

REPORT OF THE FINANCE MANAGER

SUBJECT:
WELSH GOVERNMENT REVIEW OF AUDIT, INSPECTION AND REGULATION

The Welsh Government would like the Authority to respond to the consultation on the findings on Phase1 of their report which is aimed to establish by consensus the purpose of audit, inspection and regulation (AIR).

Following the consultation the views will be collated and reflected in a final statement of principles and objectives for an AIR system in Wales. This statement will then form the basis for Phase 2 for the review.

Recommendation: Members are asked to COMMENT on the consultation documents

(For further information contact Richard Griffiths – Finance Manager on ext 4815)

Thank you for your time and co-operation in responding to this consultation. It would be helpful if you could use this questionnaire.

The Welsh Government intends to publish a summary of the responses to this document. Normally, the name and address (or part of the address) of its author are published along with the response, as this gives credibility to the consultation exercise.

Name * :

Organisation (if applicable):

Address:

Telephone:

Email * :

1. In order to define AIR in a way which is useful for practitioners we have sought to distinguish between the purpose of AIR, its core functions and a set of key attributes. Is this approach helpful?

Yes

No

Not sure

Comment::

2. Do you agree with our definition of the purpose of AIR? Do you have any suggestions on how the definition could be improved?

Yes

No

Not sure

Comment::

3. We have identified 6 core functions for AIR. Does our list capture the full scope of AIR or are some functions missing? Would you give particular weight or priority to any of the functions?

Yes

No

Not sure

Comment::

4. Our list of core functions includes contributing to improvement and reporting early signs of failure. Should these be key functions of AIR? If yes, why? And if no, why not?

Yes

No

Not sure

Comment::

5. We have also identified seven key attributes? Do they capture how AIR should be conducted? Should any additional attributes be added? Would you give particular weight or priority to any of the attributes?:

6. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept anonymous please tick the box:

Number: WG20702



Llywodraeth Cymru
Welsh Government

www.cymru.gov.uk

Welsh Government

Consultation Document

Phase 1: Draft Report: Review of Audit, Inspection and Regulation

Date of issue: 20 January 2014

Action required: Responses by 14 March 2014

Overview

This report sets out the findings from phase 1 of the review of Audit, Inspection and Regulation (AIR), - to establish the general consensus on the overarching 'purpose, principles and objectives' of an Audit, Inspection and Regulation system in Wales.

How to respond

By completing the questionnaire in the response form and returning it via e-mail to: LGSPConsultations@wales.gsi.gov.uk

Or completing a hard copy of the questionnaire and returning to:

Nik Cilia
Local Government Improvement
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Further information and related documents

Large print, Braille and alternate language versions of this document are available on request.

<http://wales.gov.uk/consultations/localgovernment/phase1-draft-report-review-of-audit-inspection-regulation/?lang=en>

Contact details

For further information:

Louise Hicks
Local Government Improvement
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

e-mail: Louise.hicks@wales.gsi.gov.uk

Ffôn: 029 2082 1620

Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full.

Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

The Review of Audit, Inspection and Regulation (AIR)

The Programme for Government contains a commitment to “review the framework for the external scrutiny of public services and the work of our auditors, inspectors and regulators”.

Background

In early 2013, Welsh Government officials proposed a three phase review of Audit, Inspection and Regulation (AIR) in Wales in response to the Programme for Government commitment.

- Phase 1 - to establish by consensus the purpose of audit, inspection and regulation;
- Phase 2 - to consider how far/to what extent the present system fulfils the principles of Phase 1; and establish a programme for reform;
- Phase 3 – Implementation – comprising one-off reforms or longer-term changes of emphasis.

The approach was endorsed by the Minister for Local Government and Government Business and the relevant Ministers this review would impact upon, namely those responsible for the Health; Social Services; Education and Children.

It was agreed that the review embraces only those devolved forms of audit, inspection and regulation in Wales; covering the Wales Audit Office (WAO); Care & Social Services Inspectorate Wales (CSSIW); Estyn; and Healthcare Inspectorate Wales (HIW). The review will not cover the regulation of professions. It is important to emphasise that the intention of this review is not to review the organisations in themselves, but rather the potential for their work to add maximum value when taken together in broader terms.

It is generally acknowledged that external review should be well-coordinated and proportionate to the overall public interest and must itself deliver value for money. Despite previous changes to law and policy, it remains evident that the present system is not always effective in delivering the desired results, and a more innovative approach was overdue. Furthermore, over recent years, the need to strengthen the co-ordination of evidence gathered by AIR bodies has become clearer with the publication of a number of reports, impacting across portfolios. These have raised concerns around key service areas within certain Welsh authorities, heightening the need to commence this review.

The review gained even greater significance following the Francis report into the failings at Stafford hospital. This critically examined commissioning, supervisory and regulatory organisations and their apparent failure to detect, communicate or prevent the failures in care. Although an English report, Francis raises broader issues about regulatory effectiveness which are relevant to Wales and the review of AIR.

Additionally, the Deputy Minister for Social Services' White Paper and subsequent Bill on Social Services Regulation and Inspection recognises the important role regulators have to play in raising the quality of practice and

services. The review is aligned and looks to inform this work, and the work on the Review of Childcare and Early Education Registration, Regulation and Inspection.

In particular, previous attempts at reform have failed to overcome a basic issue. We recognise the importance of AIR bodies in ensuring propriety, enhancing accountability and improving services. On the other hand, those they audit inspect or regulate often question whether the AIR bodies approach is as proportionate and well coordinated as it could be. If we are to attempt to resolve this we need to establish common ground and a consensus across the AIR bodies and those subject to their review on what the broad purposes of AIR should be, and what its value could be, in order to fully realise its benefits and make any progress in reforming the system.

As stated the review will be approached in three phases and the first year focuses at Phase 1, which aims to establish by consensus the purpose of audit, inspection and regulation.

Phase 1: Establishing the consensus: research undertaken leading to consultation

This consultation exercise seeks your views on the research undertaken to date by our external researchers 'Shared Intelligence', as detailed in their Phase 1 report. The report's findings are based on the intelligence collated through a literature review; two workshops held in North and South Wales and ten, one to one interviews. The attendance at the workshops and those interviewed, represented a cross section of AIR bodies and those subject to their review, across Local Government; Health; Social Services; Children's services and education.

The report sets out their findings from phase 1 of the review to establish the general consensus on the overarching 'purpose, principles and objectives' of an AIR system in Wales. The report sets out:

- a brief summary of the brief, context and our methodology
- Shared Intelligence's conclusions on what they describe as the purpose, functions and attributes of AIR

Phase 1 – Consultation - to establish by consensus the purpose of audit, inspection and regulation

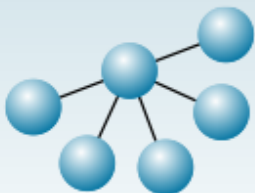
It is important to emphasise that the intention of Phase 1, is to confirm an consensus on what the purpose of AIR should be, as opposed to the principles and processes that may govern the present provision. Phase 2, will then seek to consider how far/to what extent the present system fulfils the principles you have agreed in Phase 1.

Phase 2 will commence in April 2014.

January 2014

REVIEW OF AUDIT, INSPECTION AND REGULATION IN WALES

PHASE 1 REPORT



SHARED INTELLIGENCE

1 Introduction

1.1 Shared Intelligence (Si) and ORS have been commissioned by the Welsh Government to review the framework for audit, inspection and regulation (AIR) of public services in Wales. The review is intended to fulfil a commitment to review the AIR system set out in the Welsh Government's Programme for Government and is in two parts:

1. to establish a general consensus on the overarching 'purpose, principles and objectives' of an AIR system in Wales; and
2. to consider to what extent the current system delivers against the agreed 'purpose, principles and objectives'.

1.2 This report sets out our findings from phase 1 of the review - to establish the general consensus on the overarching 'purpose, principles and objectives' of an AIR system in Wales. The report sets out:

- a brief summary of the brief, context and our methodology (section 2)
- our conclusions on what we describe as the purpose, functions and attributes of AIR (section 3)
- next steps (section 4).

1.3 In summary we believe that the core purposes of AIR are twofold: to protect the rights of citizens by holding the use of public resources to account and by rigorously telling the story of how citizens experience services; and to contribute to the wider improvement framework within organisations, the Welsh Government and wider public sector.

1.4 We also conclude that there are a number of functions and attributes of an effective AIR system, some of which are more contentious than others. However lying at the heart of these is the strong sense that, particularly in the current climate of austerity, AIR cannot be about compliance and assurance alone but has a further role to play in supporting improvement and informing policy. Views on the centrality of these additional roles varies and is an issue which should be explored further during the consultation process.

2 The context and methodology

2.1 In conducting the first phase of this review we have been alert to the fact that there have been a number of related AIR reviews, both by the Welsh Government itself, as published in

its Policy Statement in 2009 and follow up report in 2011, and also the work undertaken in Scotland (the Crerar review) which was published in 2007 and the work by the Office of Public Sector Reform in England in 2003. Given the similar conclusions reached in these exercises we have used their findings as a starting point for the first phase and focused on ensuring that:

- the conclusions on objectives and principles from this body of work are fit for purpose in the Welsh context; and
- this review takes into account developments since the earlier work was completed.

2.2 Wales, like the rest of the UK, is experiencing the need for significant reductions in public expenditure. These reductions have major implications for AIR and for the organisations that are responsible for it. The impact of this tight financial climate gives ever more importance to the emphasis given by the Wales Policy Statement to AIR being proportionate, making best use of resources and supporting the public sector in making savings, and in the reviews the AIR bodies have conducted of themselves.

2.3 Also pertinent is the introduction across public services of new models of service delivery and the increasing importance of collaborative and integrated working between different organisations. The greater focus on increased collaboration with less market testing and competition in relation to public services is distinctive to Wales and reinforces for many we spoke to the importance of AIR in facilitating consumer confidence (refer also paragraph 3.4).

2.4 Alongside this, there is some evidence from AIR reviews to suggest that some public services in Wales are not performing to the standards they need to. For example, more local authority education services are in special measures than ever before, six in the past two years as compared to one in the previous decade, alongside some recent high profile local authority and health board 'failures'. These findings have important implications for the role of AIR.

2.5 We have been sensitive during this review to related reviews which are ongoing across Government including:

- the recent White Paper on the 'Future of regulation and Inspection of Care and Support in Wales' (October 2013)
- the work of the Williams Commission on public service governance and delivery due to report imminently;
- the National Assembly for Wales's Health and Social Care Committee's Inquiry into the work of the HIW (while aware of the context we do not know the detail relating to the findings and conclusions of this Inquiry which remain private at this stage)
- the Welsh Government's plans following the Francis Inquiry into failings in the Mid Staffordshire NHS Trust - 'Delivering Safe Care, Compassionate Care';
- the Welsh Government's early years review into the registration, inspection and regulation of childcare.

Where possible we have engaged directly with the review teams or reviewed documentation in the public domain.

2.6 Finally, it is worth reinforcing that the brief for this report relates to the purpose, functions and attributes of the ‘whole’ AIR system. We believe that despite the distinct functions of audit, inspection and regulation, there is sufficient overlap and commonality between them to support a unified framework. However, it might be that particular aspects are more relevant to some activities than others and this will be explored further in phase 2. The brief specifies the need to have particular regard to the activities of the four larger AIR bodies - the Wales Audit Office (WAO), Estyn, the Care and Social Services Inspectorate in Wales (CSSIW) and the Healthcare Inspectorate Wales (HIW) - though we are sensitive to the complexity of the AIR landscape and that there are many more organisations (some pan UK) undertaking AIR activities in Wales.

2.7 Phase 2 of this review will consider the extent to which the principles and objectives of the four AIR bodies and the current AIR system reflects the conclusions drawn from this phase. In undertaking this work we will be sensitive as necessary to the impact of the different statutory roles and responsibilities of the four AIR bodies in implementing these functions. Phase 2 will commence once the consultation has completed and the responses analysed.

Our methodology

2.8 In order to inform our findings we have:

- Held two meetings with the Steering Group to understand the context, key issues and challenges from their perspective and to test out the findings of phase one;
- Carried out an umbrella literature review which synthesised the conclusions from the considerable work already undertaken in Wales and beyond, focusing on four core texts:
 1. Inspection, Audit and Regulation in Wales: Policy Statement (WG, 2009) and its annual progress report in 2011;
 2. The Crerar review, including its extensive literature review, in Scotland in 2007;
 3. The work on audit and inspection carried out by the former Office of Public Services Reform (OPSR) in 2003; and
 4. Statements of values and principles produced by the Welsh AIR bodies.

This umbrella literature review was supplemented by further analysis of published documentation to incorporate wider evidence from other published literature, such as the 2012 SOLACE publication on ‘The future of public audit’, emerging policy documents such as the recent White Paper on the ‘Future of Regulation and Inspection of Care and Support in Wales’, and an internet search of recent media coverage of AIR activities in Wales. It was agreed at the outset of this phase of the review that time did not permit a review of all academic literature on AIR.

- Developed and tested out our ideas about the purpose and principles of AIR from the literature review to ensure they are fit for purpose in the Welsh context and in relation to the changes in the public service context that have emerged over the last 10 years. We have done this through:
 - facilitating two stakeholder half day workshops, one in North Wales and one in South Wales

- conducting ten stakeholder depth interviews, some face to face and some over telephone

A full list of workshop attendees and interviewees is **attached** as Annex A.

- Carried out a detailed analysis of the workshop findings and interview discussions.
- Attended one meeting with the Heads of the four AIR bodies to discuss the findings from this phase.

3 Purpose, functions and attributes

3.1 In order to define the ‘purpose, principles and objectives’ for the AIR system which is useful for practitioners and policy makers we have sought to distinguish between the following three elements:

- the overall **PURPOSE** of AIR: what it is intended to achieve.
- the key **FUNCTIONS** of AIR: the things it needs to do in order to achieve that purpose.
- the **ATTRIBUTES** of AIR: how AIR should be conducted in order to achieve that purpose.

The key findings for each element are set out in the following paragraphs and illustrated in the table overleaf.

Purpose of AIR

Protecting the interests of citizens by holding the use of public resources to account and by rigorously telling the story of how citizens experience services.

Contributing to the wider improvement framework, within organisations, the Welsh Government and wider public sector.

Core functions of AIR

Assessing compliance with governance, financial stewardship and probity standards and regulations.

Assuring the quality and cost effectiveness of service provision.

Public reporting on the stewardship of public resources, service delivery against standards and the adherence to regulations

Contributing to improvement including by encouraging self improvement, acting upon a critical report and encouraging wider sectoral support

Identifying, acting upon and reporting early signs of 'failure' within a service or organisation.

Informing policy and practice, beyond individual organisations.

Key attributes of AIR

Proportionality: AIR must be visibly proportionate to the risk, potential for improvement, likely benefit and interests of citizens. Proportionality must apply at two levels. Firstly, in deciding whether it is appropriate to use AIR, and secondly, in deciding its nature, scope and duration.

Independence: AIR must be independent and must not be constrained by any party in reaching its conclusions and publishing its findings. It must be free to make judgements about service delivery and report its findings into the public domain, and it must be able to decide how it discharges its responsibilities, once its focus has been agreed.

Accountability: AIR must be accountable for its use of activities. It must demonstrate and report on the impact of its activities on services scrutinised. Its assessments and findings must be fair and capable of being defended.

Collaboration: AIR bodies must demonstrate their capacity for collaboration with each other on relevant issues, in the interests of greater local impact, greater cost effectiveness and to reduce the burden on those being reviewed. This collaboration should extend, as a matter of course rather than exception, towards sharing a focus for reviews, integrated working and joined up judgements. Organisational arrangements that support collaboration will be promoted.

Value for money: Resources allocated to AIR represent a significant investment which needs to be used as efficiently and effectively as possible. AIR should be able to demonstrate it delivers benefits commensurate with its cost, including the cost to those subject to AIR activity.

Transparency: AIR must be transparent in all its activities, its focus, decision making criteria, business processes, assessments and reporting. There should be a transparent decision framework for regulatory intervention. It is essential that the processes and mechanisms which support the use of AIR are transparent and citizen-centred, so that all parties understand the particular purpose for which it is being used at any given time. For AIR to be credible, its reports must be clear, independent and consistent.

Professionalism and competence: AIR must be conducted in a way which demonstrates professional integrity and competence. AIR should be seen to be credible, consistent and impartial in all its activities.

The overall purpose of AIR

Protecting the interests of citizens is paramount....but contributing to the wider improvement framework is also key

3.2 A key aim of this phase of the review was to articulate the overall purpose of the AIR system - what it is intended to ultimately achieve. The functions and attributes of AIR would only become apparent once this purpose had been established. In considering this we were struck by the high degree of consensus between the findings of the core literature texts summarising the thinking of the Welsh Government, the Crerar Review and the work undertaken by the OPSR. This consensus signalled the ultimate purpose of AIR as one of protecting the interests of citizens. 'External review must focus primarily on the interests of citizens' (Wales Policy Statement), 'the needs and priorities of service users and the public

must be the prime consideration in all external scrutiny' (Crerar review), 'inspection should be delivered with a clear focus on the experience of those for whom the service is provided' (OPSR).

3.3 This conclusion was reinforced in our own discussions which further clarified the purpose of AIR as protecting the interests of citizens by holding the use of public resources to account. One interviewee reflected that:

'the overall purpose of the whole (AIR) system is to ensure that people receiving services get services based on best practice standards and value for money'.

Another said:

'(the public) need to know money is being used effectively....and that the quality of service is fit for purpose and effective'.

These statements were supported by others with phrases such as 'safeguarding people', 'protecting the rights of service users', and 'putting public at the heart of what they (AIR) do' volunteered in discussion.

3.4 More than one interviewee also made a related point that, given there is less market testing and competition in relation to public services in Wales, AIR plays an important role in helping to facilitate consumer confidence and choice. Examples of quotes include: 'in the absence of market forces, there needs to be mechanisms such as AIR to create these (market) pressures' and '(AIR) is there to promote informed choices by the public and customers'. The four AIR bodies express a similar view in their 2011 joint statement in which they suggest that in the absence of competition their role becomes more important. These sentiments all play well into a primary purpose of protecting the interests of citizens.

3.5 In addition there was strong agreement during the review that a 'focus on (service) outcomes' is of critical importance, with all workshop participants highlighting this as one of the top priorities for AIR. The need to focus on outcomes is expressed in some form in all of the relevant literature we reviewed but perhaps most explicitly in the Wales Policy Statement and the work undertaken by OPSR. The OPSR review reflects that a focus on outcomes means 'considering service delivery to the end users of services rather than concentrating on internal management arrangements' and the Wales Policy Statement states that external scrutiny must 'tell the story of how citizens use services'.

3.6 We believe that there is a distinction to be made between the overarching purpose of AIR and the primary focus of the AIR process. So, we have already stated that the ultimate purpose of AIR, emerging from the review, is to protect the interests of citizens. In order for this purpose to be achieved successfully, then it appears crucial that the AIR 'process' focuses more on public and user outcomes than on organisational processes and arrangements.

3.7 This is not the same as saying that the focus should be solely on outcomes. Indeed it was widely recognised in discussions that AIR has an important role to play in contributing to the wider improvement framework within organisations, within the Welsh Government and within the wider public sector. AIR's role in providing assurance that individual organisations' systems and arrangements are robust and being complied with was universally accepted, albeit alongside a wish to see this undertaken in a proportionate way (refer paragraph 3.25). Many of those we spoke to also articulated a role for AIR which went

beyond providing assurance and ensuring compliance within individual organisations to one which drew conclusions across organisations, services and sectors in order to share best practice and inform national policy debates (refer paragraph 3.21).

3.8 Nonetheless it is fair to say that this role of contributing to the wider improvement framework, while seen as an essential piece of the AIR jigsaw, appeared to emerge as of secondary importance to the primary purpose of protecting citizens' interests by holding public services to account. It is also worth noting here that, while some clear distinctions in the contributions of the individual AIR activities emerged (refer paragraph 3.10), we believe that the consensus that emerged around the primary and secondary purposes of the AIR system as a whole was reinforced, not undermined, by these discussions.

The key functions of AIR

3.9 If the two purposes of AIR are to protect the interests of citizens and to contribute to the wider improvement framework, evidence from our review suggests that there are at least six core 'functions' which describe what AIR should do in order to achieve those purposes. These are:

1. **assessing compliance** with governance, financial stewardship and probity standards and regulations;
2. **assuring the quality and cost effectiveness** of service provision, including mapping the direction of travel of a service or organisation;
3. **public reporting** on the stewardship of public resources, service delivery against standards and the adherence to regulations;
4. **contributing to improvement** including by encouraging self improvement, acting upon a critical report and encouraging wider sectoral support;
5. **identifying, acting upon and reporting** early signs of 'failure' within a service or organisation; and
6. **informing policy and practice** (beyond individual organisations);

These are explored further in the paragraphs below.

Assessing compliance, assuring quality, public reporting

3.10 The first two features in this list - assessing compliance with governance, financial stewardship and probity standards and regulations and assuring the quality and cost effectiveness of service provision - are universally recognised and well accepted (refer also paragraph 3.7). It is perhaps here that the distinctive contributions of the different AIR activities are most clearly expressed. Participants in the review saw audit as being primarily concerned with financial stewardship and governance, value for money and probity whilst they saw inspection as more about assuring the quality of service provision. The role of regulation featured less commonly but when it did it was seen as providing a framework for assessment of compliance against rules and standards. These comments are not dissimilar to

the formal definitions of audit, inspection and regulation used within the Wales Policy Statement (refer Annex A).

3.11 In addition many of those we spoke to saw the need for public reporting (refer also paragraph 3.41 on transparency). The ability of public auditors to make the results of their audits available to the public is one of the three central principles codified by the Public Audit Forum more than a decade ago. Equally this can be seen to apply to inspection and regulation.

3.12 However, there was a general sense from participants that these longstanding features of assessing compliance and quality assurance are no longer sufficient alone and more than one interviewee felt that there needed to be more of a focus on performance improvement. Phrases such as the need for AIR to ‘creatively support improvement’ and to ‘provide assurance in a way which prompts improvement’ were commonly volunteered in discussion.

3.13 This improvement emphasis supported by the evidence set out in the following paragraphs, led us to draw the following conclusion. The primary purpose of AIR is widely recognised as the focus on protecting the interests of citizens through holding the use of public resources to account. However to achieve this purpose credibly, and in a meaningful way for stakeholders, AIR activities need to be undertaken in a way which prompt and catalyse follow up action through one, or a combination of, the following means:

- encouragement of, and support for, the reviewed organisation’s self improvement;
- acting upon critical reports;
- encouragement of wider sectoral support;
- provision of ‘early warnings’ of impending failure or service deterioration which might, in worst case scenarios, lead to some form of Government intervention; and
- influencing changes in policy or legislation.

These issues are explored further in the following paragraphs.

Contributing to improvement

3.14 Contributing to organisational and service improvement are essential features highlighted across all the core literature texts, with a strong recognition in each that AIR should be a catalyst for, not the main driver of, improvement. This supports the tenor of the participants’ debate and is well articulated in the Wales Policy Statement: ‘The primary responsibility for improving services rests with those who provide and commission them.....External review can complement these responsibilities but cannot replace them.’

3.15 Both the Wales Policy Statement and OPSR articulate, along similar lines, some of the ‘how’ of AIR’s contribution to improvement for e.g. through the encouragement of rigorous self assessment and identification of good practice. OPSR also highlights the theme of addressing poor performance as part of the improvement role - ‘inspection should recognise good performance and address any failure appropriately.’ This chimes well with messages heard from review participants about AIR needing to share good practice themes more widely (beyond the individual organisations) and also to be able to help identify, address and share the underlying causes of failure.

3.16 It was apparent during the review that many colleagues believed that there must be consequences and/or action as a result of a critical AIR report. Some interviewees expressed views on the different ways this currently happens, some of which will be a reflection of the different legal and constitutional roles of the individual AIR bodies. However what emerged as critically important is that these actions are undertaken in a transparent and consistent manner. This can be explored further in phase 2.

3.17 The developing consensus around the increasing importance of this improvement role of AIR is perhaps a reflection of three factors:

- The current climate of public services austerity which places greater demand for improvements and efficiencies in public services and perhaps equal demands on AIR to contribute more. Rudi Turksema, of the Netherlands Court of Audit, highlights a similar point in his piece for the Solace pamphlet 'The Future of Public Audit' (2012) in which he refers the importance of public audit in helping to identify more opportunities for efficiency and for the best use of public money during times of austerity.
- There have been some recent high profile critical AIR reports of public organisations across the sectors alongside a perceived decline in the quality of some services, for example more local authorities are in education 'special measures' than ever before. Against this backdrop, people seem to be seeking more clarity and targeted improvement support.
- Evidence from our review that the AIR bodies are offering more general 'guidance' to organisations through the publication of their insights about improvement routes and good practices.

The consultation process offers an opportunity to further test the strength of this emerging consensus around the role of AIR in supporting improvement.

'Early warnings' signs

3.18 During the course of the review a new theme emerged, related to but distinct from the previous point - the role of AIR in identifying and reporting early signs of 'failure' within a service or organisation. Several interviewees saw this as a 'must do' for AIR even though many also acknowledged the complexities of implementation associated with the sharing of sensitive and sometimes incomplete information. Phrases such as 'too informal' and 'not systematic enough' were used to describe the operation of the current 'early warnings' system. Some of those who wished for a more effective 'early warnings' system also felt that the AIR bodies should accept some responsibility if there is a 'sudden and major failure' without any prior signalling of weaknesses through related AIR reviews.

3.19 The role for AIR around 'early warnings' is not discussed in detail within the core literature texts but has certainly been the subject of policy debate more widely. In addition, in the Solace pamphlet referred to earlier, Huw Vaughan Thomas (Auditor General for Wales) makes a related point when he discusses the timing of reviews and how it is sometimes better to offer a prompt, more limited review to inform decisions as they are taken than a more thorough, retrospective review. It was widely recognised by participants who raised this issue that an effective 'early warnings' system depends upon the effective sharing of real time information.

3.20 If the AIR role in the provision of an 'early warnings' system is accepted then this is likely to have implications for the design of the AIR process. For example, one colleague

highlighted the tension between the retrospective and rigorous approach which most AIR bodies adopt, and the need for something ‘quick and dirty’ as an early warning. The merit of this role and associated issues should be tested out during the consultation process.

Informing policy and practice

3.21 The Wales Policy Statement, the Crerar review and the OPSR review all advocate a clearer link between AIR activities and policy development. Notably the Wales Policy Statement is the only text to specify it as a principle:

‘The Welsh Government’s commitment to public services improvement requires a much more systematic approach and much more collaboration across the whole public services landscape. Independence is important, but so is the ability of external review bodies to share information with each other in the wider public interest and to contribute their knowledge and experience to the development of policy.’

3.22 This wider role beyond individual organisations emerged during the review discussions. Some participants thought that the Welsh Government should make more use of the AIR bodies’ knowledge and experience to better understand the challenges in implementing national policies and achieving national targets. Equally, some participants also suggested that the AIR bodies themselves could be more ‘ambitious’ in drawing out and publishing conclusions more widely, for example on how to best respond to budget reductions.

3.23 While the review evidence suggests strong support for the legitimacy of these six functions, the evidence also suggests there would be some divergence of views regarding the relative weight given to each. This question was not asked directly of all participants in the review but, in discussions more broadly, some of the interviewees reinforced the collective responsibility of AIR bodies, of the Welsh Government and of others in all three features of promoting improvement, identifying early signs of failure and informing policy. As such, there is a sense that they see these roles as of a lower order than the core functions of assurance and compliance. Other interviewees, notably those from outside of the AIR bodies, see these roles as being of fundamental importance in today’s climate and, as such, might be more likely to give them equal or even greater weight. The consultation process offers an opportunity to test this further.

The key attributes of AIR

3.24 The previous section set out six core functions of AIR which describe what it should do in order to achieve its purpose. Evidence from the review suggests there are seven key attributes which describe how these AIR functions should be best conducted. These are:

1. proportionality
2. independence
3. accountability
4. collaboration
5. value for money
6. transparency

7. professional integrity and competence

These are considered further in the paragraphs below.

Proportionality

3.25 There is considerable consistency across the core literature texts and from participants in the review in the emphasis given to proportionality, using an understanding of risk and benefit to assess the appropriate degree of external scrutiny. The Crerar review articulates well the two levels at which proportionality should apply - the first in deciding whether it is appropriate to use scrutiny, and the second in deciding its focus. The Wales Policy Statement highlights that this proportionality must apply 'visibly', a sentiment supported by participants in the review. Both highlight the need to reduce external scrutiny where appropriate by placing greater emphasis on self-assessment and continuous improvement. In addition the Local Government (Wales) Measure 2009 imposed specific duties in regard to proportionality on the Auditor General for Wales.

3.26 While the notion of proportionality appears universally accepted, there is some divergence of views on how effectively the AIR bodies are applying proportionality in practice. Views expressed ranged from a sense that some inspections are now too light touch and not meaningful enough through to a contrary position that AIR practices are often not proportionate enough. Some interviewees offered the view that while the scope of AIR was flexible and could fairly simply be scaled back where risk was low, too often quality of provision was not good enough and self assessment perceived as too weak thus preventing a more streamlined approach. Some of those who argued this also argued that proportionality would not always mean less inspection but instead more targeted inspection. These issues, which relate primarily to implementation, will be explored further in the second phase of the review.

3.27 The most appropriate encapsulation of the views expressed during the review on the attribute of proportionality is perhaps some combination of its articulation within the Crerar review and within the Wales Policy statement as follows:

AIR must be visibly proportionate to the risk, potential for improvement, likely benefit and interests of citizens. Proportionality must apply at two levels. Firstly, in deciding whether it is appropriate to use AIR, and secondly, in deciding its nature, scope and duration.

Independence and accountability

3.28 The need for AIR bodies across the UK to be independent has long been acknowledged with a powerful consensus established that independence must lie at the heart of any credible AIR regime. Independence is one of the central principles of public audit, codified by the Public Audit Forum in 2000 but recognised long before that. They emphasise that 'auditors must have independence from the organisations being audited' and that 'auditors must be independent, to avoid improper influence and allow work to be carried out freely.' While it is audit being referred to here, this also holds true for inspection and regulation. While all of the core texts highlight the importance of independence, only the Crerar review includes it as an explicit principle. The Crerar principle defines independence more broadly than the Public Audit Forum as not just independence from the organisations being audited but from 'any party' in discharging its responsibilities, reaching its conclusions and publishing its findings.

3.29 The ability of AIR bodies to act independently and impartially was identified as a top priority during our review. Along Crerar lines, this was expressed both as a need to be independent from the organisations being reviewed but also from political influences arising as a result of governance and accountability structures. Given this, the Crerar definition appears to be one which would work well within the Welsh context.

3.30 The four AIR bodies have all been established in different ways with separate governance structures and with different lines of accountability. The Care and Social Services Inspectorate for Wales (CSSIW) and the Healthcare Inspectorate Wales (HIW) are part of the Welsh Government and, as such, report directly to ministers. Estyn meanwhile is independent from the Welsh Government but receives its core funding from it. The Auditor-General for Wales, on the other hand, is entirely independent: s/he is appointed by the Queen on the nomination of the Assembly, and the WAO receives most of its funding directly from the Welsh Consolidated Fund, not from the Welsh Government. What is important about these reporting and accountability lines are the perceptions of where key influence lies as a result - with ministers and government, or with the National Assembly for Wales.

3.31 While the review did not seek views on the structures of AIR bodies per se, some dissatisfaction was expressed from participants as to whether the independence of AIR bodies was always apparent in their work. It is fair to say that this dissatisfaction arose more where people perceived an individual AIR body to be directly 'governed' by the Welsh Government. AIR bodies themselves stressed the sometimes restrictive impact of legislation and their statutory duties and responsibilities on their capacity to undertake their activities as they might otherwise do. Alongside this it is worth noting that some interviewees were keen to stress the recent steps taken to clarify the professional independence of CSSIW and HIW, as set out in the Welsh Government's annual progress report in 2011. The perceived independence, or not, of the AIR bodies and the links between independence and accountability lines will be an issue to explore further during the consultation process and in phase 2 of the review.

3.32 Views on these issues do not undermine the support for the independence and accountability principles more broadly and, given findings, perhaps some adaptations of the Crerar definitions for both independence and accountability are legitimate for Wales.

AIR must be independent and must not be constrained by any party in reaching its conclusions and publishing its finding. It must be free to make judgements about service delivery and report its findings into the public domain, and it must be able to decide how it discharges its responsibilities, once its focus has been agreed.

AIR must be accountable for its use of resources. It must demonstrate and report on the impact of its activities on services scrutinised. Its assessments and findings must be fair and capable of being defended.

Collaboration

3.33 A key distinction between the Welsh literature and that of England and Scotland is the emphasis placed on coordination between the AIR bodies. (It is worth noting here that England had moved to a place based audit and inspection regime through the introduction of the Comprehensive Performance Assessment and subsequently the Comprehensive Area Assessment. Coordination through these mechanisms was therefore somewhat forced and likely to have been assumed which might explain its absence in explicit terms. Both of these

assessments have since been abolished). The need for more systematic coordination was acknowledged in the Wales Policy Statement in 2009 in which it was also stated that 'organisational arrangements that support co-ordination will be supported'.

3.34 The emphasis in 2009 was on coordination between the AIR activities - the coordinated planning of programmes, the exchange of information etc - and was a reflection of the existence of four discrete AIR bodies with 'professional authority in their own right'. The changing nature of public services in Wales, which is acknowledged as one based on increasing partnerships, collaboration and shared budgets between public sector bodies, appears to have shifted this emphasis beyond coordination towards a demand for stronger collaboration between AIR bodies. This means a shift in expectation towards integrated working and joined up judgements and a shared focus which extends beyond the organisation to the place (refer also earlier findings on the need for a focus on outcomes). One interviewee felt that only when this happens would AIR ever be 'more than just the sum of its parts'.

3.35 Reflecting this shift, in 2011 the four AIR bodies published their document 'Developing our work together in a climate of change' and launched their Inspection Wales website.

3.36 The need for AIR bodies to be more effectively joined up on their thinking, planning, work, judgements and reporting and for their focus to broaden beyond a single service or organisation was highlighted during our review. It is interesting to note that while we had not included it on our initial framework of emerging principles the need for greater collaboration came up spontaneously time and time again. One or two positive examples of good collaboration were relatively frequently cited, for example the recent work of the WAO and HIW on Betsi Cadwaladr LHB. However more often there was sense from participants that collaboration had not gone far enough and that there was still too much duplication of effort. One interviewee described the current process of coordination and collaboration as an 'industry in itself' and therefore felt it missed the point.

3.37 These views were not explored comprehensively during this phase of the work but underline the importance of collaboration as a key attribute of AIR both for:

- the organisations reviewed by AIR bodies - because a more coordinated approach is less of a burden; and
- the public who are as interested in their place and local services overall as those defined by specific organisational boundaries.

3.38 Given this, it would seem appropriate to expand the coordination principle in the original Wales Policy Statement to include a broader sense of collaboration and to incorporate some of the wording expressed elsewhere around working together. The Welsh Government might also want to retain its statement of support for organisational arrangements which support this and seek views on this and the broader attribute during the consultation process. Suggested wording might be as follows:

AIR bodies must demonstrate their capacity for collaboration with each other on relevant issues, in the interests of greater local impact, greater cost effectiveness and to reduce the burden on those being reviewed. This collaboration should extend, where appropriate, as a matter of course rather than exception, towards sharing a focus for reviews, integrated working and joined up judgements. Organisational arrangements that support coordination will be promoted.

Value for money

3.39 Value for money of AIR emerged as an important and seemingly uncontroversial attribute during our review. All participants agreed that the resources allocated to AIR as a whole were significant (though it would be fair to say that for many participants the exact levels of resources were not necessarily clear) and needed to be used as effectively and efficiently as possible, particularly given the current financial climate. The necessity of this attribute is reinforced across the core literature texts and indeed in Wales and Scotland the AIR bodies have been committed to achieving additional savings, in part through greater collaboration efforts referred to before.

3.40 The Wales Policy Statement and the Crerar review incorporated value for money under a broader accountability umbrella. Some participants were keen to see the issues of accountability, which they see as relating primarily to governance issues, separated out from value for money, which they see as related to cost effectiveness. This distinction is made in the principles set out within the OPSR review and reflects also the conclusions from our review discussions on independence (refer paragraph 3.28). Accepting that this distinction is a legitimate one, then the value for money attribute is perhaps best expressed through an adaptation of the Wales Policy Statement accountability principle combined with OPSR's value for money principle as follows:

Resources allocated to AIR represent a significant investment which needs to be used as efficiently and effectively as possible. AIR should be able to demonstrate it delivers benefits commensurate with its cost, including the cost to those subject to AIR activity.

Transparency

3.41 The Crerar and OPSR reviews highlight the importance of openness and transparency of AIR. Transparency is not explicitly stated in the Wales Policy Statement but is arguably captured within the principle of fairness identified under citizen focus. The link between transparency and fairness was evidenced in our discussions as participants commented that the importance of the AIR system being transparent is primarily in ensuring, and in visibly demonstrating, 'fairness'. For some this appeared particularly important as AIR is perceived to be 'tougher' with the example of increased number of local authority education services in special measures cited as 'evidence' of this.

3.42 While highlighting the need for transparency the Crerar literature also identifies some of its pitfalls and limitations. Similar issues were cited in a fairly recent article 'New public management, accounting, regulators and moral panics' in the International Journal of Public Sector Management which uses a case study of the 'failed' programme of individual learning accounts in England to explore the role that regulators played in the 'moral panic' that surrounded its demise. These issues were not identified in our discussions but may be relevant to discussions on transparency implementation issues and ways to engage the wider public in the reporting of findings in phase two of this review.

3.43 The importance of transparency was recognised in discussions both in terms of the transparency of process and methodology and in terms of the reporting of evidence and outcomes. The Crerar review definition is clear on this distinction as follows.

AIR must be transparent in all its activities, its focus, decision making criteria, business processes, assessments and reporting. There should be a transparent decision framework for regulatory intervention. It is essential that the processes and mechanisms

which support the use of AIR are transparent and citizen-centred, so that all parties understand the particular purpose for which it is being used at any given time. For AIR to be credible, its reports must be clear, independent and consistent.

Professional integrity and competence

3.44 An issue commonly raised in our workshops and discussions was the need for individuals carrying out AIR to be credible and competent and to undertake their reviews with professional integrity. To participants this meant individuals being appropriately skilled, being consistent and impartial in how they undertook their reviews and in how they applied their judgements, and being willing to understand, listen and act upon contributions from those being reviewed. This attribute has not been drawn out as a separate principle in any of the core texts but rather presumably assumed. Given the strength of views expressed during the review it is worth capturing this simply as a separate attribute in its own right as follows:

AIR must be conducted in a way which demonstrates professional integrity and competence. AIR should be seen to be credible, consistent and impartial in all its activities.

4 Next steps

4.1 The Welsh Government wishes to consult widely on these phase one findings. This report serves as the means for doing so. The purpose of this consultation is to seek views on the purpose, functions and attributes of AIR as set out in this report. Informed by the consultation findings we shall consider to what extent the current system delivers against the purpose, functions and attributes during the next phase of the work. There will be a further opportunity to comment on how the current system delivers during that phase.

Annex A Workshop attendees and interviewees

Stakeholder interviews

Colin Everett, Society of Local Authority Chief Executives and Chief Executive to Flintshire
Paul Roberts, Chief Executive, ABMU LHB
Albert Heaney, Director of Social Services, Welsh Government
Mario Kreft, Care Forum Wales
Karen Graham, Academic Leader, Childhood and Family Studies, Institute for Health, Medical Sciences and Society
Huw Vaughn Thomas, Auditor General for Wales
Imelda Richardson, Chief Inspector, CSSIW
Kate Chamberlain, Chief Executive, HIW
Ann Keane, Chief Inspector of Education and Training in Wales (Estyn)
Chris Llewelyn, Director for Lifelong Learning, Leisure and Information, WLGA

Workshop attendees

Gillian Body, Assistant Auditor General - Performance
Anthony Barrett, Assistant Auditor General - Financial Audit
Mererid Wyn Williams, Estyn
Richard Bevan, Aneurin Bevan University Health Board
Marc Forster, Pembrokeshire Partnership
Mary Popplewell, Betsi Cadwaladr University Health Board
Dave Harries, NHS Wales Shared Services Partnership
Ros Roberts, Caerphilly County Borough Council
Vivienne Pearson, Cardiff City Council
Mark Thomas, Merthyr Tydfil County Borough Council
Ivan Butler, Denbighshire County Council
Beverly Noon, Vale of Glamorgan Council
Sylvia Davies, College Wales Cardiff
Sarah Pritchard, Powys Teaching Health Board
Daniel Hurford, Welsh Local Government Association
Andrew Kirkham, Conwy County Borough Council
Bethan Jones, Isle of Anglesey County Council
Morgan Jones, Wrexham County Borough Council
Steve Combe, Abertawe Bro Morgannwg University