

PUBLIC AUDIT (WALES) ACT 2004

EXPLANATORY NOTES

TERRITORIAL EXTENT AND DEVOLUTION

Part 2, Chapter 1: Accounts and Audit

Audit of accounts

Sections 18 & 19: Auditors' rights to documents and information

54. **Section 18** gives the appointed auditor a right of access at all reasonable times to “every document relating to a local government body in Wales” which he considers necessary for his functions under Chapter 1.
55. Subsection (2) makes it clear that the enhanced power of access to documents enables an appointed auditor to have access to documents in a financial chain relating to the use of public money. For instance, a local government body in Wales may (if in accordance with its own specific powers) use a grant paid to it by the Assembly to provide a grant, loan or guarantee to a third party. The local government body in Wales may also contract with another organisation to provide a service to it and certain components of this service may in turn be sub-contracted. Section 18(2) makes it clear that the appointed auditor may, if necessary, have access to documents relating to these kinds of transactions - documents held or controlled by anyone who has received financial assistance from a local government body in Wales, or who has supplied goods or services to the body under a contract, or who has been a sub-contractor in relation to such a contract. The aim of this provision is to ensure that regularity, propriety and the principles of value for money apply to the use of public money at each stage in the chain of expenditure.
56. **Section 18** is consistent with section 95 of the GOWA (as substituted) in this respect (see the note on section 11, above), and also with section 52, which deals with the rights of the Auditor General to documents and information etc. when carrying out his functions in relation to local government bodies in Wales. The Act, thus, seeks to ensure a single standard of access to documents and information etc. in public sector audit in Wales, consistent with the recommendations made by Lord Sharman of Redlynch in his report “Holding to Account - the Review of Audit and Accountability for Central Government (February 2001)”.
57. By virtue of section 18(2)(c), the Assembly has a power to extend the categories of documents for the purposes of this section. It may by order specify any other description of documents to which the appointed auditor’s right of access will apply. Before making such an order, the Assembly must consult the Auditor General and such associations of local authorities in Wales as appear to be concerned. The Assembly may use this power in order to extend the description of documents etc. that appointed auditors may access in order to trace the use of public funds. For example, if an auditor is auditing the accounts of a local government body in Wales, he may need to have access to documents relating to the use of funds by organisations in receipt of significant grant funding. If that organisation had contracted with contractor A who in turn had sub-contracted with

*These notes refer to the Public Audit (Wales) Act 2004
(c.23) which received Royal Assent on 16 September 2004*

contractor B, the Assembly could make an order to ensure that the auditor could have access, if necessary, to relevant documents held by contractor B.

58. In addition to his right of access to documents, an appointed auditor has a right to any assistance, information and explanation he thinks necessary for the purposes of carrying out his functions under Chapter 1. By virtue of subsections (4) and (5) of section 18, an auditor can require such assistance, information and explanation from anyone he thinks has information about:

- a local government body in Wales in relation to which the auditor has functions under Chapter 1;
- a document to which the auditor has a right of access; or
- a person who holds or controls such a document.

An auditor can require such a person to attend before him in person to give the assistance, information or explanation, or to produce a document to which the auditor has a right of access.

59. This right to information is intended to assist the auditor to ascertain the facts where, for instance, a document which he is entitled to see cannot be located. It is consistent with provisions in section 95 of the GOWA (as substituted by section 11) and section 52.

60. The auditor is also entitled to “every facility” (e.g. adequate accommodation, lighting, heating, access to relevant computer hardware and software etc.) and any other information he may need to enable him to do his work (section 18(6)).

61. [Section 19](#) specifies that a person who fails to comply with any of the requirements in section 18(4), without reasonable excuse, is guilty of an offence, lays down the applicable penalty and provides for the appointed auditor to be able to recover any expenses he or she incurs in connection with a successful prosecution under the section. Section 18(4) is the provision which enables the auditor to require production of a document to which he has a right of access, or to require assistance, information or explanation from certain persons.