



# Public Audit (Wales) Act 2004

## 2004 CHAPTER 23

### PART 2

#### LOCAL GOVERNMENT BODIES IN WALES

### CHAPTER 1

#### ACCOUNTS AND AUDIT

##### *Auditors' reports and recommendations*

## 22 Immediate and other reports in public interest

- (1) In auditing accounts of a body under this Chapter, [<sup>F1</sup>the Auditor General for Wales] must consider whether, in the public interest, he should make a report on any matter which comes to his notice in the course of the audit, in order for it to be—
  - (a) considered by the body, or
  - (b) brought to the attention of the public.
- (2) If [<sup>F1</sup>the Auditor General for Wales] considers that, in the public interest, he should make a report such as is mentioned in subsection (1), he must consider whether the public interest requires the matter to be made the subject of an immediate report.
- (3) If [<sup>F1</sup>the Auditor General for Wales] considers that the public interest requires the matter to be made the subject of an immediate report, he must make the report immediately.
- (4) If [<sup>F1</sup>the Auditor General for Wales] considers that the public interest does not require the matter to be made the subject of an immediate report, he must make the report at the conclusion of the audit.
- (5) In a case within subsection (3), [<sup>F1</sup>the Auditor General for Wales] must send the report to the body<sup>F2</sup>... immediately after making it.

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*Changes to legislation: There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, Cross Heading: Auditors' reports and recommendations. (See end of Document for details)*

- (6) In a case within subsection (4), [<sup>F1</sup>the Auditor General for Wales] must send the report to the body<sup>F3</sup>... before the end of the period of 14 days starting with the day on which he concludes the audit.

#### Textual Amendments

- F1** Words in s. 22 substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 27(2)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F2** Words in s. 22(5) omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 27(3)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F3** Words in s. 22(6) omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 27(4)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

## 23 General report

- (1) This section applies if [<sup>F4</sup>the Auditor General for Wales] has concluded his audit of a body's accounts under this Chapter.
- (2) If a statement of accounts is required to be prepared by regulations under section 39, [<sup>F4</sup>the Auditor General for Wales] must enter on the statement—
- (a) a certificate that he has completed the audit in accordance with this Chapter, and
  - (b) his opinion on the statement.
- (3) In any other case, [<sup>F4</sup>the Auditor General for Wales] must enter on the accounts—
- (a) a certificate that he has completed the audit in accordance with this Chapter, and
  - (b) his opinion on the accounts.
- (4) But if [<sup>F4</sup>the Auditor General for Wales] makes a report under section 22 at the conclusion of the audit, he may include the certificate and opinion referred to in subsections (2) and (3) in the report instead of making an entry on the statement or accounts.

#### Textual Amendments

- F4** Words in s. 23 substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 28** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

## 24 Consideration of reports in public interest

- (1) This section applies if [<sup>F5</sup>the Auditor General for Wales] makes a report under section 22 on a matter which comes to his notice in the course of the audit of the accounts of a body.
- (2) The body must take the report into consideration—
- (a) as soon as practicable after receiving it, if the body is a body mentioned in subsection (3);
  - (b) in accordance with section 25, in any other case.
- (3) The bodies referred to in subsection (2)(a) are—

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- (a) a port health authority;
  - (b) a conservation board;
  - (c) an internal drainage board;
  - (d) a local probation board;
  - [<sup>F6</sup>(e) a probation trust.]
- (4) The agenda supplied to members of the body for the meeting of the body at which the report is to be considered must be accompanied by the report.
- (5) Subsection (6) applies to these powers—
- (a) the power under section 1(4)(b) of the Public Bodies (Admission to Meetings) Act 1960 (c. 67) to exclude items from the matter supplied under that section (supply of agenda etc. to newspapers);
  - (b) the power under section 100B(2) of the Local Government Act 1972 (c. 70) to—
    - (i) exclude documents from the documents open to inspection under section 100B(1) of that Act, or
    - (ii) exclude items from the matter supplied under section 100B(7) of that Act (public access to agenda and reports before meetings and supply of agenda etc. to newspapers).
- (6) The powers mentioned in subsection (5) do not include power to exclude the report.
- (7) Part 5A of the Local Government Act 1972 has effect in relation to the report as if section 100C(1)(d) of that Act (public access to copies of reports for 6 years after meeting) were not limited to so much of the report as relates to an item during which the meeting was open to the public.

#### Textual Amendments

- F5** Words in s. 24 substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 29](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F6** S. 24(2)(e) inserted (1.3.2008) by [Offender Management Act 2007 \(c. 21\)](#), ss. 5(6), 41(1), [Sch. 1 para. 13\(5\)\(b\)](#); S.I. 2008/504, art. 2(a)

## 25 Procedure for consideration of reports and recommendations

- (1) This section applies if a body is required under section 24(2)(b) to take a report into consideration in accordance with this section.
- (2) This section also applies if [<sup>F7</sup>the Auditor General for Wales, in auditing] any accounts of a local government body in Wales—
- (a) sends to the body a written recommendation, and
  - (b) states in the document containing the recommendation that in his opinion the recommendation should be considered in accordance with this section.
- (3) But subsection (2) does not apply if the body is—
- (a) a port health authority;
  - (b) a conservation board;
  - (c) an internal drainage board;
  - (d) a local probation board;

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[<sup>F8</sup>(e) a probation trust.]

- (4) If this section applies, the body must consider the report or recommendation at a meeting held by it before the end of the period of one month starting with the day on which [<sup>F9</sup>the Auditor General for Wales] sends the report or recommendation to it.
- (5) At the meeting the body must decide—
  - (a) if a report under section 22 is considered at the meeting, whether the report requires it to take any action;
  - (b) if a recommendation within subsection (2) is considered at the meeting, whether the recommendation is to be accepted;
  - (c) what action (if any) to take in response to the report or recommendation.
- (6) [<sup>F10</sup>The Auditor General for Wales] may extend the period of one month mentioned in subsection (4) in relation to a report or recommendation if he is satisfied that it is reasonable to allow the body more time to comply with its duties under subsections (4) and (5) in relation to the report or recommendation.
- (7) A period may be extended under subsection (6) more than once.
- (8) Nothing in section 101 of the Local Government Act 1972 (c. 70) (delegation of functions) applies to a duty imposed on a body by this section.
- (9) This section does not affect any duties (so far as they relate to the subject-matter of a report or recommendation) imposed by or under—
  - (a) this Act;
  - (b) sections 114 to 116 of the Local Government Finance Act 1988 (c. 41) (reports by chief finance officers);
  - (c) section 5 of the Local Government and Housing Act 1989 (c. 42) (functions of monitoring officers);
  - (d) any other enactment.

#### Textual Amendments

- F7** Words in s. 25(2) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 30\(2\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F8** S. 25(3)(e) inserted (1.3.2008) by [Offender Management Act 2007 \(c. 21\)](#), ss. 5(6), 41(1), [Sch. 1 para. 13\(5\)\(c\)](#); S.I. 2008/504, [art. 2\(a\)](#)
- F9** Words in s. 25(4) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 30\(3\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F10** Words in s. 25(6) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 30\(4\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)

## 26 Publicity for meetings under section 25

- (1) This section applies if a body is required under section 25(4) to hold a meeting.
- (2) The meeting may be held on a particular day only if, at least seven clear days before that day, a notice complying with subsection (3) has been published in a newspaper circulating in the area of the body.
- (3) A notice complies with this subsection if it—
  - (a) states the time and place of the meeting,

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- (b) indicates that the meeting is to be held to consider [F11the Auditor General for Wales]’s report or recommendation (as the case may be), and
  - (c) describes the subject-matter of the report or recommendation.
- (4) As soon as practicable after the meeting the body must—
- (a) ensure that [F11the Auditor General for Wales] is notified of the decisions made by the body under section 25(5),
  - (b) obtain the approval of [F11the Auditor General for Wales] to a written summary of those decisions (“the approved summary”), and
  - (c) ensure that a notice containing the approved summary is published in one or more newspapers circulating in the area of the body.
- (5) The approved summary need not summarise any decision made at the meeting while the public were excluded—
- (a) under section 100A(2) of the Local Government Act 1972 (confidential information);
  - (b) in pursuance of a resolution under section 100A(4) of that Act (exempt information);
  - (c) in pursuance of a resolution under section 1(2) of the Public Bodies (Admission to Meetings) Act 1960 (c. 67) (protection of public interest).
- (6) But if sections 100C and 100D of the Local Government Act 1972 (c. 70) (availability for inspection after meeting of minutes, background papers and other documents) apply in relation to the meeting the approved summary must indicate the documents in relation to the meeting which are open for inspection under those sections.
- (7) This section does not affect any provisions made in relation to meetings of a body by section 24(4) to (7) or by or under—
- (a) the Local Government Act 1972;
  - (b) the Public Bodies (Admission to Meetings) Act 1960;
  - (c) any other enactment.

#### Textual Amendments

**F11** Words in s. 26 substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\), s. 35\(2\), Sch. 4 para. 31](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)

## 27 Additional publicity for immediate reports

- (1) This section applies where under section 22(5) [F12the Auditor General for Wales] has sent a report made under section 22(3) to a body.
- (2) From the time when the report is received by the body any member of the public may—
  - (a) inspect the report at all reasonable times without payment;
  - (b) make a copy of the report or any part of it at all reasonable times without payment;
  - (c) require the body to supply him on payment of a reasonable sum with a copy of the report or any part of it.
- (3) On receiving a report sent to it under section 22(5) a body must immediately—

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- (a) ensure that a notice is published in one or more newspapers circulating in the area of the body, and
  - (b) supply a copy of the report to every member of the body.
- (4) The notice published under subsection (3) must—
- (a) identify the subject-matter of the report, and
  - (b) state that any member of the public may inspect the report and make a copy of it or any part of it between such times and at such place or places as are specified in the notice.
- (5) [<sup>F13</sup>The Auditor General for Wales] may—
- (a) notify any person that he has made the report;
  - (b) supply a copy of the report or of any part of it to any person.
- (6) A person who has custody of a report made under section 22(3) commits an offence if—
- (a) he obstructs a person in the exercise of a right conferred by subsection (2) (a) or (b), or
  - (b) he refuses to comply with a requirement under subsection (2)(c).
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) A body commits an offence if it fails to comply with a requirement of subsection (3).
- (9) A body guilty of an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) Nothing in this section affects the operation of section 24(4) to (7).

#### **Textual Amendments**

- F12** Words in s. 27(1) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 32\(2\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F13** Words in s. 27(5) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 32\(3\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)

## **28 Additional publicity for non-immediate reports**

- (1) This section applies where under section 22(6) [<sup>F14</sup>the Auditor General for Wales] has sent a report made under section 22(4) to a body.
- (2) [<sup>F14</sup>the Auditor General for Wales] may—
- (a) notify any person that he has made the report;
  - (b) publish the report;
  - (c) supply a copy of the report or any part of it to any person.
- (3) From the time when the report is sent to the body—
- (a) [<sup>F14</sup>the Auditor General for Wales] must ensure that any member of the public may—
    - (i) inspect the report at all reasonable times without payment;

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- (ii) make a copy of the report or any part of it at all reasonable times without payment;
- (b) any member of the public may require [<sup>F14</sup>the Auditor General for Wales] to supply him on payment of a reasonable sum with a copy of the report or any part of it.

<sup>F15</sup>(4) .....

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**Textual Amendments**

- F14** Words in s. 28 substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 33(2)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F15** S. 28(4) omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 33(3)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

**Status:**

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**Changes to legislation:**

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