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Daniel McCrossan MLA
Chairperson of the Audit Committee
Room 325
Parliament Buildings

26 October 2021

Daniel a chara,

Recruitment of a Comptroller and Auditor General

As you will be aware, the Comptroller and Auditor General, Mr Kieran Donnelly CB, wrote to the Speaker on 9 July 2021 advising that it was his intention to retire in March 2022. The Assembly Commission has been considering the steps to identify, by fair and open competition, a person to be nominated by the Assembly as Comptroller and Auditor General and I therefore want to update the Audit Committee on this matter.

The Assembly Commission discussed its approach at its meeting on 20 October 2021 and in doing so, has taken account of the relevant legislation, previous processes and developments since Mr Donnelly was appointed in 2009. As there is no legislative provision to allow for the appointment of an Acting Comptroller and Auditor General, the Assembly Commission intends now to proceed to recruitment to have a successor in place.

Recruitment process

As has been the case in the past, the Assembly Commission will take responsibility for making the recruitment arrangements and setting the general terms and conditions of appointment of the Comptroller and Auditor General. However, the Assembly Commission is mindful of the Audit Committee's responsibilities, including for tabling any motion in relation to the salary of the Comptroller and Auditor General and therefore the input of the Audit Committee in this process will be important.

The Assembly Commission has agreed that the selection panel should be comprised of:

- The Speaker of the Assembly;
- The Chair of the Audit Committee;
- The Chair of the Public Accounts Committee;
- The former Auditor General for Scotland (or a current or former Comptroller and Auditor General/Auditor General from another jurisdiction if not available);

- The Chair of the Northern Ireland Audit Office Advisory Board; and
- The Clerk/Chief Executive of the Assembly.

Salary level

The Assembly Commission would particularly welcome the Audit Committee's view on the salary level which should be advertised and it might be helpful to set out some background.

The Audit (Northern Ireland) Order 1987, specifically, Article 4(1), provides that the salary of the Comptroller and Auditor General shall be determined by a resolution of the Assembly. Standing Orders provide that the Audit Committee shall bring forward the resolution. In addition, the Order also provides that the salary paid to the Comptroller and Auditor General shall not exceed the maximum salary payable to any person employed in the Northern Ireland Civil Service (NICS).

On 7 April 2014, the Audit Committee tabled a motion which set the salary for the Comptroller and Auditor General at the salary recommended by the Review Body for a judge in Judicial Group 5, as had previously been the case, which was £141,332. Prior to this, the salary of the Comptroller and Auditor General had not increased since 1 April 2009. The link to Judicial salary scales appeared to be consistent with the salary of the Comptroller and Auditor General for the UK, which historically had followed that of a High Court judge, however this link had been broken some years earlier.

The terms and conditions of appointment of the Comptroller and Auditor General state that the remuneration "is normally up-rated each year in line with the Review Body on Senior Salaries recommendations for the Judicial Group 5". Despite the Review Body on Senior Salaries recommending annual increases for Judicial Group 5, which have now risen to £154,527 from 1 April 2021, the Audit Committee has not brought forward any further motions to increase the Comptroller and Auditor General's salary and therefore it remains at the 2014 level of £141,332.

A 'Review of the National Audit Office's Corporate Governance' published in January 2008 by John Tiner, made a number of wide-ranging recommendations to strengthen the corporate governance of the National Audit Office, including the role and terms and conditions of the Comptroller and Auditor General. The Review recommended that the link with Judicial salaries should be broken. The recommendations were given effect in the Budget Responsibility and National Audit Act 2011.

Similar reviews also took place in Scotland and Wales regarding Audit Scotland and Audit Wales and improvements were enacted in the Public Services Reform (Scotland) Act 2010 and the Public Audit (Wales) Act 2013.

While a 2008 RaISe report to the then Audit Committee, highlighted a number of matters for consideration prior to the appointment of a new Comptroller and Auditor General in 2009, including whether the link with Judicial salaries should be broken, this and a number of other matters highlighted for consideration were never acted upon.

Consideration is therefore now required as to whether the link to Judicial salaries should be broken, as well as the current salary given that this has not increased since 1 April 2014. While not ideal, pending any review of the Comptroller and Auditor General's salary, the Assembly Commission intends to use the current salary in the recruitment documentation stating that it is 'subject to review', to enable the recruitment competition

to progress. The Audit Committee may therefore wish to provide the Assembly Commission with a view on the salary issue.

Governance issues

The Assembly Commission has also considered improvements in the governance arrangements of the appointment of the Comptroller and Auditor General and intends to proceed to recruitment on the following basis:

- That the post change from a permanent appointment to a single, non-renewable term of 10 years;
- That the current statutory retirement age of 65 will be removed;
- That post-employment restrictions will be included in the contract of employment;

These amendments will require legislative change, but will be implemented in a way to minimise any legal risk pending future legislative change.

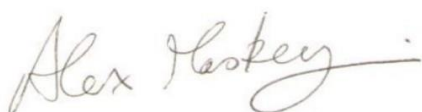
The Assembly Commission is also aware that the Audit Committee is currently undertaking a review of the governance and accountability arrangements of the Northern Ireland Audit Office, which may consider some of these matters. It would therefore be sensible that the Assembly Commission consult and coordinate with the Audit Committee regarding the necessary legislative changes, so that these are taken forward with any changes recommended by the Audit Committee following the conclusion of its governance review.

The Assembly Commission has identified other potential legislative deficits, such as the lack of provision for an Acting Comptroller and Auditor General and clarification of the responsibility for recruitment arrangements and setting the terms and conditions of appointment, which could also be considered and incorporated into any future legislative changes.

I hope that this has helpfully set out some of the issues involved with the recruitment process and the Assembly Commission would particularly welcome the view of the Audit Committee at this point on the issue of salary. I would also be grateful if you would confirm that you are content to be part of the panel to identify a person to be nominated by the Assembly as Comptroller and Auditor General.

The Clerk/Chief Executive would be happy to liaise further with you or the Committee regarding the matters raised in this letter if that would be helpful.

Yours sincerely,



ALEX MASKEY MLA