

PUBLIC AUDIT (WALES) ACT 2004

EXPLANATORY NOTES

TERRITORIAL EXTENT AND DEVOLUTION

Part 2, Chapter 4: General

Sections 52 & 53: Rights of Auditor General for Wales to documents and information

106. These provisions are distinct from those in section 18, which deals with an appointed auditor's right of access to documents and information etc. However, they mirror those rights.
107. Under section 52, the Auditor General has the right of access at all reasonable times to every document relating to a local government body in Wales which he considers necessary for the exercise of his functions under Part 2 of the Act. By virtue of section 14(3), his functions do not extend to the direct audit of the accounts of a local government body in Wales.
108. Subsection (2) makes it clear that the power of access to documents enables the Auditor General to have access to documents in a financial chain relating to the use of public money, in the same way as appointed auditors (see the notes on section 18, above) - 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.
109. **Section 52** is consistent with section 95 of the GOWA (as substituted) in this respect (see the note on section 11, above), and also with section 18, which deals with the rights of appointed auditors to documents and information etc. when auditing the accounts of 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)".
110. By virtue of section 52(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 the Auditor General may access in order to trace the use of public funds. For example, if the Auditor General is carrying out a value for money exercise in relation to one or more local government bodies in Wales, the Auditor General may need to have access to documents relating to the use of funds by organisations in receipt of significant grant funding. If an organisation had contracted with contractor A who in turn had sub-contracted with contractor B, the

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

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

111. In addition to his right of access to documents, the Auditor General has a right to any assistance, information and explanation he thinks necessary for the purposes of carrying out his functions under Part 2. By virtue of subsections (4) and (5) of section 52, he can require such assistance, information and explanation from anyone he thinks has information about:
- a local government body in Wales;
 - a document to which the Auditor General has a right of access; or
 - a person who holds or controls such a document.

The Auditor General 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 he has a right of access.

112. This right to information is intended to assist the Auditor General 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 18.
113. The Auditor General, like appointed auditors, is also entitled to every facility he may reasonably need in order to carry out his functions under Part 2 (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.
114. The main functions of the Auditor General to which these rights of access apply are: appointing auditors under section 14; undertaking economy, efficiency, effectiveness and other studies under sections 41, 42, 44 and 45; ordering an extraordinary audit under section 37; and issuing directions under section 47. The rights also apply to the Auditor General's functions under Chapter 3 (Best Value).
115. [Section 52\(6\)](#) also gives the Auditor General rights to inspect specific documents for the purpose of ensuring that auditors appointed by him are maintaining proper standards when auditing the accounts of local government bodies in Wales.
116. [Section 53](#) specifies that a person who fails to comply, without reasonable excuse, with any of the Auditor General's requirements under section 52(4) is guilty of an offence, specifies the penalty applicable, and provides for the recovery of any expenses incurred by the Auditor General in connection with a successful prosecution under the section.