of them, the Permanent Secretary asserted:

“To date, no retrospective assessment of the accuracy of RIAs has been undertaken by the Welsh Government ... it is considered too early to have undertaken a post-implementation review of many pieces of primary legislation passed during the current term.”⁷⁶

Our view

95. The Committee acknowledges the progress made by the Welsh Government in reflecting both the Committee’s recommendations in relation to RIAs, as well as those made by the CLA Committee and the Auditor General for Wales.
96. In this regard, the Committee eagerly awaits the publication of the Welsh Government’s internal review, as well as the PPIW report on impact assessment processes, and their implementation during the Fifth Assembly.
97. The Committee agrees with the CLA Committee’s view that future Committees should fully consider the cost implications of amendments, so to avoid a financial scrutiny gap.
98. The Committee also acknowledges the Welsh Government’s assertion that at present it is too early to undertake post-legislative reviews of Acts passed during the Fourth Assembly.

Recommendation 16. The Committee recommends that any future responsible committee considers how the cost implications of amendments can be scrutinised, and further recommends that the Business Committee may wish to consider the timings for amendments to ensure sufficient scrutiny is afforded to amendments which may result in significant cost changes.

Recommendation 17. The Committee recommends that any future responsible committee undertakes a piece of work in order to ascertain the accuracy of the costs of Acts introduced in the Fourth Assembly.

Recommendation 18. The Committee recommends that any future responsible committee is afforded the opportunity to review the Welsh Government commissioned Public Policy Institute for Wales report on impact assessment processes following publication.

⁷⁶ Finance Committee, **FIN(4)-04-16 Paper 1**, paragraph 20



Llywodraeth Cymru
Welsh Government



04. The National Health Service Finance (Wales) Act 2014

Background

99. The National Health Finance (Wales) Act 2014 (“NHS Finance Act”) came into force on 1 April 2014. The NHS Finance Act gives effect to the Welsh Government’s proposals in *Together for Health*⁷⁷ to introduce a more flexible financial regime.
100. The NHS Finance Act provides for a new legal financial duty for Local Health Boards (“LHBs”) to manage its resources within approved limits over a 3 year period. Previously, under the National Health Service (Wales) Act 2006 there was a statutory requirement on LHBs for expenditure not to exceed resource limit each financial year.
101. During budget scrutiny last year, the Committee stated an intention to closely monitor the impact of the NHS Finance Act⁷⁸. The Committee indicated its interest in undertaking post legislative scrutiny of the NHS Finance Act, particularly looking at how the three year plans for LHBs are working to improve financial planning, as part of the Committee’s consideration of its legacy.
102. The Committee took evidence from the Minister for Health and Social Services (“Health Minister”) on the effectiveness of this legislation on 11 November 2015.

Evidence from the Minister

103. Referring to the fast tracked scrutiny procedure used to consider this legislation, the Health Minister said:

“it didn’t have a Stage 1 because the case for the change, which was to move the NHS from a one-year to a three-year planning cycle, had been strongly advocated by a series of Assembly committees, including the Finance Committee, in previous reports.”⁷⁹

104. The Health Minister reflected on the passage of the legislation, outlining the three key issues emerging from the scrutiny process. He said:

“There was the issue of tolerances around the year-end. There was the issue of borrowing powers for local health boards. And there was the issue of checks and balances in the system—given that these were to be three-year plans that health boards were asked to prepare, what level of oversight would members of the public and Members of the Assembly have of that process?”⁸⁰

105. The Health Minister said that since the NHS Finance Act had come into force, he had “tried to take all those three things forward”. In relation to borrowing powers for LHBs, the Health Minister said the Welsh Government was consulting on a Green Paper, *Our Health, Our Health*

⁷⁷ Welsh Government, **Together for Health**, 20 February 2012

⁷⁸ Finance Committee, **Scrutiny of the Welsh Government Draft Budget 2015-16**, November 2014

⁷⁹ Finance Committee, **RoP 11 November 2015**, paragraph 6

⁸⁰ Finance Committee, **RoP 11 November 2015**, paragraph 6

Service⁸¹, launched in July 2015, and that it “will fall to the next Assembly and to whoever is in the Government as to what they want to do with the result of that.” He continued:

“In relation to the third, which I think was the major aspect, I think we would argue that we have put in place some strong mechanisms for the planning of three-year plans, for the oversight of three year plans and for the approval of three-year plans.”⁸²

106. The Health Minister referred to the levels of oversight of the NHS now in place. He said:

“health boards are better at the job than they were two years ago, that the scrutiny of what they do is stronger than it was two years ago and that the reporting of what they do to the public and to the Assembly allows anyone who wants to take an interest in that a good level of insight to be able to ask the questions they would want to ask and to get the assurances they would be seeking.”⁸³

Our view

107. The Committee believes the bypassing of the Stage 1 scrutiny process did not affect the quality of the legislation produced given several Assembly Committees had already made recommendations regarding a more flexible financial planning framework for the NHS. However, the Committee would not wish to see this accelerated scrutiny process being used as a matter of course for future Bills in the next Assembly.

108. The Committee is pleased that the Welsh Government is taking steps to seek views on borrowing powers for health boards through a Green paper.

Recommendation 19. The Committee recommends that if health boards are granted borrowing powers these changes should be considered within the parameters of robust plans to ensure this does not lead to ongoing deficits.

Improving the process

109. The Finance Committee’s draft budget report 2015-16⁸⁴ included a recommendation that the Committee would expect in the second year of operation of the new financial planning system, that all NHS bodies should have agreed robust three year plans. The report recommended the Welsh Government put in place steps to ensure this happens.

110. The response from the Welsh Government⁸⁵ stated that the NHS Finance Act included a statutory requirement for NHS organisations to prepare three-year integrated plans. This would result in a more formal scrutiny and challenge process, whilst at the same time ensuring better quality through the integration of the service, workforce and financial elements.

⁸¹ Welsh Government, **Green Paper: Our Health, Our Health Service**, July 2015

⁸² Finance Committee, **RoP 11 November 2015**, paragraph 7

⁸³ Finance Committee, **RoP 11 November 2015**, paragraph 7

⁸⁴ Finance Committee, **Scrutiny of the Welsh Government Draft Budget 2015-16**, November 2014

⁸⁵ Welsh Government, **Response to the Finance Committee’s Report on Scrutiny of the Welsh Government Draft Budget 2015-16**, December 2014

111. The planning framework and guidance to support the preparation and submission of the second round of integrated three-year plans was refreshed and updated, this covered the period 2015-16 to 2017-18.
112. In response to the Committee’s scrutiny of the draft budget, the Welsh Government indicated they were hopeful that additional plans would be approved over and above the four which had been approved for 2014-15 to 2016-17. However, the Health Minister made it clear that only those plans which fully met the planning requirements and could demonstrate a robust, realistic, balanced financial position over the three-year period would be approved.

Local Health Boards and Trusts	Plans approved	
	2014-15	2015-16
Abertawe Bro Morgannwg UHB	3y	3y
Aneurin Bevan UHB	1y	3y
Betsi Cadwaladr UHB	1y	1y
Cardiff and Vale UHB	3y	3y
Cwm Taf UHB	3y	3y
Hywel Dda UHB	1y	1y
Powys Teaching Health Board	1y	3y
Public Health Wales Trust	1y	3y
Velindre HNS Trust	3y	3y
Welsh Ambulance Service Trust	1y	1y

113. The Minister has circulated updated planning guidance each year. This guidance has been published earlier to give NHS bodies more time to draft plans. An updated planning framework for 2015-16 plans was circulated on 31 October 2014 and the latest planning framework for 2016-17 was published on 9 October 2015⁸⁶.

Evidence from the Minister

114. The Health Minister outlined three areas where lessons had been learnt. The first being “clearer with health boards about their responsibility in terms of the oversight of the plans”. The Health Minister explained:

“The law requires the plan to go, in the end, to an open meeting of a health board and to be signed off by the whole health board. I think we’ve learnt that

⁸⁶ Welsh Government, **NHS Wales planning**, October 2015

*we need to make sure that health boards are discharging their own oversight responsibilities more sharply than maybe they did in the first year”.*⁸⁷

115. Secondly, the Health Minister suggested that as the rolling programme matured a differentiated approach could be taken. He explained how organisations that have succeeded in having plans approved for two years already can provide a slimmer version to get a plan approved in the third year. However for “an organisation that hasn’t had an approved plan, we will expect the full works to be submitted”.⁸⁸

116. Finally, the Health Minister reflected on the timeliness of the process. He said:

*“I think we’ve learnt that we want to try and move the process forward in time if we can. In the first year, we issued the planning framework on 4 November in 2013. We did it on 31 October in 2014, and we moved it to 9 October in 2015. So, we’ve gained a month in the first three years, and I think that’s deliberately done, recognising the lesson of needing to move the process earlier.”*⁸⁹

Our view

117. The Committee recognises the particularly tight timescales in the first year of the legislation was implemented, and is pleased the process is improving over time.

Recommendation 20. The Committee recommends that updates are provided to any future responsible committee on how the NHS Finance Act is improving financial planning in the NHS and performance in meeting the requirements of this Act.

Flexibility over the longer term

118. As the legislation bypassed the Stage 1 scrutiny process, in advance of the Stage 1 Plenary debate on 8 October 2013, the Chair of the Finance Committee wrote to the Auditor General for Wales seeking his views on the Bill as introduced.

119. The Auditor General in his response outlined some practical limitations to the proposed arrangements. He noted from the third year onwards, each LHB will find itself in the third year of any single three-year funding cycle. An LHB’s available resources for that financial year will essentially be the balance of allocated resources that remain unspent from the preceding two years of the three-year plan, after taking account of any uplifts in funding for years 2 and 3 of that planning period that may be provided by the Welsh Government when approving subsequent three-year plans. He continued that it would therefore appear that the scope for financial flexibility under the arrangements set out within the legislation, from 2016-17 onwards, will be only very slightly greater in practice than what was already available to LHBs. He did, however, note that the legislation would make provision for LHBs to carry-forward any

⁸⁷ Finance Committee, **RoP 11 November 2015**, paragraph 48

⁸⁸ Finance Committee, **RoP 11 November 2015**, paragraph 48

⁸⁹ Finance Committee, **RoP 11 November 2015**, paragraph 49

under-spend to future years, rather than having to surrender these back to the Welsh Government.⁹⁰

Evidence from the Minister

120. When asked about what flexibility could be built into the system, the Health Minister emphasised that:

“from the beginning, this was constructed as a rolling programme. So, there is no inherent reason why flexibility becomes squeezed out as the system rolls on, because you’re always in the start of a new three-year cycle every year.”⁹¹

121. However, the Health Minister continued:

“I have to take a cautious approach to that because any flexibility we are able to offer local health boards can only be offered within the totality of the main expenditure group that I have to manage because the MEG still has to balance at the end of the year.”⁹²

122. When asked about the possibility of LHBs carrying forward unplanned surpluses and deficits, the Health Minister responded:

“Planned surpluses and deficits are what this regime is about. It’s about agreeing with health boards when they need to overspend in year 1 to make sensible investment decisions that then release revenue in years 2 and 3 or, sometimes, underspend in year 1 because there’s a big project that they want to be able to take forward in year 2. Planned deficits, I think, are firmly within the sight of three-year plans.”⁹³

123. The Health Minister continued that even planned surpluses and deficits must be within parameters, saying:

“because of the limitations of our budget as a whole, sometimes, we will have to deny even planned flexibility to one health board because another health board’s plan has got a higher priority, even when the second health board’s plan might be a plan we would want to approve. All this can only be done within the overall limits of the budget.”⁹⁴

Our view

124. The Committee believes three year plans to be a positive development and notes the Health Minister’s comments on flexibility. However, the Committee has concerns as to how cases where unplanned deficits are run in consecutive years and whether these deficits can be repaid in the third year of the planning cycle without impacting on service delivery.

⁹⁰ Wales Audit Office, **Letter from the Auditor General for Wales to the Chair of the Finance Committee from Auditor General for Wales**, 16 October 2013

⁹¹ Finance Committee, **RoP 11 November 2015**, paragraph 97

⁹² Finance Committee, **RoP 11 November 2015**, paragraph 97

⁹³ Finance Committee, **RoP 11 November 2015**, paragraph 99

⁹⁴ Finance Committee, **RoP 11 November 2015**, paragraph 103

Recommendation 21. The Committee recommends the close monitoring, by both the next Welsh Government and any future responsible committee, of how overspends are dealt with, especially for NHS bodies with year on year overspends.

Additional in-year funding provided to NHS bodies

- 125.** It has been commonplace for quite significant additional funding announcements to be made during the financial year, after plans and funding for the current year have been signed off. For example during the 2014-15 financial year the following in-year funding announcements were made:
- At the time of publishing the draft budget 2015-16 in September 2014, the Minister for Finance and Government Business indicated that they would be allocating a further £200 million to NHS Wales for the 2014-15, this was allocated a supplementary budget in February 2015.
 - On 18 November 2014, the Health Minister announced agreement of a pay award for nursing staff. A number of changes came into effect on 1 January 2015 and impact on 2014-15 and 2015-16 financial years. £18.9 million additional funding was provided towards the end of 2014-15 to pay for this agreement.
 - On 18 January 2015 the Welsh Government announced that it would allocate an extra £40 million from reserves to the Welsh NHS in 2014-15 to help it deal with winter pressures.

Evidence from the Minister

- 126.** When asked if the additional sums of money provided to the NHS after the initial budgets are approved in any way undermines the strategic planning process in place, the Health Minister replied:

“my own view is that having a three-year approved plan actually makes it easier to allocate any additional sums of money that might become available in an informed way, because if you do have money—for example, we had £40 million for primary care this year as a result of last year’s autumn statement—because we’ve got organisations with approved plans and we know those organisations have got solid ideas for how their primary care service is going to be developed in the future, we’re able to make better decisions with any additional money.”⁹⁵

- 127.** The Director General for Health and Chief Executive of the NHS, Dr Andrew Goodall continued:

“The funding that Welsh Government has provided does give us an opportunity to be very focused on its use and, as an example, the Minister has been very clear about wanting to support the cluster model in Wales. This is about breaking up the populations into 30,000 or 50,000 population groups, 64 clusters, and actually getting the money right through to the individual clusters, with an individual allocation. That allows the clinical teams led by

⁹⁵ Finance Committee, **RoP 11 November 2015**, paragraph 143

the GPs to really make some very clear decisions about what their local population health needs are and to actually use it to their advantage. We are very carefully monitoring the use of that money being made during this year, which is the first year that that money's been available. But the process, and the detail of the planning team and how they review, that's where you get confidence about where the individual organisations are going.”⁹⁶

Our view

Recommendation 22. The Committee recommends that the next Welsh Government ensures any future additional funding provided to the NHS is strategically spent with a plan for the allocation of funding which is based on clear evidence.

⁹⁶ Finance Committee, **RoP 11 November 2015**, paragraph 165



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05. Tax Collection and Management (Wales) Bill

Background

128. The Wales Act 2014⁹⁷ provides the Assembly with the competence to legislate over devolved areas of taxation and provides a clear framework for the policy options with regard to replacement taxes, including tax on transactions involving interests in land and tax on disposals to landfill.
129. The Minister for Finance and Government Business introduced the Tax Collection and Management (Wales) Bill⁹⁸ (“the Tax Bill”) on 13 July 2015. The purpose of the Tax Bill is to put in place the legal framework necessary for the future collection and management of devolved taxes in Wales, in particular the establishment of the Welsh Revenue Authority (“WRA”).
130. This is the first piece of tax legislation to be considered by the Assembly and means Wales is in a position to collect its own taxes for the first time in 800 years.

Consideration of the general principles

131. At its meeting on 23 June 2015, the Business Committee agreed to refer the Tax Bill to the Finance Committee for consideration of its general principles (Stage 1), in accordance with Standing Order 26.9. The Business Committee agreed that the Committee should report to the Assembly by 27 November 2015.
132. As part of the Committee’s approach to scrutiny, between 15 July and 8 September 2015 the Committee conducted a public consultation to inform its work, based on the agreed terms of reference. 16 responses were received and published on the Assembly’s website⁹⁹.
133. The Committee appointed an expert adviser, Lakshmi Narain, to provide advice and guidance during its consideration of this complex subject area.
134. In addition, the Committee held a stakeholder event and oral evidence sessions with a number of witnesses.

Stakeholder event

135. To fully understand the implications of this legislation, the Committee wished to engage with stakeholders in an informal setting, to provide scope for more open dialogue and an outreach opportunity for the Committee.
136. Recognising this as a very specialist area, tax specialists and wider stakeholders were approached to attend the event.
137. To encourage the presence of specialists, the Committee sought agreement to provide participants the ability to earn Continuous Professional Development points through their attendance.

⁹⁷ UK Parliament, **Wales Act 2014**

⁹⁸ National Assembly for Wales, **Tax Collection and Management (Wales) Bill, as introduced**

⁹⁹ Finance Committee, **Consultation on the Tax Collection and Management (Wales) Bill**, July 2015

138. A note of the discussion containing unattributed comments was published to the Assembly's website¹⁰⁰.
139. Following the event, feedback was sought from both stakeholders and Members of the Committee. Responses were positive and Members generally felt the event struck the right tone, allowing participants to freely express a view. Stakeholders agreed, saying the event was informative and it was useful to meet Members to discuss issues informally. Stakeholders expressed an appetite for a similar event when other devolved tax bills are introduced.

Stage 1 Report

140. The Committee produced its Stage 1 Report¹⁰¹ outlining its conclusions and recommendations, based on the evidence received during the course of its inquiry. The Committee made 29 recommendations, including that:
- The Bill be strengthened to ensure the independence of the Welsh Revenue Authority from the Welsh Government and this should be expressly provided for on the face of the Bill;
 - The Bill is amended to prevent the Welsh Government intervening in the exercise of the Welsh Revenue Authority's operational functions, and;
 - The Charter must specifically refer to a quality service for the taxpayer and to its application to delegated bodies with responsibility for collection and management of taxes.
141. The Committee felt that the WRA status as a body independent of the Welsh Government should be made clear, as it is akin to equivalent bodies such as Revenue Scotland and Her Majesty's Revenue and Customs ("HMRC").
142. The Committee accepts that some direction will be needed from Welsh Ministers to set tax policy and maintain strategic oversight. However, the Committee has concerns that the provision may be used by the Welsh Government to restrain the exercise of the WRA's operational functions.
143. The Committee also believed it was important for any Charter to set out exactly what the people of Wales could expect from the WRA, and vice versa.
144. The Stage 1 debate in Plenary was held on 8 December 2015. The motions to approve the general principles of the Bill and a Financial Resolution were agreed.

Stage 2 Detailed Consideration by Committee

145. Stage 2 commenced on 9 December 2015. 96 amendments were tabled; two were subsequently withdrawn. The Committee met to consider and dispose of the amendments on 28 January 2016.
146. All 36 amendments tabled by Jane Hutt AM, Minister for Finance and Government Business were agreed. The main changes to the Bill included:

Membership of WRA

¹⁰⁰ Finance Committee, **Notes from Tax Collection and Management (Wales) Bill Stakeholder event**, 23 September 2015

¹⁰¹ Finance Committee, **Stage 1 Report on the Tax Collection and Management (Wales) Bill**, November 2015

147. A new section 'Appointment of elected executive member' was inserted into the Bill to provide for an additional category of WRA executive member, namely a staff member that is to be appointed by the non-executive members following the conduct of a WRA staff ballot ("elected executive member"). The non-executive members must also determine the terms of that person's appointment.
148. There was also an increase in the minimum number of 'non-executive members' of the WRA appointed by the Welsh Ministers from three to four. This was to ensure the WRA board retains a majority of non-executive members to take account of the new elected executive member.
149. The term to be served by a non-executive member of the WRA was amended to no more than five years and not appointed more than twice.

WRA's Procedure

150. Amendments were agreed that established rules which prescribe a meeting of WRA is not quorate unless a majority of non-executive members are present.

General directions

151. The provision which provided that Welsh Ministers do not need to publish directions if they would prejudice the effective exercise of WRA's functions was removed. The effect of this is that any direction made under the general directions section must be published.

Charter of standards and values

152. The Bill was amended to specify that the WRA must review its Charter at least once every five years of it being published or reviewed and that the first Charter is to be published within three months of the coming into force of section 26.

Auditor General for Wales

153. An amendments was agreed to make provision for the Wales Audit Office to charge a fee to audit the WRA's Tax Statement through changes to the Public Audit Act 2013.
154. A full summary of the changes made to the Bill at Stage 2 has been produced by the Assembly Research Service¹⁰².

Stage 3 Detailed Consideration by the Assembly

155. Stage 3 commenced on 29 January 2016. 561 amendments were tabled; one was subsequently withdrawn. The Assembly considered and dispose of the amendments in Plenary on 1 March 2016.
156. Of the 561 amendments tabled, 539 amendments related to changing the name of the Welsh Revenue Authority to Revenue Wales. At Stage 2, Nick Ramsay tested the principle of changing the name of the Welsh Revenue Authority by tabling 6 amendments to the relevant section.

¹⁰² National Assembly for Wales, Research Service, **Tax Collection and Management (Wales) Bill: Summary of changes at Stage 2**, February 2016

These amendments were not agreed. Nick Ramsay re-tabled the amendments at Stage 3 and all subsequent references to the Welsh Revenue Authority and WRA throughout the Bill.

- 157.** As the first amendment to change the name of the Welsh Revenue Authority was not agreed the other 538 amendments that deal with this issue fell.
- 158.** All 3 amendments tabled by Jane Hutt AM, Minister for Finance and Government Business were agreed. These included:

Membership of WRA

- 159.** An amendment to ensure that the non-executive members, rather than the whole of the WRA Board, appoint each subsequent chief executive of the WRA, following the first appointment made by the Welsh Ministers.

Charter of standards and values

- 160.** An amendment to ensure the Charter prepared by the WRA, must include service standards as well as standards of behaviour and values to which the WRA is expected to adhere.

Annual Report

- 161.** An amendment that ensures the Annual Report prepared by the WRA, must contain an assessment of the extent to which during the financial year WRA has demonstrated the standards of service, behaviour and values set out the Charter to which WRA is expected to adhere.

Stage 4 Final Stage

- 162.** On 8 March 2016 the motion to approve the Bill was agreed by the Assembly. Following completion of Stage 4 proceedings, the Bill was submitted to Her Majesty for Royal Assent. Once Royal Assent has been granted the Bill will become an Act of the Assembly.

Our view

- 163.** As the Tax Collection and Management (Wales) Bill was the first piece of tax legislation to be considered by the Assembly, the Committee were keen to ensure full engagement with public bodies and the general public affected by the proposed legislation and policy intentions.
- 164.** The Committee viewed the expert advice provided by Lakshmi Narain during its Stage 1 scrutiny of the Bill as invaluable.

Recommendation 23. The Committee recommends that any future committee which considers tax legislation should ensure comprehensive engagement with tax stakeholders and experts in the field across Wales, building on the relationships created during the scrutiny of the Tax Collection and Management (Wales) Bill.



15:27



06. Oversight of the Wales Audit Office

Background

- 165.** The Public Audit (Wales) Act¹⁰³ (“PAWA”) came into force in 2013 which provides for a responsible Committee to have an oversight role in relation to the Wales Audit Office (“WAO”). The Finance Committee is currently the Committee tasked with these this oversight role.
- 166.** Since the commencement of PAWA the Finance Committee has been undertaking the functions detailed in Standing Orders 18.10 and 18.11, and has scrutinised the annual estimates, annual plan, fee schemes etc. During the scrutiny sessions with the WAO and the Auditor General a number of issues have arisen in relation to the usability of the legislation, additionally Isobel Garner, Chair of the WAO, wrote to the Committee in June 2015 with proposals for changes to the PAWA¹⁰⁴.
- 167.** The Committee responded to the Chair of the WAO addressing some of the specific points raised which have been summarised within this part of the report¹⁰⁵.

Reviewing the Public Audit (Wales) Act

Provisions relating to fees

- 168.** In November 2014, the Committee produced its report, Scrutiny of Auditor General for Wales’ Annual Report and Accounts 2013-14; and the Wales Audit Office Estimate 2015-16¹⁰⁶.
- 169.** During the evidence session Members asked about issues which may have occurred with the PAWA. The Auditor General highlighted concerns about the requirement PAWA placed on him to charge no more than the cost of providing each audit function when conducting his work. The Auditor General said this was causing an undue complexity about how to calculate fees as it was unclear what was meant by *function* – whether the charges need to be accurate and adjusted for each piece of work, or whether it just needs to be correct over the course of a year. The Auditor General argued that:

“If that is the case, what if, say, we started with an estimate on the high side and we ended up on a lower charge? Do we do a refund? Do we then overcharge the next time? We think that the intention was to say that, in the course of a year, with the audit work in Caerphilly [for example], the charge for it should be no more than it actually costs us. That degree of complexity has really occupied a lot of time, I have to say, and legal advice, and I think that we are really going to mark it up as something that, in future, we will need to address in terms of simplification. I think it was that one word that was inserted that caused complexity.”¹⁰⁷

¹⁰³ UK Parliament, **Public Audit (Wales) Act 2013**

¹⁰⁴ Wales Audit Office, **Letter from Chair to the Chair of the Finance Committee**, 19 June 2015

¹⁰⁵ Finance Committee, **Letter from the Chair to the Chair of the Wales Audit Office**, 8 July 2015

¹⁰⁶ Finance Committee, **Scrutiny of Auditor General for Wales’ Annual Report and Accounts 2013-14; and the Wales Audit Office Estimate 2015-16**, November 2014

¹⁰⁷ Finance Committee, **RoP 6 November 2014**, paragraph 19

170. The Committee recommended that PAWA be amended to clarify the audit fee charging requirements.

Recommendation 24. The Committee recommends that the Public Audit (Wales) Act is amended to clarify the audit fee charging requirements, and in the meantime that the Wales Audit Office comes to a mutual understanding with organisations about what is required in terms of charging, subject to any relevant legal advice.

171. The Committee wrote to the Government requesting clarification on the intention behind the wording in the Act and how it should be interpreted.¹⁰⁸
172. The Government response stated that they were “not convinced the Act needs to be amended”, additionally the Welsh Government believed it would not be appropriate for them to take the lead in amending PAWA.¹⁰⁹
173. Specifically in relation to the Fee Scheme the WAO suggested that the PAWA be amended so that the “may not exceed the full cost” constraint applies to the setting of fee scales and fee amounts in the section 24 Scheme for charging fees, rather than the fees actually charged under Section 23.
174. In response the Committee believed that one of the bases for introducing the PAWA was to increase transparency and accountability of the WAO and Sections 23 and 24 of the PAWA were formulated with this in mind. The Committee were mindful that the PAWA is prescriptive only to the extent that fees may not exceed the full cost of the functions to which they relate; it does not prescribe the internal mechanism for calculating and administering the fees.

Appointments of non-executive Members

175. The WAO suggested that either through amending the PAWA or perhaps more appropriately through changes to the Assembly’s Standing Orders, the involvement of the Chair of the WAO in the appointment process for non-executive members could be facilitated.
176. The Committee recognised the helpful contribution the Chair of the WAO made to the recruitment undertaken for a recent non-executive Member. The Committee agreed it is important that there is mix of skills, knowledge and experience on the board and consulting the Chair of the WAO when undertaking further recruitments is seen by Members as good practice. However, the Committee did not feel it was appropriate to prescribe that the Chair of the WAO Board must be involved in all recruitment exercises relating to non-executive Members of the Board as this could lead to unintended consequences and on some occasions it may not be appropriate to have this involvement.

Means of affecting the changes

177. The WAO recommended that changes to the PAWA be addressed through amendments made by Welsh Ministers by order under section 33 of the PAWA, rather than through further primary legislation.

¹⁰⁸ Finance Committee, **Letter from Chair to the Minister for Finance and Government Business**, 20 December 2014

¹⁰⁹ Finance Committee, **Letter from Chair to the Minister for Finance and Government Business**, 20 December 2014

178. The Committee considered the suggestion that the matters raised could be considered to be “minor drafting issues”, however, the Committee concluded the suggestions related to matters which go to the substance and intent of the PAWA and as such go beyond what may be regarded as supplementary or consequential to the PAWA and accordingly could not be accommodated by way of an order made under section 33 of the Act.

Evidence from the WAO

179. During the Finance Committee’s scrutiny of the Auditor General for Wales’ Annual Report and Accounts 2014-15; and the Wales Audit Office Estimate 2016-17, the Chair of the WAO reiterated the call for changes to the PAWA. She said:

“one of the little quirks of the Public Audit (Wales) Act 2013 is in the drafting around the fee regime around the cost of functions, something I know this committee is already familiar with. I’d just highlight that there are still some tweaking things that, ideally, we’d like to see.”¹¹⁰

180. The Chair of the WAO indicated that the WAO would be commissioning a review of lessons-learnt through implementing the PAWA to provide more of a narrative around the areas perceived to have caused difficulty.¹¹¹

Our view

181. When the Chair responded to the June 2015 letter the Committee indicated that the PAWA had not yet been in place for 2 years, and that any departure from the specific provisions of the PAWA at that time would be premature.
182. The Committee’s position remains that it is too soon to look at making wholesale changes to the PAWA at this time, however, Members do have some sympathy with some of the issues raised by the WAO and the Auditor General.

Recommendation 25. The Committee believes it would be inappropriate for the Chair of the WAO to have a formal, required role in the appointment of new WAO board members, but re-assert that good practice dictates that the Chair would be consulted when future recruitment exercises are taking place and recommends that any future responsible committee continues the good practice of consulting with the Chair of the WAO during future recruitment processes for non-executive members of the WAO Board.

¹¹⁰ Finance Committee, **RoP 5 November 2015**, paragraph 13

¹¹¹ Finance Committee, **RoP 5 November 2015**, paragraph 59

Recommendation 26. The Committee recommends that any future responsible committee undertakes a post legislative inquiry into the provisions of the Public Audit (Wales) Act and how these have worked in practice, with a view to making recommendations for improvement. The Committee believes the Public Audit (Wales) Act should be operational for five years before this review takes place.

Recommendation 27. The Committee has had briefing sessions with the from the Wales Audit Office and the Auditor General following the introduction of the Public Audit (Wales) Act outlining the complexity and implications of how the WAO is funded and the approach to fee setting. Any future responsible committee in the Fifth Assembly may find such an introductory session useful and we would recommend this happens.



INQUIRIES UNDERTAKEN BY THE THE FINANCE COMMITTEE DURING THE FOURTH ASSEMBLY

During the Fourth Assembly, the Committee undertook

 **13**
INQUIRIES

AND MADE A TOTAL OF

 **121**
RECOMMENDATIONS

THE COMMITTEE UNDERTOOK INQUIRIES INTO THESE TOPICS:

Devolved Funding: Borrowing Powers and Capital

Effectiveness of European Structural Funding in Wales

Invest to Save

Asset Management

Enterprise Zones

Higher Education Funding

Finance Wales

Best Practice Budget Processes Part I

Best Practice Budget Processes Part II

Consideration of powers: Public Services Ombudsman for Wales

Collection and management of devolved taxes in Wales

Future Funding for Wales

Consultation on the Draft Public Ombudsman (Wales) Bill

07. Inquiries

Background

183. The Finance Committee has completed 13 inquiries during the Fourth Assembly. The Committee's reports and relevant responses are available on the Committee's webpages¹¹². The more recent developments in a number of areas considered by the Committee are covered below.

Devolved Funding: Borrowing Powers and Capital

- 184.** The Finance Committee published its report on Borrowing Powers and Innovative Approaches to Capital Funding¹¹³ in July 2012. During the course of the inquiry the Committee explored the borrowing arrangements which were in place across the UK and considered the powers which should be granted to the Welsh Government. The Committee took account of the lessons learned from local government experiences of borrowing, and from the application of controls to ensure that such borrowing is affordable, sustainable and prudent.
- 185.** The Committee considered alternative sources of financial flexibility, and innovative capital financing models which could be employed by the Welsh Government to support and drive its capital investment programme. It also considered mechanisms to share best practice, to drive innovation, ensure robust asset management, and to support the development of skills and capabilities.
- 186.** The Committee made a series of recommendations as a result of the evidence taken and a number of these were closely linked to the work of the Silk Commission. The Committee made a series of recommendations as a result of the evidence taken and a number of these were closely linked to the work of The Commission on Devolution in Wales ("The Silk Commission"). The Silk Commission's Part 1 report states that:

"We are also grateful that the National Assembly for Wales Finance Committee chose to produce a report Borrowing powers and innovative approaches to capital funding in July 2012, and we have drawn on the evidence in that report."

187. Shortly after Silk reported¹¹⁴ the Wales Act 2014¹¹⁵ was enacted.

Best Practice Budget Processes Part I and II

188. The Silk Commission published its Part 1 report¹¹⁶ in November 2012. The report recognised that the devolution of tax-raising and borrowing powers would require changes to existing financial management and scrutiny arrangements. In particular, Chapter 8 of the Silk Commission report discussed the implementation of the new powers, with recommendations 29 to 33 focussing on the need for new fiscal and budget processes.

¹¹² Finance Committee, [Homepage](#)

¹¹³ Finance Committee, [Borrowing Powers and Innovative Approaches to Capital Funding](#), July 2012

¹¹⁴ Commission on Devolution in Wales, [Empowerment and Responsibility: Financial Powers to Strengthen Wales](#), November 2012

¹¹⁵ UK Parliament, [Wales Act 2014](#)

¹¹⁶ Commission on Devolution in Wales, [Silk Commission Part 1 report](#), November 2012

- 189.** The Wales Act 2014 gave effect to much of the Silk Commission Part 1 Recommendations. It gave the Assembly powers to replace stamp duty land tax and landfill tax, powers to vary income tax rates (subject to a referendum), and it provided the Welsh Government with wider short term borrowing powers and new powers to borrow for capital expenditure. The Act also allowed the Assembly to legislate to determine a process for the scrutiny and approval of the annual budgets for the Welsh Government and certain other public bodies.

Terms of Reference

- 190.** The Committee decided to consider its inquiry into best budget processes for Wales in two parts. It agreed to consider:

Part 1 – Budgetary best practice and its applicability to Wales

- International best practice for financial accountability and budget processes, particularly in devolved administrations
- Opportunities for the budget processes to incorporate new concepts - such as preventative spending, less restrictive annual budgeting, and programme/outcome-based budgets.

International best practice

- What are the principles of fiscal accountability?
- How do other countries achieve devolved financial accountability while retaining central fiscal control?

Are the devolved powers tailored to the Welsh devolution settlement?

- As the powers in the Wales Bill are based on those in the Scotland Act, does this create unforeseen problems in Wales?

Linking budgets to outcomes

- What new budget procedures are needed to improve the links between policies, spending programmes and outcomes?
- How would outcomes generated by the UK Government and the global economy be identified separately from those generated by local Welsh Government policies?

Part 2 – Planning and implementing new budget procedures

- Financial control – outlining the budgetary mechanisms which will control the new tax and borrowing powers, and how these impact on the Welsh block and the Welsh economy. In particular, how the Holtham Commission recommendations will be met.
- The implementation of new budget procedures to reflect the additional powers.

Tax and borrowing issues

- As identified in the Holtham Report; e.g. the impact on the block grant and the 'indexed method' for adjustments; the basis of the devolved taxes; the lack of a needs based floor; no clear resolution of 'convergence' issues; what is the tax yield and what borrowing could be

made against this income; what would be the basis of any new taxes and will they be governed by principles or rules?

Managing budgetary risk

- What additional budgetary risks are introduced by the new powers and how will these be monitored and managed (e.g. how are shortfalls in revenue managed)?
- How can the new budget processes be made transparent and understandable to all stakeholders, and how can stakeholders engage and participate in the budget process.

UK budget planning

- how does the Assembly work with Welsh Government, UK government and other public bodies under the new arrangements; how should the budget process be timetabled to meet Welsh and UK Government requirements (e.g. UK spending reviews)

Implementation

- how does the Assembly formally implement the devolution of the financial powers; how does the Assembly scrutinise, approve and monitor the Welsh Government's annual tax, borrowing and expenditure requirements; how does Welsh Government seek approval for new tax and borrowing powers from HM Treasury, and what role should the Assembly have in agreeing such changes.

- 191.** The Committee's report on part one of its inquiry was published in July 2014¹¹⁷, and the part two report was published in March 2015¹¹⁸.
- 192.** Ian Summers acted as an adviser to the Committee during the course of its work on new budget processes, and this expert advice was instrumental in helping the Committee reach its conclusions.

Part One

- 193.** The Committee drew 15 conclusions from this part of the inquiry, details of which can be found in the report. However the main points are summarised below:

***Conclusion 1.** The Committee firmly believe that, where appropriate, the new budget process should adhere to the ten Principles of Budgetary Governance published by the OECD and comply with the current draft OECD Principles of Budgetary Governance once they are ratified.*

***Conclusion 4.** The Committee supports an approach that would replace the current arrangement of simple allocations to Ministerial portfolios with a more detailed table that authorises resources to specific outputs that in turn are seen as stepping stones towards the achievement of desired outcomes in the longer-term. Further information on desired outcomes should also be supplied*

¹¹⁷ Finance Committee, **Best Practice Budget Processes: Part 1**

¹¹⁸ Finance Committee, **Best Practice Budget Processes: Part 2**

alongside the budget information to ensure that longer-term government aims are not ignored.

Conclusion 5. *Whilst understanding the limitations of an annual budget cycle the Committee firmly believes the annual budget process must link multi-year strategic plans and longer term financial forecasts more clearly.*

Conclusion 10. *The Committee views that future budgets should clearly link capital expenditure with the method of financing whether it is by borrowing or some other financial instrument such as a PFI scheme – especially as the Assembly will have no option but to agree to the resulting financial commitments for many years ahead. The Assembly should effectively approve not only the capital expenditure proposals but also how they are financed.*

Conclusion 11. *The Committee considers that as part of the budget scrutiny process, it should be provided with up to date information on outstanding financial commitments rather than having to wait for the publication of the annual accounts.*

Conclusion 14. *The Committee will look further at the capacity issues of the Assembly and the Welsh Government during the second part of the inquiry. However, the Committee recommends that both the Assembly Commission and the Welsh Government commence work to look at the capacity available to undertake work in relation to the devolution of further fiscal powers to Wales.*

- 194.** The Government responded to the Committee's report in September 2014¹¹⁹. The response was broadly supportive of the Committee's conclusions, whilst recognising there would be challenges in implementing some aspects.

Part Two

- 195.** The Committee made 12 recommendations of which can be viewed in full in the Committee's report. However the main points are detailed below:

Recommendation 1. *The Committee recommends that the Welsh Government and the Assembly should work together to develop a new budget process, which allows for:*

- *UK budget announcements,*
- *a two part process,*
- *the need to provide an early indication to other public bodies of their budgets for the following financial year,*

¹¹⁹ Welsh Government, **Response to Finance Committee report: Best Practice Budget Process Part 1**, September 2014

- adequate time for Assembly scrutiny, and
- “future proofing” for any further fiscal devolution

Recommendation 3. *The Committee recommends that the Welsh Government should consider further how key targeted output or delivery measures could be linked to budget allocations as part of the budget process, perhaps with pilot trials undertaken in one or two Ministerial portfolio areas before rolling it out across the Welsh public sector.*

Recommendation 6. *The Committee welcomes the steps taken by the Welsh Government so far in relation to improved economic data, but would like to see firm steps taken as soon as possible to ensure that better data and analysis will be ready in good time for the 2018- 19 budget at the latest. The Committee recommends that a strategy should be developed which explains how the Welsh Government will collect, forecast and publish Welsh economic data. This should include provision for forecasts to be produced independently or subjected to independent validation.*

Recommendation 7. *The Committee recommends the Welsh Government considers further the advantages and disadvantages of establishing a fiscal commission for Wales having regard to the arrangements in place for Scotland and The Netherlands and share its analysis with the Committee.*

Recommendation 8. *The Committee recommends that the Welsh Government develops the capability to publish Welsh spending and revenue data on a consistent basis, similar to that produced in Scotland. This will, overtime, provide key information on the Welsh economy and should promote wider debate.*

Recommendation 9. *As regards information provided by the Welsh Government in support of capital expenditure proposals in future budgets the Committee recommends this should specifically include*

- Clarity on how capital expenditure proposals will be financed (grant, taxation, borrowing or other methods such as private financing or not for profit vehicles);*
- Information on outstanding borrowing and other capital commitments going forward including how much is owing in terms of principal and interest and the period over which the amounts have to be repaid.*

Recommendation 10. *The Committee recommends that an independent arbitration mechanism would be an appropriate route if the Welsh Government and the Treasury failed to agree the amount of any block grant adjustment. The Welsh Government should keep the Committee informed of*

any agreements on the block grant adjustment which are reached with the UK Government.

***Recommendation 12.** The Committee recommends that a Financial Framework Bill should be introduced in the next Assembly. However, the Committee does recognise that discussions on further devolution to Wales are taking place and this recommendation should be considered in the light of any further announcements on devolution.*

- 196.** An annex was provided with the Part Two report which showed a suggested outline for a two part budget process¹²⁰.
- 197.** The Government responded to the Part Two inquiry in April 2015. The Minister was generally supportive of the Committee’s recommendations, particularly with regard to the recommendations that suggested the Assembly and the Government should work together to develop a new budget procedure. The Minister said:

“It is vital that we continue our co-operative approach and I am committed to developing a budgetary procedure on which we can all agree.”¹²¹

- 198.** The Minister agreed that a new budget process should be flexible in order to future proof for further devolution with a flexible approach. She also stated that the Welsh Government would explore the possibility of a two part budgetary process and would “look forward to working with the Assembly as this takes shape”¹²².
- 199.** The Minister viewed the suggested model as a useful starting point but was wary of lengthening the timeframe for consideration of the budget and of the impact this would have on “key stakeholders and delivery partners”.¹²³
- 200.** In relation to the provision of economic data the Minister said:

“there are major challenges involved in the forecasting of key macroeconomic variables, especially at the Welsh level. Wales is closely integrated with the rest of the UK, and Welsh outcomes, particularly over the short to medium term will be strongly influenced by the performance of the UK economy and UK policy choices. It is therefore likely that forecasts of the Welsh economy could only reasonably be made in the context of a UK model with sub-UK components. There are also issues of data availability which would present further obstacles to complex modelling solutions. Taking these factors into account, the Welsh Government intends to adopt a staged approach to the forecasting of key economic variables, with trend analysis, partial models and scenario planning likely to play important roles at least in the short term. Over

¹²⁰ Finance Committee, **Best Practice Budget Processes: Part 2**, pages 40-41

¹²¹ Welsh Government, **Response to Finance Committee report: Best Practice Budget Process Part 2**, April 2015, page 1

¹²² Welsh Government, **Response to Finance Committee report: Best Practice Budget Process Part 2**, April 2015, page 1

¹²³ Welsh Government, **Response to Finance Committee report: Best Practice Budget Process Part 2**, April 2015, page 1

the longer run, support to academic researchers will enable the exploration and potential development and validation of macroeconomic modelling approaches.”¹²⁴

201. The Minister also said that the Welsh Government would consider the possibility of establishing a Welsh Fiscal Commission. In relation to the adjustment of the Block Grant the Minister said:

“Both the Holtham Commission and the Silk Commission recommended that arms-length bodies should be involved in the technical aspects and detailed administration of the funding system. The Welsh Government supported those recommendations. We will ensure the Committee is updated and informed of progress of any agreements with the UK Government regarding block grant adjustments.”¹²⁵

Updates since publication of the reports

202. The Committee understands that Assembly officials have been working closely with officials in the Government to take forward the provisions in relation to new budgetary procedures.

203. The Deputy Presiding Officer wrote to the Chair of the Committee following the consideration of the Assembly Commission Budget in November 2015 identifying that a number of additional posts had been funded in the 2016-17 budget, several of those in order to prepare the Assembly for new fiscal and legislative powers. He also highlighted the role of the Assembly Commission’s “constitutional change team” in developing their internal capacity in respect of constitutional change¹²⁶.

204. Furthermore, Ian Summers, who advised the Committee on this inquiry responded to the Committee’s legacy consultation and suggested a specialist finance unit should be created to ensure the scrutiny of financial information is given priority status going forward.

205. The UK Government consulted on the Draft Wales Bill in Autumn 2015. The Committee wrote to the Constitutional and Legislative Affairs Committee to outline their concerns with the fiscal provisions within the draft Bill. The Committee’s main concern related to the lack of provisions in relation to competence for the Assembly to legislate in relation to the fiscal framework arising from the conferment of new fiscal powers¹²⁷

206. Additionally, the 2015 Spending Review made two significant changes in relation to the Draft Wales Bill: it signalled the intention to remove the requirement for a referendum before introducing the partial devolution of income tax and it proposes to introduce a ‘Barnett floor’ for the overall envelope of devolved funding for the life of this current Parliament.

¹²⁴ Welsh Government, **Response to Finance Committee report: Best Practice Budget Process Part 2**, April 2015, page 3

¹²⁵ Welsh Government, **Response to Finance Committee report: Best Practice Budget Process Part 2**, April 2015, page 4

¹²⁶ Assembly Commission, **Letter from the Deputy Presiding Officer to the Chair of the Finance Committee**, 4 November 2015

¹²⁷ Finance Committee, **Letter to the Chair of the Constitutional and Legislative Affairs Committee**, 11 November 2015

207. The Committee has recently completed an inquiry on *Future Funding for Wales*, this inquiry has considered some similar issues as recommended in this report and further detail on this can be found later in this chapter.

Our View

208. Undertaking the Part One and Part Two inquiries into new budget procedures provided members with a firm understanding of what will be required by a new budgetary system. It is clear that the current system of budgetary approval will need to be changed to incorporate tax raising and borrowing powers.

209. During the consideration of the second part of this inquiry the evidence presented to the Committee showed the limitations of the current Welsh budget system: currently the authorisation of the budget is centred on the Minister and the Committee. The Committee firmly believes the new system should focus on key allocation decisions whilst also ensuring adequate time to enable policy committees to scrutinise the relevant Ministerial portfolio spending.

210. An area in which the Committee heard much evidence related to the provision of economic data in Wales and the importance this plays in the democratic process. The evidence has shown that whilst the Welsh Government has taken steps to improve the availability of data in Wales, it is clear from the evidence from this inquiry and the Committee's *Future Funding for Wales* inquiry that information in this area still needs to be improved, particularly in relation to independently validated information. Members of the Committee were particularly impressed by the steps taken in the Netherlands with the Bureau for Economic Policy Analysis and the creation of the Fiscal Commission in Scotland.

211. The Committee sincerely hopes that the work undertaken in this area is helpful in continuing the process of establishing new budgetary procedures which will ensure that future financial arrangements for Wales are effective, robust and transparent.

212. One of the key themes through this inquiry was the Minister's willingness to work closely with the Committee to ensure the procedures which are developed are the most appropriate for Wales. The Committee has welcomed and encouraged this commitment and hopes that this joint working can continue into the next Assembly.

Recommendation 28. The Committee recommends that any future responsible committee works to develop a positive and effective working relationship with the future Finance Minister.

Recommendation 29. The Committee recommends that any future responsible committee should continue to be fully involved with and provide strategic direction in terms of the development of a new budget process.

Recommendation 30. The Committee recommends that any future responsible committee monitors progress in terms of the provision of improved economic data in Wales.

Recommendation 31. The Committee continues to believe that a Welsh Fiscal Commission would benefit the provision of economic data in Wales and recommends that the creation of such a commission is considered in the Fifth Assembly.

Future Funding

Terms of Reference

- 213.** The Committee agreed to undertake an inquiry into how Wales is funded and agreed that the inquiry would focus on:
- The main weaknesses in the Welsh funding settlement and how these could be resolved;
 - How the agreement for a reserved-powers model for Wales, and the other St David’s Day devolution proposals, could impact future funding;
 - Reviewing developments on the issues of convergence, underfunding and Barnett reform highlighted in the report from the Independent Commission on Funding and Finance for Wales and the Commission on Devolution in Wales;
 - The financial and economic information which the UK and Welsh Governments need to provide to support future funding arrangements.
- 214.** Gerald Holtham provided expert advice to the Committee whilst undertaking this inquiry. The advice provided was vital in terms of scrutinising witnesses and formulating recommendations.

The Inquiry

- 215.** The evidence for the inquiry fell into four main areas:
- The Block Grant
 - New institutional arrangements within the Welsh Government
 - Possible tax revenues and reforms in the short and longer run
 - Borrowing possibilities.
- 216.** During the course of this inquiry the Committee was keen to hear evidence from the Chief Secretary to the Treasury, and invited the Chief Secretary to attend Committee both before and after the Autumn 2015 Spending Review. The Chief Secretary did provide written answers to some of the questions the Committee posed¹²⁸¹²⁹. However, it has proved difficult to fully appraise all of the issues in relation to funding in Wales without having the opportunity to discuss in further detail some of the issues raised in this report with the Chief Secretary to the Treasury.
- 217.** One of the Committee’s main concerns in this inquiry related to the intergovernmental relationships between the UK Government and the Welsh Government. The report makes a number of recommendations in relation to inter-parliamentary relationships; it was clear to Members that for fiscal devolution to be a success in Wales relationships need to improve and Members would be keen to ensure that agreement on adjustments to the block grant in Wales are reached quicker than they have been in Scotland¹³⁰.

¹²⁸ HM Treasury, **Letter from the Chief Secretary to the Chair of the Finance Committee**, 19 August 2015

¹²⁹ HM Treasury, **Letter from the Chief Secretary to the Chair of the Finance Committee**, 2 February 2016

¹³⁰ Finance Committee, **Future Funding for Wales**, March 2016, Recommendations 2, 3 and 14

- 218.** Furthermore in relation to the Block Grant the Committee recommended that an independent body should be created to advise on a transparent system for the allocation of funding to the devolved governments, including independent assessment of how expenditure decisions for England feed into block grants¹³¹.
- 219.** The report also repeats the recommendation made in the Best Practice Budget Process inquiry in terms of the creation of a Welsh Fiscal Commission¹³².
- 220.** Additionally the report refers to The Independent Commission on Finance and Funding for Wales which has shown that it is possible to generate a simple needs-based formula to replace the Barnett Formula that also retains a high degree of completeness. As such the Committee recommended that funding arrangements for Wales should be based on a formula reflecting relative needs¹³³.
- 221.** Following the recommendations around the production and availability of Welsh Economic data during the Best Practice Budget Process Inquiry the Committee believed work still needed to be done to improve provision of this data and recommended that the Welsh Government worked to ensure the forecasts are high quality, transparent and in the public domain¹³⁴.
- 222.** The report also made the following recommendation:

“The Committee notes that council tax and non-domestic rates raise over £2.5 billion a year. The Welsh Government has had a number of inquiries into non-domestic rates and the Committee believes there is a need for clarity going forward given these previous inquiries. The Committee will be recommending in its legacy report that the next Committee with responsibility for financial matter undertakes an inquiry into how valuations are kept up to date and what reforms should be considered to council tax.”¹³⁵

Our view

- 223.** Due to the recent publication of this report the Committee view remains unchanged on the recommendations made, but makes the following recommendations:

Recommendation 32. The Committee recommends that any future responsible committee undertakes an inquiry into how council tax valuations are kept up to date and what reforms should be considered to council tax.

Recommendation 33. The Committee recommends that the recommendations in the Future Funding for Wales report are fully considered and monitored by any future responsible committee. It is crucial that the next Welsh Government needs far better communication with the UK Government and a fair and transparent means of indexing block grant changes is agreed well in advance of taxes being devolved.

¹³¹ Finance Committee, **Future Funding for Wales**, March 2016, Recommendation 1

¹³² Finance Committee, **Future Funding for Wales**, March 2016, Recommendation 12

¹³³ Finance Committee, **Future Funding for Wales**, March 2016, Recommendation 4

¹³⁴ Finance Committee, **Future Funding for Wales**, March 2016, Recommendation 11

¹³⁵ Finance Committee, **Future Funding for Wales**, March 2016, Recommendation 13

Higher Education Funding

- 224.** In May 2014, the Finance Committee produced a report following its inquiry into Higher Education Funding¹³⁶ where the Committee considered the funding of Higher Education Institutions (“HEIs”) in Wales, the financial impact of the Welsh Government’s tuition fee grant policy on HEIs and students in Wales, and whether the Welsh Government is delivering value for money in this area.
- 225.** The Committee made 18 of recommendations in the report, of which 9 were accepted and a further 5 partially accepted by the Welsh Government¹³⁷.
- 226.** The Welsh Government published its Report on Final Outturn 2014-15¹³⁸ which was considered by the Committee at its meeting on 1 October 2015. The Committee requested further clarification on a number of points relating to Higher Education funding and the limit imposed by HM Treasury on the amount of non-fiscal resource reserves they are able to carry forward.
- 227.** In a letter to the Committee, the Minister for Finance and Government Business explained that the Welsh Government is able to carry forward a maximum of 0.6% of the total resource DEL which includes non-fiscal resource:

“As a result in 2014-15 we carried forward a total of £82.9m of Resource DEL which was made up of £69.3m fiscal resource (revenue) and £13.6m non fiscal resource. The total non-fiscal resource reserve set in the Final Budget 2015-16 plus the carry forward total £221.8m is adequate cover for the remainder of the current financial year.”¹³⁹

- 228.** The Minister also confirmed that on this occasion no representations were made to HM Treasury, however if needed the opportunity to raise any issues would be possible later in the year.
- 229.** The Minister for Education and Skills responded to the Committee’s questions on Higher Education funding and student support. The Minister confirmed that the Student Loan Repayment model (HERO) takes account of all Welsh Government specific policies and stated:

“Given the degree of change in higher education and student finance over the last five years, any analysis of student debt and the long-term impact on the student loan book is difficult. However, the Welsh Government has undertaken analysis on behalf of the Diamond review, which includes current and forecast future debt for Welsh domiciled students and comparisons with their counterparts in other parts of the UK. This information will continue to be

¹³⁶ Finance Committee, **Higher Education Funding**, May 2014

¹³⁷ Welsh Government, **Response to the Finance Committee’s Report on Higher Education Funding**, June 2014

¹³⁸ Welsh Government, **Report on Outturn 2014-15**, September 2015

¹³⁹ Welsh Government, **Letter from the Minister for Finance and Government Business to the Chair of the Finance Committee**, 3 November 2015

*updated on an annual basis as actual data becomes available from the SLC.*¹⁴⁰

- 230.** The Minister further stated that it is too early to determine whether the changes to student support since 2012 have reduced the number of graduates repaying their student loans. The letter also shows the drop-out rates for full-time first degree entrants no longer in Higher Education following the year of entry by region of Higher Education Institute (HEI). In 2012/13 the drop-out rate for students attending HEIs in Wales was 6.5% compared to 9.0% in 2009/10.
- 231.** The Committee is pleased that the HERO model fully reflects Welsh Government student finance policies and that the Welsh Government has undertaken analysis of the current and forecast future debt for Welsh domiciled students.
- 232.** The Welsh Government commissioned an independent review into Higher Education funding and student finance arrangement chaired by Professor Diamond in July 2015. Professor Diamond produced an interim report in December 2015 that provided a factual summary of the evidence considered by the Review Panel from April 2014 to September 2015. The final part of the review is due to be published in September 2016 and the terms of reference were widened in March 2016 to take into account more fully the links between further and higher education¹⁴¹.

Recommendation 34. The Committee welcomes the detailed analysis included in the interim Diamond review report and believes it would be beneficial for this information to be published annually.

Recommendation 35. The Committee recommends that any future responsible committee explores whether increasing numbers of graduates do not repay their student loans because they do not meet the minimum earnings threshold requirements or are failing to repay loans for other reasons.

Recommendation 36. The Committee welcomes that the drop-out rates of students at Welsh HEIs are being monitored, however we believe it would also be beneficial to analyse the drop-out rates of Welsh domiciled students and recommends the future Welsh Government gives consideration to this.

Consideration of powers: Public Services Ombudsman for Wales

- 233.** In January 2015, the Finance Committee agreed to undertake an inquiry to consider extending the powers of the Public Services Ombudsman for Wales (“the Ombudsman”). Should the evidence support the extension of the Ombudsman’s powers, the Committee would consider introducing a Committee Bill.

¹⁴⁰ Welsh Government, **Letter from the Minister for Education and Skills to the Chair of the Finance Committee**, 9 November 2015

¹⁴¹ Welsh Government, **Written Statement - Review of Higher Education Funding and Student Finance Arrangements in Wales**, 4 March 2016

- 234.** In May 2015, the Committee published its report¹⁴² and recommended that a Bill should be introduced into the Assembly. In addition, the Committee produced an ‘at a glance’ summary version of its report¹⁴³.
- 235.** Professor Sir Adrian Webb, Chair of the Committee on Administrative Justice and Tribunals Wales spoke on the future of Welsh Administrative Justice at a Legal Wales Conference in autumn 2015. Administrative justice is not just something dealt with by the Courts; it falls to bodies such as the Ombudsman. Sir Adrian was of the view that the Assembly should assume a greater role in scrutinising such responsible bodies or offices and the Ombudsman is one such office. Sir Adrian cited the Finance Committee’s report as an example of such scrutiny and said it was ‘exceptional’.¹⁴⁴

Draft Public Services Ombudsman (Wales) Bill

- 236.** Following its initial inquiry, the Committee agreed to consult on a new draft Public Services Ombudsman (Wales) Bill¹⁴⁵. The draft Bill re-enacted much of the existing Public Services Ombudsman (Wales) Act 2005¹⁴⁶ but with the new provisions recommended by the Committee in its report. The main provisions included:
- Own Initiative Investigation powers to allow the Ombudsman to initiate an investigation without having first received a complaint about an issue;
 - Access to the Ombudsman to allow the Ombudsman full discretion to decide how complaints can be made (which may include oral complaints);
 - Model Complaints Handling procedures to improve consistency in how public service providers deal with complaints; and
 - Extending the Ombudsman’s jurisdiction to include private health service providers to enable the Ombudsman to investigate certain matters when a combination of treatment has been received by public and private healthcare providers and when the treatment was initiated in the NHS. This would allow the Ombudsman to investigate the whole complaint.
- 237.** A consultation was held on the text and structure of the draft Bill between October 2015 and January 2016. 34 responses were received and there was general agreement and support from respondents on the draft Bill¹⁴⁷. On 3 February 2016, the Committee considered and discussed the consultation responses and agreed changes to the text of the draft Bill.
- 238.** On 18 March 2016, the Committee laid its report, which included the final text of the draft Bill and Explanatory Notes. The Committee also produced an ‘at a glance’ summary version to complete its extensive work in relation to this legislation.¹⁴⁸

Recommendation 37. The Committee recommends that any future responsible committee of the Fifth Assembly should introduce the draft Public Services Ombudsman (Wales) Bill.

¹⁴² Finance Committee, **Consideration of Powers: Public Services Ombudsman for Wales**, May 2015

¹⁴³ Finance Committee, **At a Glance: Consideration of Powers: Public Services Ombudsman for Wales**, May 2015

¹⁴⁴ Twitter, **Nick Bennett, 9 October 2015**

¹⁴⁵ Finance Committee, **Draft Public Services Ombudsman (Wales) Bill**

¹⁴⁶ UK Parliament, **Public Services Ombudsman (Wales) Act 2015**

¹⁴⁷ Finance Committee, **Consultation on a Draft Public Services Ombudsman (Wales) Bill**, October 2015

¹⁴⁸ Finance Committee, **Consultation on a Draft Public Services Ombudsman (Wales) Bill**, October 2015



08.Finance Wales

Background

239. This update follows on from the Committee’s inquiry into Finance Wales held in 2014¹⁴⁹. The Committee reported in May 2014.¹⁵⁰
240. In June 2014, the Minister for Economy, Science and Transport (“the EST Minister”) appointed a Task and Finish Group, led by Professor Jones Evans to produce a report on the possible form, function and feasibility of a Development Bank for Wales. This report was published in March 2015.¹⁵¹
241. Since the Finance Committee’s inquiry, further evidence has been taken by both the Enterprise and Business Committee¹⁵² and the Finance Committee¹⁵³.
242. In July 2015, the EST Minister wrote to all Assembly Members regarding progress in relation to Finance Wales and the creation of a development bank. In light of this and the appointment of a new Chair to Finance Wales, the Finance Committee agreed to further consider Finance Wales as part of its legacy to understand the developments since the Committee’s inquiry.
243. The Committee took evidence from Finance Wales on 25 November 2015.

The move towards a Development Bank for Wales

244. In written evidence¹⁵⁴ to the Finance Committee, Finance Wales outlined its vision for a Development Bank for Wales (“DBW”). It notes that Finance Wales “stands ready to support the transformation of its current base of activities into the DBW”. It also states that it awaits further clarity on the roadmap required to establish the Development Bank from the Welsh Government.

Oral evidence

245. When asked if Finance Wales had received any directive from the Welsh Government on what it expects the Development Bank to look like, Finance Wales suggested that discussions had not yet been finalised and that there were three elements to a development bank to consider. They said:

“The first one, fundamentally, is the financing aspect, the financing operation, which is largely what Finance Wales does today. So, that will actually be a foundation of it. The second one, which is very important too, is essentially what gets put under a rather general term of ‘business support’, and this is capacity building, it’s education, it’s assistance in all its guises to help small businesses prepare themselves for investment. That’s a very important part. That goes on in another part of Welsh Government today. Then, the third one,

¹⁴⁹ Finance Committee, **Finance Wales inquiry**

¹⁵⁰ Finance Committee, **Finance Wales report**, May 2014

¹⁵¹ Welsh Government **A feasibility study into the creation of a Development Bank for Wales**, March 2015

¹⁵² Finance Committee, **RoP, 23 April 2015, RoP, 13 May 2015**

¹⁵³ Finance Committee, **RoP, 13 May 2015**

¹⁵⁴ Finance Committee, **FIN(4)-27-15 P1 Finance Wales update**

which we think is really important, and I think this has come out of a number of the reports that we've had over the last few years around the financing of SMEs in Wales, is essentially what we're calling, in shorthand, an intelligence unit, which is the place where we can capture all the data, all the intelligence about how big this sector is and what their precise needs are. Our initial thoughts are that it would be a really good idea if we could work with one or more Welsh universities to establish that, so that when we do talk about this sector, we talk on the basis of verifiable fact and current knowledge.”¹⁵⁵

- 246.** Reflecting on the Committee's concerns around the importance of clarity of the Development Bank's role so that people don't find themselves dissatisfied in the same way as they did with Finance Wales, they said:

“To me, it's clear, and it's important that our prospective customers see it as clear as well. I think that's going to be the challenge, obviously, and clearly there have been some problems there in the past.”¹⁵⁶

- 247.** Finance Wales continued:

“What we don't want to do, and we see very much as our remit, is not to compete with the private sector. Quite the opposite: in fact, to work with the private sector to actually, if we can, in some way, help increase their risk appetite so that they do more in the economy, because we will take an element of the risk that they can't take. But, in so doing, it liberates more availability of funds for investment. I think that's a very important role that we play. So, I think, at the sort of concept level, it's straightforward. I think that the hard bit is making ourselves known.”¹⁵⁷

- 248.** Finance Wales again reflected on the Development Bank's role and how this can be promoted, they said:

“I think it's up to us as we re-present ourselves in our new form going forward, but even before that, to be very clear and articulate about what our purpose is. And it is to finance micro-to-medium enterprises in Wales that are capable of generating jobs and wealth creation in this economy that cannot find the financing from the private sector. That, I think, in a nutshell is our purpose.”¹⁵⁸

Our view

- 249.** The Committee is pleased the Chair of Finance Wales recognises the need for the new Development Bank to be clear and articulate in raising awareness of its purpose, and how it can support businesses in Wales. However, given the historic difficulties around awareness of the role and remit of Finance Wales, the Committee has concerns about the potential for these problems to occur again in relation to the Development Bank.

¹⁵⁵ Finance Committee, **RoP 25 November 2015**, paragraph 21

¹⁵⁶ Finance Committee, **RoP 25 November 2015**, paragraph 31

¹⁵⁷ Finance Committee, **RoP 25 November 2015**, paragraph 31

¹⁵⁸ Finance Committee, **RoP 25 November 2015**, paragraph 55

Recommendation 38. The Committee recommends the Welsh Government and Finance Wales work together to ensure the business community is made aware of the Development Bank’s purpose, and how it can support businesses.

Recommendation 39. The Committee recommends that work is undertaken to raise awareness of the Development Bank ahead of its launch to ensure that it is ready and able to provide effective support to businesses from the outset.

Performance and transparency

- 250.** The availability of performance information was an issue raised during the Committee’s inquiry in May 2014.
- 251.** As a result, the Committee recommended that Finance Wales should adopt the same levels of transparency on its performance as that shown by other public bodies. The Committee believes monitoring and evaluation reports which Finance Wales provides to Welsh Government and other stakeholders should become publicly available. Information should also be available through its website on investment performance, job creation, finances and award criteria. Performance information should also be at the core of a new, more detailed annual report and accounts. The Committee strongly believed that while this transparency will inevitably lead to some criticism at times, it will also provide an appropriate means of demonstrating the successes of Finance Wales.
- 252.** Following this recommendation, Finance Wales’ website¹⁵⁹ has been updated to include information on award criteria and processes, investment performance and financial information.
- 253.** Finance Wales has set out its key performance indicators in its annual report and financial statements for 2014-15¹⁶⁰, although the Committee notes there is little analysis of how these figures relate to targets. However, a press release from May 2015¹⁶¹ and written evidence¹⁶² to the Enterprise and Business Committee sets out Finance Wales’ performance against some targets.
- 254.** There have also been performance updates published on the Finance Wales website, with the most recent one being published on 23 November 2015, just prior to the Committee’s legacy evidence session.

Oral evidence

- 255.** Finance Wales commented on how they had responded to the Committee’s recommendations. They said:

“it’s important to note that, from an operational perspective, we haven’t stood still. Since our visit to this forum, actually, in 2014 and the Enterprise and

¹⁵⁹ Finance Wales, **Homepage**

¹⁶⁰ Finance Wales, **Annual Report and Financial Statements for 2014-15**

¹⁶¹ Finance Wales, **Record year sees Finance Wales Group increase its impact on the Welsh economy**, 12 May 2015

¹⁶² Finance Wales, **Written evidence to the Enterprise and Business Committee on its inquiry into the Development Bank for Wales**, 8 May 2015

Business Committee earlier this year, we've taken all of the recommendations and implemented them".¹⁶³

256. Finance Wales reflected on the improvements made, they said:

"One of the criticisms, I suppose, for Finance Wales in the past was that it was a really well-kept secret almost—some of the things that we were doing. Because, you know, there's tremendous work going on in the economy; huge amounts of investment, which has come directly from Finance Wales, and also from the private sector, which has been leveraged through what we've done. The key to this, I think, is the improvements, which we've already started to make but we need to continue to make in terms of transparency on our aims and on our performance. You would have seen on the website, you know, that's radically changed in the last year. There are still some improvements to do there. The annual report and accounts, as Mike mentioned, are now much more of an easy read and also have a lot of case studies in there. I think it's less of a sort of plain document and something that actually says something about what we do."¹⁶⁴

257. The Chair echoed these comments. He said:

"as the new chair, I absolutely espouse openness, transparency. We are a public body. You know, we work for, and to further the objectives of, the Welsh Government. Therefore, we should just put that very clearly—our objectives, our measures, how we perform against them—very clearly in all our literature, on our website, and we're beginning to do that. I think Mike can tell you about one or two areas where we've made that change. I think you'll see in the annual report already that's a much different annual report from previously, and we'll continue to work on that to make it much more open, much more transparent."¹⁶⁵

Our view

258. The Committee recognises the steps taken by Finance Wales to work towards the recommendations made by the Committee as a result of its inquiry in May 2014.

259. The Committee commends Finance Wales' work to improve transparency and notes its efforts to publish its annual report and financial statements for 2014-15.

260. The Committee believes its inquiry into Finance Wales was a timely intervention which showed that, although not perfect, there was much to commend in the work of Finance Wales and contributed to the significant progress made by the organisation since May 2014.

Recommendation 40. The Committee recommends continued annual scrutiny of Finance Wales by an Assembly Committee in the Fifth Assembly.

¹⁶³ Finance Committee, **RoP 25 November 2015**, paragraph 22

¹⁶⁴ Finance Committee, **RoP 25 November 2015**, paragraph 32

¹⁶⁵ Finance Committee, **RoP 25 November 2015**, paragraph 139

Recommendation 41. The Committee welcomes the work undertaken by Finance Wales to improve transparency over the last 18 months. It recommends that Finance Wales continues to improve this by moving towards best practice in the following ways:

- Publishing a list of its key targets on its website, and updating these when these change or new targets are introduced;
 - Including information on performance against these targets in the half-year updates published on its website or in its annual report.
-

Communications and marketing

- 261.** As a result of its inquiry, the Committee made a number of recommendations relating to the way that Finance Wales communicates with businesses, banks and other key stakeholders.
- 262.** The Committee recommended that Finance Wales should provide further explanation to businesses on the strategies for each of its funds. This should clarify that while Finance Wales is attempting to bridge a market failure in bank lending, it must also seek a commercial return for the risks it is taking in its lending. The typical interest rates and fees it charges on loans, along with its other lending policies, should be made transparent and provided to businesses before they consider making an application.
- 263.** It was recommended that Welsh Government and Finance Wales review their strategy for communicating with businesses. Partnerships should be developed with banks, intermediaries and groups representing business to allow effective marketing of new funds.
- 264.** Finally the Committee recommended these networks should not be seen as ‘gatekeepers’ of access to Finance Wales and therefore suggested improvements should be made to its capacity to communicate directly with potential borrowers, particularly small businesses.
- 265.** In written evidence¹⁶⁶ provided ahead of the Committee’s legacy session, Finance Wales set out how they have increased engagement with stakeholders following the Committee’s recommendations.

Oral evidence

- 266.** When asked about the clarity of Finance Wales’ role and how this can be extended to the development bank, the Chair responded:

“To me, it’s clear. It’s important that our prospective customers see it as clear as well. I think that’s going to be the challenge, obviously, and clearly there have been some problems there in the past.”¹⁶⁷

- 267.** Finance Wales acknowledged the need to engage beyond existing stakeholders, they said:

“We need to reach out right across Wales. So, not just businesses we’re dealing with know about what we do, or businesses through advisors, but actually, we can reach the wider community.”¹⁶⁸

¹⁶⁶ Finance Committee, **FIN(4)-27-15 P1 Finance Wales update**

¹⁶⁷ Finance Committee, **RoP 25 November 2015**, paragraph 31

- 268.** Commenting on the results of an independent survey of businesses in Wales commissioned by Finance Wales, they said:

“As a result of the independent survey, which we commissioned following the visit to this forum, it was clear that SMEs were aware of us. About 55 per cent of SMEs polled were aware of us, which is good in that it was up from 49 per cent the year before. So, it’s a 6 per cent growth, but it’s still half. So, we realise that we have a lot more work to do there. Whilst we are very well-known with intermediaries, banks and corporate finance institutions, which has been our typical target market for deal flow, we could do more.”¹⁶⁹

- 269.** Finance Wales continued:

“I think we should acknowledge that, still, the vast majority of introductions to Finance Wales come from the banks. They’re our No. 1 source of introduction and then followed by the accountants.”¹⁷⁰

- 270.** Finance Wales stated they recognise the need to explore more and different ways of reaching potential customers rather than relying on intermediaries. They said:

“particularly in an increasingly digital age, we’ve just got to find those channels and exploit those channels much more effectively than we have done, and that certainly will be a challenge that I’m going to be putting down to our marketing people in Finance Wales.”¹⁷¹

- 271.** In outlining the actions taken to date in obtaining customer feedback, Finance Wales said that although there were very high levels of satisfaction with Finance Wales, an area highlighted was awareness of other funds available. Finance Wales said of its customers:

“they knew about the funds that they had received investment from, but we weren’t very good at sharing all the other funds that we do, because we have six funds.”¹⁷²

- 272.** Finance Wales stated that 82 per cent of SMEs are happy non-seekers of finance and questioned why then would these businesses need to be aware of its services¹⁷³. When challenged by the Committee, Finance Wales accepted that circumstances of individual businesses may change in the future and that this should not impact on Finance Wales’ work to improve visibility.

Our view

- 273.** The Committee has concerns around the results of the independent survey of SMEs undertaken in 2014-15, which shows that 55% of SMEs are aware of Finance Wales’ existence, meaning that the remaining 45% are unaware of its services. The Committee considers that

¹⁶⁸ Finance Committee, **RoP 25 November 2015**, paragraph 33

¹⁶⁹ Finance Committee, **RoP 25 November 2015**, paragraph 34

¹⁷⁰ Finance Committee, **RoP 25 November 2015**, paragraph 45

¹⁷¹ Finance Committee, **RoP 25 November 2015**, paragraph 140

¹⁷² Finance Committee, **RoP 25 November 2015**, paragraph 147

¹⁷³ Finance Committee, **RoP 25 November 2015**, paragraph 156

Finance Wales has good working relationships with intermediaries such as banks and accountants, however an area it has identified as requiring further work is direct communications with SMEs. While the Committee accepts that 82 per cent of SMEs are not currently seeking finance, circumstances of individual businesses may change in the future, and so we do not consider that this means that Finance Wales should not reach out to these businesses.

Recommendation 42. The Committee recommends that Finance Wales takes action to improve its marketing amongst businesses through increased direct contact with SMEs, and especially those businesses who have not made previous use of Finance Wales. Additionally, Finance Wales should ensure its existing customers are aware of all the services offered by Finance Wales.

Recommendation 43. The Committee also recommends that Finance Wales work to improve the awareness of its existing customers beyond the specific service that they are benefitting from, so that they have a greater awareness of the other funding streams and services that they may be able to benefit from.

Recruitment and retention

274. Finance Wales' annual report¹⁷⁴ notes that one of the organisation's principal risks is around loss of key personnel or inability to recruit and retain appropriately skilled employees. The assessment of the risk notes that recruitment has been problematic over the last 12 months, and that various strategies are being used to minimise the impact of this. Finance Wales is currently without a Chief Executive, following Sian Lloyd Jones standing down in September 2015. Finance Wales' written evidence¹⁷⁵ ahead of the Committee's legacy session notes that recruitment for a Chief Executive commenced the week before the meeting (w/c 16 November 2015).

Oral evidence

275. Finance Wales updated the Committee on the progress in appointing a new Chief Executive. They said:

*"I did just want to let the committee know that we have—you may have seen it because it's now public—advertised the role for the new chief executive of Finance Wales, and that is underway. If all went well, then, hopefully, we could make an appointment in the first quarter of next year."*¹⁷⁶

276. When asked about the difficulties experienced in recruiting, Finance Wales said:

"a number of the banks and new entrants have been recruiting heavily, so there's more competition for those high-quality individuals. I think, in the last six months, we've lost about four individuals from the investment teams, which is something—. We'll replace them. So, the challenge remains; there are slightly different reasons for that challenge, but I think, with certainty around

¹⁷⁴ Finance Wales, **Annual report and financial statements for 2014-15**

¹⁷⁵ Finance Committee, **FIN(4)-27-15 P1 Finance Wales update**

¹⁷⁶ Finance Committee, **RoP 25 November 2015**, paragraph 99

*the future direction, it will be quite exciting for people to want to come and work at Finance Wales once again.*¹⁷⁷

Our view

- 277.** The Committee is pleased to have had the opportunity to meet the newly appointed Chair of Finance Wales, and is confident the Committee's concerns around recruitment are understood.
- 278.** The Committee acknowledges the difficulties around staff recruitment and retention during a period when banks are returning to the market creating more competition in attracting suitable applicants.

Recommendation 44. The Committee recommends that Finance Wales commissions objective analysis to review the reasons for the difficulties in recruitment, so that should it face similar challenges in the future, it is well placed to recruit appropriate skilled staff.

Recommendation 45. The Committee recommends that Finance Wales is subject to regular scrutiny sessions with the future responsible committee going forward in the Fifth Assembly.

¹⁷⁷ Finance Committee, **RoP 25 November 2015**, paragraph 106





09. Expert Advisers

Background

- 279.** The Finance Committee has appointed a number of expert advisers over the course of the Fourth Assembly to support the work of the Committee in many different areas, including:
- developing the budget process;
 - inquiry into Devolved Funding;
 - scrutiny of the annual Welsh Government budget;
 - inquiry into Future Funding for Wales; and
 - scrutiny of tax legislation.
- 280.** In assessing its impact and the effectiveness of its work during this Assembly, the Committee wrote to past expert advisers welcoming views on their experience of engaging with the Committee, including its ways of working, the work it has undertaken, and the impact it has had¹⁷⁸. The Committee was keen to hear what expectations of the role were, and if the experience met these expectations. Members were also interested in views on the benefits of having an expert adviser to the Committee, and if this is something that should be considered on a permanent basis or if advisers to specific streams of work is more workable.

Feedback from Advisers

- 281.** Ian Summers was appointed as expert adviser during the Committee’s inquiry into Best Practice Budget Process¹⁷⁹. In relation to the recommendations made by the Committee regarding the statutory duties as a result of the Well-being of Future Generations (Wales) Act 2015, Mr Summers said this will demand a more focused budget process in the future. In order to facilitate this he recommends:

“The Assembly will need to be better supported than ever before and this will, in my opinion necessitate the creation of a specialist Budget Unit as part of the Assembly staff. The Unit should have two to three staff dedicated to all aspects of budget scrutiny with the ability to call on/buy-in specialist expertise when needed.”¹⁸⁰

- 282.** Angela Scott during her employment with CIPFA, was appointed as expert adviser during the Committee’s consideration of devolved funding¹⁸¹ and its scrutiny of the Welsh Government draft budget for both 2013-14¹⁸² and 2014-15¹⁸³. Ms Scott said:

“the benefit of the Committee having an adviser was that it allowed me to provide a financial scrutiny framework which extends from budgeting scrutiny, to in-year inquiries, through to the end of year financial position. I was pleased

¹⁷⁸ Finance Committee, **Letter from Chair to Expert Advisers**, 17 November 2015

¹⁷⁹ Finance Committee, **Best Practice Budget Processes Inquiry**

¹⁸⁰ Finance Committee, **Letter from Ian Summers to the Chair of the Finance Committee**, 7 December 2015

¹⁸¹ Finance Committee, **Devolved Funding: Borrowing Powers and Capital**

¹⁸² Finance Committee, **Welsh Government Budget 2013-14**

¹⁸³ Finance Committee, **Welsh Government Budget 2014-15**

with how receptive the Committee was to the framework and its willingness to use the framework in its final Budget report.”¹⁸⁴

- 283.** Lakshmi Narain was appointed as expert adviser to support the Committee’s scrutiny of the Tax Collection and Management (Wales) Bill¹⁸⁵. He said:

“It is reasonable to say that I had mixed expectations. Those committee proceedings that I have followed assiduously over the years, during the passage of Finance Bills through parliament and in the House of Lords, showed quite provided contrasting approaches. I was unreservedly delighted with the approach of the Finance Committee”¹⁸⁶.

- 284.** Mr Narain praised the commitment of all involved in ensuring the legislation is fit for purpose and understood correctly. Reflecting on the role of an adviser, he said:

“there are considerable benefits to be gained by having an expert adviser to the committee; in providing clarification on complex issues, researching specific issues and injecting a degree of scepticism as regards the quality of some of the representations made. This leads me to conclude that it is essential, due to the complexity of both legislation and commercial structures, to have access to a range of expert advisers.”¹⁸⁷

- 285.** However Mr Narain advised some caution around having a number of advisers as he believes it is important to have continuity and consistency. He continued:

“My recommendation would thus be that the Finance Committee have access to a single expert adviser on a permanent basis (or, at least, on a long term basis).”¹⁸⁸

Our view

- 286.** The Committee is agreed that expert advisers add value when undertaking work in complex subject areas such as tax legislation and fiscal devolution. Without their work the quality of scrutiny would be impacted upon, especially by bearing in mind the calibre of the advisers appointed to the Committee during the Fourth Assembly. The Committee are particularly grateful to Lakshmi Narain, Ian Summers and Gerald Holtham for the support they have provided in various inquiries.
- 287.** The support from advisers in relation to budgetary consideration also proved invaluable early in the Fourth Assembly and enabled Members to develop their knowledge and skills in financial scrutiny. However, a balance should be struck and when undertaking work streams where the Committee has developed experience, in house support provided by the Research Service can be utilised.

¹⁸⁴ Finance Committee, **Letter from Angela Scott to the Chair of the Finance Committee**, 7 December 2015

¹⁸⁵ Finance Committee, **Tax Collection and Management (Wales) Bill**

¹⁸⁶ Finance Committee, **Letter from Lakshmi Narain to the Chair of the Finance Committee**, 1 December 2015

¹⁸⁷ Finance Committee, **Letter from Lakshmi Narain to the Chair of the Finance Committee**, 1 December 2015

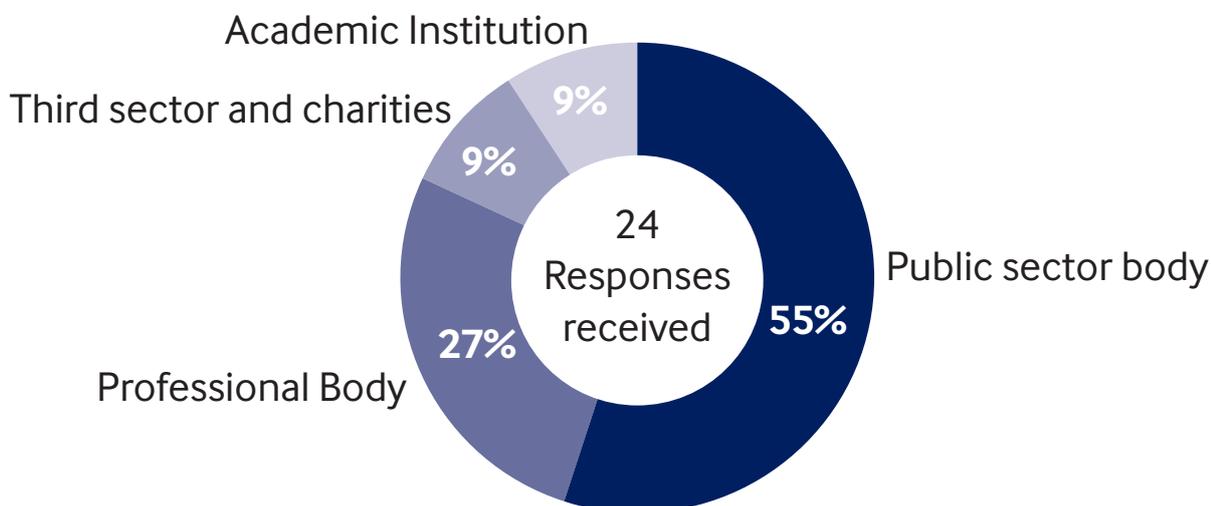
¹⁸⁸ Finance Committee, **Letter from Lakshmi Narain to the Chair of the Finance Committee**, 1 December 2015

Recommendation 46. The issue of capacity of the staff in the Assembly to provide specialised support, specifically in relation to the fiscal powers devolved by the Wales Act 2014 and the expected powers in the relation to income tax, has been an area the Committee has considered previously (Best Practice Budget Process, Assembly Commission Budget 2016-17) and this is looked at in Chapter 7 of this report. For these reasons we would support the suggestion by Ian Summers that a specialist Financial Scrutiny Unit should be created and recommends the Fifth Assembly Commission give consideration to this.

Recommendation 47. The Committee believes that insight into a subject area is valuable and recommends that any future responsible committee considers using an expert adviser when undertaking work of a technical or specialist nature, particularly in relation to the devolved taxes.

The Legacy consultation survey was an opportunity for witnesses, individuals and organisations, who provided written evidence to the Finance Committee to comment on their experience.

Survey Responses



Key Themes

Most Positive Responses



4.9/5 highest preference score for email as a method of contact.

94% received support when asked to give evidence.

94% felt they were kept up to date with progress and outputs.

Least Positive Responses

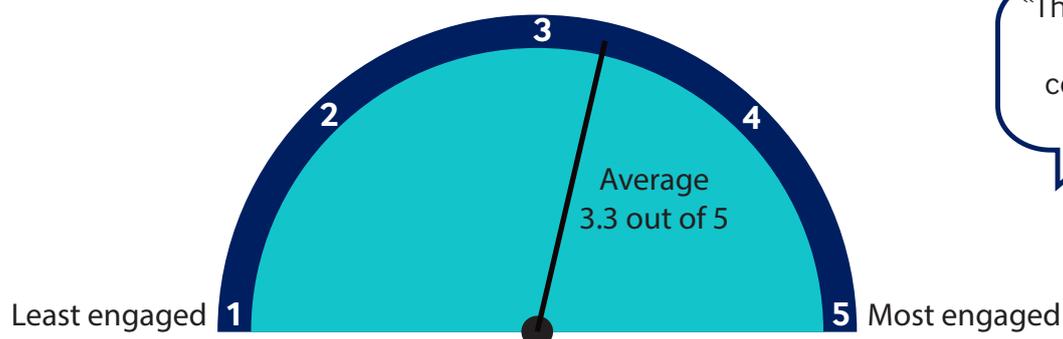


58% thought the committee had been influential.

2.3/5 lowest preference score for social media as a method of contact.

29% were not aware of the committee's social media presence.

Engagement



"The approach was balanced, considered and welcoming"

Respondents were either satisfied with the level of engagement, or leant toward feeling more engaged than not.

10.Engagement

Background

- 288.** During the Fourth Assembly the Finance Committee (“the Committee”) engaged with a wide range of individuals and organisations, including both public sector and private sector organisations, academic institutions, third sector organisations and charities.
- 289.** A total of 223 organisations responded to the Committee’s consultations during the Fourth Assembly. Representatives from 111 organisations attended Committee meetings during the same period.
- 290.** To aid stakeholder engagement the Committee held a stakeholder event in September 2015 during its consultation on the Tax Collection and Management (Wales) Bill¹⁸⁹. It also held a web-chat in November 2013 in order to gain views during its inquiry into Higher Education Funding¹⁹⁰.
- 291.** The Committee has also used Adobe Slate to display two of its reports in an online-friendly format, namely: Consideration of powers: Public Services Ombudsman for Wales¹⁹¹ and Consultation on a Draft Public Services Ombudsman (Wales) Bill.¹⁹²
- 292.** Since May 2014 the Committee has also been using two Twitter accounts, one in English and the other in Welsh, as a medium to increase engagement. At the time of publication the English account, SeneddFinance, has 597 followers¹⁹³, while the Welsh account, SeneddCyllid, has 217 followers¹⁹⁴.
- 293.** In order to gain feedback on the work undertaken by the Committee during the Fourth Assembly, it invited responses to an online survey between November 2015 and January 2016.

Online survey

- 294.** The survey posed seventeen questions to collect feedback in a number of areas. There were 24 respondents to the survey covering a variety of witnesses.
- 295.** The majority of respondents were from public sector bodies and provided both written and oral evidence to the Committee.
- 296.** Respondents were asked to place their level of engagement with the Committee on a scale of 1 (not engaged) to 5 (very engaged). Respondents were either satisfied with the level of engagement, or lent toward feeling more engaged than not. The average score for engagement was 3.3 out of 5.
- 297.** 85% of respondents felt the Committee’s approach to engagement was adequate. The approach of the Committee was considered challenging yet constructive with clear and

¹⁸⁹ Finance Committee, **Notes from stakeholder event, Tax Collection and Management (Wales) Bill**, 23 September 2015

¹⁹⁰ Finance Committee, **Transcript of web-chat, Higher Education Funding**, 21 November 2013

¹⁹¹ Finance Committee, **At glance: Consideration of Powers: Public Services Ombudsman for Wales**, May 2015

¹⁹² Finance Committee, **Draft Public Services Ombudsman (Wales) Bill**

¹⁹³ Twitter, **Finance Committee**

¹⁹⁴ Twitter, **Y Pwyllgor Cyllid**

insightful questioning. The website was viewed as a good resource, easy to navigate and a positive tool for the Committee.

- 298.** The majority (72%) of respondents gave written and oral evidence. 22% gave only written evidence and 6% gave only oral evidence. Respondents noted that the timings provided for them to prepare evidence were adequate, but suggested that additional advice on the Committee’s area of interest and the required format of responses would be potential areas of improvement for the future.
- 299.** Over **90%** of respondents felt they were kept up to date with progress and outputs of the inquiry they were involved with. On average 3.8 out of 5 of respondents felt they had an impact on the Committee.
- 300.** The survey also asked respondents for a preferred method of communication, on a scale of 1 (least preferred) to 5 (most preferred). The below table of responses indicates that email was seen as the most preferred method of communication, with social media the least preferred.

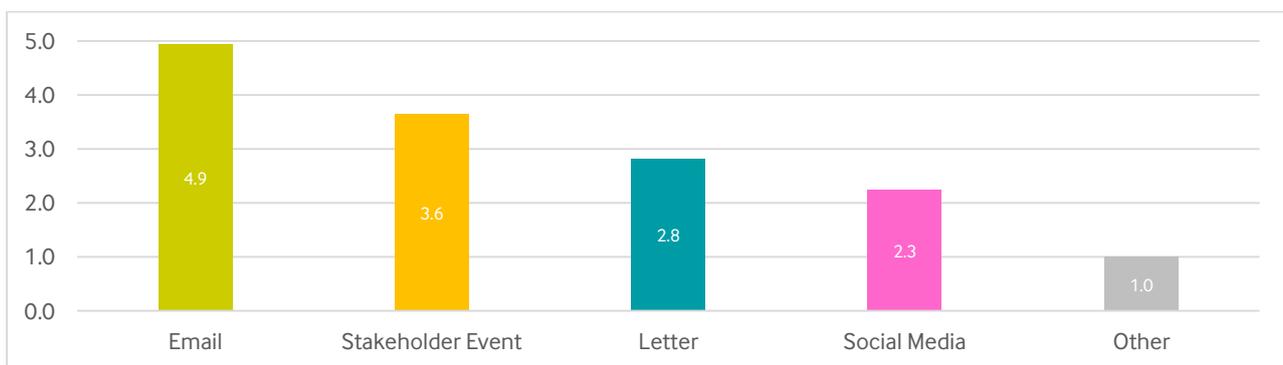


Figure 4 – Graph showing respondents’ preferences towards various methods of communication with the Committee

- 301.** Awareness of the Committee’s social media presence was low. Just over half of respondents (59%) were aware the Committee used social media, while 21% were unaware and 12% were unsure. One respondent stated the following:

“I do not believe it [social media] is appropriate way to communicate serious matters”

- 302.** With regard to the Committee’s impact, respondents felt that it had a more significant impact than not, including providing a benefit to other committees’ financial scrutiny where Committee members were also members. A response from the Assembly Commission noted the following with regard to the Committee’s impact:

“There has been a notable step change in the approach to budget scrutiny which has had a positive influence on the Commission’s approach.”

- 303.** Stakeholders were also asked their views on priorities for the Committee in the Fifth Assembly and where there may be areas of improvement not mentioned elsewhere in the survey.

- 304.** The following subjects were suggested as areas that the Committee could prioritise in the Fifth Assembly:
- Tax Collection and Management (Wales) Bill
 - Budget scrutiny
 - Public Services Ombudsman (Wales) Bill
 - Best Budget Practice
 - NHS financial accountability
- 305.** Suggestions for improvement included:
- Reviewing Standing Orders in relation to the timing of reporting for the Budget
 - Establishing a budget monitoring process
 - The consideration of multi-year funding approach
 - A more strategic approach towards reviewing documentation
 - The creation of a dedicated “Financial Scrutiny Unit”

Our view

- 306.** The Committee is grateful to everyone who has contributed to its work over the past five years. Without the active engagement of stakeholders the Committee would not have been able to undertake much of the work it has.
- 307.** The Committee views that as technology progresses different media will need to be used to engage stakeholders. Whilst not wishing to move away from a formal report, new methods need to be considered.

Recommendation 48. The Committee recommends that any future responsible committee considers the suggestions for future inquiry topics as suggested by the legacy survey respondents.

Recommendation 49. The Committee is keen to see further progression of different engagement techniques and would strongly recommend any future responsible committee considers other engagement methods, such as Adobe Slate reporting, web chats, stakeholder events and Continuing Professional Development events.

Recommendation 50. The Committee recommends that any future responsible committee considers and reviews their social media presence with a view to increasing followers and using the stream as a more proactive means of engagement.



11. Looking to the Fifth Assembly

Meeting times

308. Reflecting on the Finance Committee overall, Members agreed that the Committee's approach to meeting as is necessary has worked well during this Assembly. The Committee has sought not to fill agendas with unnecessary work and has focussed its attention on areas which can add value and demonstrate results. The Committee has seen a number of external bodies and individuals offer congratulations on the quality of work, including contributing to the work of the Silk Commission and most recently Sir Adrian Webb held the report on the powers of the Public Services Ombudsman up as an example of exemplary scrutiny.¹⁹⁵

Recommendation 51. Whilst Members appreciate the work of the Committee will increase in the Fifth Assembly with budgetary changes and taxation bills, the Committee believes the approach of undertaking selective work is one which should be advocated.

Number of Members and Chairing Finance Committee

309. The Finance Committee has eight members which is smaller than other policy committees. The Committee's experience over the course of this Assembly has found that a smaller number of members, which reflects political representation, has been workable and has not impacted on the quality of work produced.

310. It is understood that whilst the Finance Committee has an oversight role of the Wales Audit Office the Committee is required to have an opposition Chair and perhaps this should be detailed in Standing Orders in the same way it is detailed for the Public Accounts Committee. The Committee understands that Standing Orders are being changed to reflect this.

Topics for consideration by any future responsible committee

In addition to the various suggestions made to a future responsible Committee in this report, the Committee believes the following topics would warrant scrutiny during the Fifth Assembly.

Recommendation 52. The Committee recommends that the following topics should be considered by any future responsible committee:

- Following Royal Assent of the two expected Bills in relation to collection of taxes devolved to Wales, the Welsh Government should be scrutinised on the implementation of the taxes going forward
 - Pre-legislative scrutiny of financial implications of draft bills
 - Financial aspects of the Wales Bill, including the costs of a reserved powers model and the impact on the block grant
-

¹⁹⁵ Twitter, **Nick Bennett, 9 October 2015**