

Consultation - Future of Local Public Audit

Draft Responses from TMBC are in italics

In responding to the questions below we would wish to make the point that we are not convinced that the proposals set out in the consultation paper will lead to a reduction in audit fees for many local public bodies; indeed could see audit fees increase. In addition, the local audited body would have to undertake a competitive tendering exercise to appoint an auditor (which would most probably be subject to EU tendering rules) involving time, effort and resources and, in turn, additional cost. There could be, for example, be additional costs associated with the establishment of an audit committee along the lines suggested. Rather than a wholesale change to the current framework we ask whether it would be more cost-effective to 'rein' in the scope of the work undertaken by the Audit Commission which has, of course, already started (for example, the cessation of the Comprehensive Area Assessment regime) and possibly even consider merger of the National Audit Office and Audit Commission.

1. Have we identified the correct design principles? If not what other principles should be considered? Do the proposals in this document meet these design principles?

Design principles are appropriate, but see opening commentary above.

2. Do you agree that the audit of probation trusts should fall within the Comptroller and Auditor General's regime?

Agree.

3. Do you think that the National Audit Office would be best placed to produce the Code of audit practice and the supporting guidance?

Agree

4. Do you agree that we should replicate the system for approving and controlling statutory auditors under the Companies Act 2006 for statutory local public auditors?

Agree.

5. Who should be responsible for maintaining and reviewing the register of statutory local public auditors?

The register could be held by the supervisory bodies or independently by another body such as the National Audit Office or Financial Reporting

Council.

The Supervisory body will appoint a list of Auditors but there will still be the need for audited bodies to satisfy their own evaluation requirements in relation to an audit firms' suitability, financial stability etc to satisfy their own procurement rules, constitution and governance arrangements, as well as being able to demonstrate that value for money has been secured through the evaluation exercise. This is likely to be costly unless the Supervisory Body is in some way going to be funded to carry out this work on behalf of public bodies and make the necessary information available for use by public bodies.

6. How can we ensure that the right balance is struck between requiring audit firms eligible for statutory local public audit to have the right level of experience, while allowing new firms to enter the market?

There needs to be some high level criteria that audit firms eligible to conduct local public audit must meet to retain a level of quality and consistency between providers. Having the necessary experience to be able to undertake a robust audit of a local public body will be vital to ensure quality audits are undertaken; perhaps having a minimum requirement for experience/qualification of key individuals within the audit firm may assist?

7. What additional criteria are required to ensure that auditors have the necessary experience to be able to undertake a robust audit of a local public body, without restricting the market?

As above, perhaps key individuals within the audit firm (equivalent to current District Auditor/Audit Manager/Team Leader levels etc) should have minimum requirements set for experience/qualification dependent on the role they have taken.

8. What should constitute a public interest entity (i.e. a body for which audits are directly monitored by the overall regulator) for the purposes of local audit regulation? How should these be defined?

To ensure transparency in the process, as set out in the design principles, all local bodies could be considered as a public interest entity. This said, there would have to be a designated 'cut off' where such regulation is not in the public interest, perhaps based on the nature of the functions they perform or based on the income/expenditure/turnover of the body – it is unlikely to be in the public interest or of value to the public purse to have stringent regulation of audit for smaller parish or town councils, for example.

9. There is an argument that by their very nature all local public bodies could be categorised as 'public interest entities.' Does the overall regulator need to undertake any additional regulation or monitoring of these bodies? If so, should these bodies be categorised by the key services they perform, or by their income or expenditure? If the latter, what should the threshold be?

As stated above, there does need to be some proportionate approach to regulation of public interest entities, and the categorisation of this could be

by both turnover and function, with criteria applied to each element which is then used to assess the level of regulation and monitoring required. Under this approach additional regulation or monitoring of these bodies would not be needed.

For the purposes of overall regulation suggest a gross income and or expenditure threshold of more than £6.5m. Overall regulator does not need to undertake any additional regulation or monitoring of these bodies other than on an exception basis.

10. What should the role of the regulator be in relation to any local bodies treated in a manner similar to public interest entities?

See response to question 9.

11. Do you think the arrangements we set out are sufficiently flexible to allow councils to cooperate and jointly appoint auditors? If not, how would you make the appointment process more flexible, whilst ensuring independence?

No, is too bureaucratic

12. Do you think we have identified the correct criteria to ensure the quality of independent members? If not, what criteria would you suggest?

One of the key issues regarding the effectiveness of an independent member is the motivation for wishing to sit on the Committee. We can imagine scenarios where this could be very constructive indeed, but can also envisage scenarios where the Committee might not be able to function as effectively as it might otherwise do because of an individual's own "agenda" and motivation. It may all depend on the pool of "individuals" available within an area. On balance, we generally disagree with a requirement for independent membership of the audit committee as we believe it is a decision each Council should be able to make.

13. How do we balance the requirements for independence with the need for skills and experience of independent members? Is it necessary for independent members to have financial expertise?

See the answer to question 12.

14. Do you think that sourcing suitable independent members will be difficult? Will remuneration be necessary and, if so, at what level?

We are of the view that sourcing suitable independent members will be difficult. As stated above, we also believe independent membership should be something each Council should decide upon. If there were to be independent members, remuneration would probably be necessary to stimulate appropriate interest.

15. Do you think that our proposals for audit committees provide the necessary

safeguards to ensure the independence of the auditor appointment? If so, which of the options described in paragraph 3.9 seems most appropriate and proportionate? If not, how would you ensure independence while also ensuring a decentralised approach?

Yes, the proposals appear to provide the necessary safeguards to ensure the independence of the auditor.

In respect of the structure of the audit committee, we refer you to our comments in respect of independent membership of the committee which we believe should be for the local authority to decide. Therefore, we do not particularly support any of proposals for the committee structure.

16. Which option do you consider would strike the best balance between a localist approach and a robust role for the audit committee in ensuring independence of the auditor?

Option 1 – specify only one mandatory duty. The best balance is likely to be somewhere between option 1 and option 2 - Audit Committee Best Practice Guidance issued by CIPFA and the terms of reference of the councils existing audit committee equivalent already incorporates some of the roles set out on option 2.

17. Are these appropriate roles and responsibilities for the Audit Committee? To what extent should the role be specified in legislation?

Specify only one mandatory duty – to provide advice on the engagement of the auditor and the resignation or removal of an auditor. Local public body is left to decide on other roles and responsibilities.

18. Should the process for the appointment of an auditor be set out in a statutory code of practice or guidance? If the latter, who should produce and maintain this?

Principles of the process for the appointment of an auditor should be set out in a guidance document to ensure consistency in approach of different public bodies so that the public and audit firms can be sure of the process and its transparency.

19. Is this a proportionate approach to public involvement in the selection and work of auditors?

No, this should be a routine appointment and can see no additional benefit of involving the public in the appointment.

20. How can this process be adapted for bodies without elected members?

Not applicable.

21. Which option do you consider provides a sufficient safeguard to ensure that local public bodies appoint an auditor? How would you ensure that the audited body fulfils its duty?

This could fulfilled by the s151 officer role at no additional cost.

22. Should local public bodies be under a duty to inform a body when they have appointed an auditor, or only if they have failed to appoint an auditor by the required date?

No economic or other reason for doing so.

23. If notification of auditor appointment is required, which body should be notified of the auditor appointment/failure to appoint an auditor?

It should not be required

24. Should any firm's term of appointment be limited to a maximum of two consecutive five-year periods?

What is required is a sufficient control to ensure independence and integrity remain throughout the contract

25. Do the ethical standards provide sufficient safeguards for the rotation of the engagement lead and the audit team for local public bodies? If not, what additional safeguards are required?

Yes.

26. Do the proposals regarding the reappointment of an audit firm strike the right balance between allowing the auditor and audited body to build a relationship based on trust whilst ensuring the correct degree of independence?

As 24.

27. Do you think this proposed process provides sufficient safeguard to ensure that auditors are not removed, or resign, without serious consideration, and to maintain independence and audit quality? If not, what additional safeguards should be in place?

Yes - Only observation is that 28 days notice may not be sufficient to arrange and host a public meeting or to secure alternative audit services in the following period. There will need to be guidance for public bodies on the acceptable/expected course of action in the event of an audit firm being removed or resigning.

28. Do you think the new framework should put in place similar provision as that in place in the Companies sector, to prevent auditors from seeking to limit their liability in an unreasonable way?

Yes.

29. Which option would provide the best balance between costs for local public bodies, a robust assessment of value for money for the local taxpayer and provides sufficient assurance and transparency to the electorate? Are there other options?

Initial view is that Option 2 would provide the best balance, but this might vary from authority to authority.

In local government the Annual Governance Statement provides a public statement on the governance arrangements of the council and as part of the annual review, the organisation should be considering its arrangements for ensuring regularity, propriety, governance and control. If the organisation is conducting this review in accordance with recommended practice and the external auditor is reviewing the statement and reporting on how it was prepared in a proper manner, a conclusion on these arrangements should be possible as part of the review of information published with the financial statements.

Making additional information for local citizens is being driven by the transparency agenda and it could be suggested that the publication guidance expected on this will put information that is relevant and of interest to local citizens into the public domain if it is not there already.

30. Do you think local public bodies should be required to set out their performance and plans in an annual report? If so, why?

There should be a general expectation that local public bodies will publicly set out their performance and plans to provide a public account of its activity (outcomes, outputs and financial) in the past year and its intentions for the forthcoming year – again this seems to overlap with the transparency agenda. However, it shouldn't be prescribed in a particular format. On this basis we would suggest that any Public Audit requirements should not be overly prescriptive, with each local public body determining how it will report on performance and plans to meet local needs either through an annual report or alternative publication/document/medium.

31. Would an annual report be a useful basis for reporting on financial resilience, regularity and propriety, as well as value for money, provided by local public bodies?

The Statement of Accounts and Annual Governance Statement provide a mechanism for public reporting of financial resilience, regularity and propriety and our corporate business plan/annual report sets out the council's plans and performance.

It is our view that an annual report should not require reproduction or representation of information published elsewhere unless there is considered a local need to do so (i.e. organisations may choose to provide basic financial account information in an annual report document or equivalent). As set out in the response to question 30, any requirement should not be overly prescriptive and is potentially more related to the transparency agenda rather than Public Audit.

32. Should the assurance provided by the auditor on the annual report be 'limited' or 'reasonable'?

The auditor should not be required to provide assurance or issue a conclusion on annual reports – see response to question 31.

33. What guidance would be required for local public bodies to produce an annual report? Who should produce and maintain the guidance?

See response to questions 29, 30 and 31.

34. Do these safeguards also allow the auditor to carry out a public interest report without his independence or the quality of the public interest report being compromised?

Yes, based on appropriate arrangements being made in any contractual relationship between the auditor and the audited body.

35. Do you agree that auditors appointed to a local public body should also be able to provide additional audit-related or other services to that body?

Agreed on the basis that auditor independence is maintained on the core responsibilities of the audit provider, and it is at the discretion of the authority.

36. Have we identified the correct balance between safeguarding auditor independence and increasing competition? If not, what safeguards do you think would be appropriate?

Yes -Proposal set out seems reasonable.

37. Do you agree that it would be sensible for the auditor and the audit committee of the local public body to be designated prescribed persons under the Public Interest Disclosure Act? If not, who do you think would be best placed to undertake this role?

Agree.

38. Do you agree that we should modernise the right to object to the accounts? If not, why?

Agree.

39. Is the process set out above the most effective way for modernising the procedures for objections to accounts? If not, what system would you introduce?

Process set out seems reasonable in principle

40. Do you think it is sensible for auditors to be brought within the remit of the Freedom of Information Act to the extent of their functions as public office holders? If not, why?

Not clear why this would be needed given that there is to be a requirement to publish accounts and the auditors report on the website – surely any FOI request beyond this would be the responsibility of the audited body to respond to and the auditor would not be able to make any working papers available under such a request due to data protection and sensitivity/confidentiality issues? The transparency agenda is promoting making available relevant information to the public and, based on the

consultation document, the local public would retain the right to make representations through extended means via either the auditor, the LGO or the ICO.

This approach may result in additional costs being incurred by audit firms in administering FOI requests with this subsequently passed on to audited bodies, which seems to go against the third design principle.

41. What will be the impact on (i) the auditor/audited body relationship, and (ii) audit fees by bringing auditors within the remit of the Freedom of Information Act (to the extent of their functions as public office holders only)?

See response to question 40. Potential for fees to increase.

42. Which option provides the most proportionate approach for smaller bodies? What could happen to the fees for smaller bodies under our proposals?

Option 1 but as a district council we would not have the resources to be involved in this process.

43. Do you think the county or unitary authority should have the role of commissioner for the independent examiners for smaller bodies in their areas? Should this be the section 151 officer, or the full council having regard to advice provided by the audit committee? What additional costs could this mean for county or unitary authorities?

Councils should have power not duty

44. What guidance would be required to enable county/unitary authorities to:
- a.) Appoint independent examiners for the smaller bodies in their areas?
 - b.) Outline the annual return requirements for independent examiners?
- Who should produce and maintain this guidance?

No guidance would be needed. The s.151 officer would ensure that sound and proper practices are employed.

45. Would option 2 ensure that smaller bodies appoint an external examiner, whilst maintaining independence in the appointment?

Yes but option 1 is adequate

46. Are there other options given the need to ensure independence in the appointment process? How would this work where the smaller body, e.g. a port health authority, straddles more than one county/unitary authority?

Unnecessary

47. Is the four-level approach for the scope of the examination too complex? If so, how would you simplify it? Should the threshold for smaller bodies be not more than £6.5m or £500,000? Are there other ways of dealing with small bodies, e.g. a narrower scope of audit?

The four-level approach appears reasonable.

48. Does this provide a proportionate, but appropriate method for addressing issues that give cause for concern in the independent examination of smaller bodies? How would this work where the county council is not the precepting authority?

The approach seems appropriate in principle. See previous responses

49. Is the process set out above the most appropriate way to deal with issues raised in relation to accounts for smaller bodies? If not, what system would you propose?

The approach seems appropriate in principle but as a district we do have the resources for any role in this approach.

50. Does this provide a proportionate but appropriate system of regulation for smaller bodies? If not, how should the audit for this market be regulated?

See earlier responses.

In preparing our responses to the consultation questions it seems that the proposals do meet design principles 1 and 4.

Care will need to be taken to ensure that the transparency requirements of this proposal does not conflict with the governments work around the transparency agenda or create additional burden on public bodies which is not of value to local people and could result in additional costs with little or no added value.

It is not clear how the proposals within the consultation paper will lead to a reduction in the cost of audit for many local public bodies as the financial costs associated with the set up and maintenance of the supervisory body, creation and maintenance of a register of audit firms, engagement of independent audit committee members, tendering for audit services (most likely involving EU procurement requirements) and auditor liability may be incorporated into future audit fees or simply incurred or absorbed elsewhere within the public body accounts. The proposals strongly suggest an increased resource needing to be applied to managing the processes set out, particularly for the audited body. Again, this is incurring cost against the public purse at a time when local government is already being squeezed. There is likely to also be residual audit/governance work around other functions such as grant claim certification and NFI which will either need to be paid for or resourced from elsewhere within the body.

Summary:

It is the council's view that the decision to abolish the Audit Commission was premature and that instead, government should have looked to review and reduce the scope of work conducted by the Audit Commission to focus on financial and governance audit; it is considered that this would provide a more cost-effective solution that that proposed in the consultation document.

This Council also has doubts about the effectiveness of independent members on the Audit Committee. There are examples where this has already worked successfully, but equally there are examples where the opposite is true. In fairness, apart from the skills base, one of the key issues regarding the effectiveness of an independent member is the motivation for wishing to sit on the Committee. We can imagine scenarios where this could be very constructive, but can also envisage scenarios where the Committee might not be able to function as effectively as it might otherwise do because of an individual's own "agenda" and motivation. On balance, we would generally disagree with a requirement for independent membership of the audit committee as we believe it is a decision each Council should be able to make.

Whilst not specifically raised, some suggestions have been made that internal audit sections of district council, for example, could be the provider of audit services to relevant parish councils at minimal cost. Given the limited resources we now have available to us within internal audit, this Council would not be supportive of this approach were it to be proposed.

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