

TONBRIDGE & MALLING BOROUGH COUNCIL

AUDIT COMMITTEE

9 October 2012

Report of the Director of Finance

Part 1- Public

Delegated

1 DRAFT LOCAL AUDIT BILL

In July 2012 the Department for Communities and Local Government published a draft Local Audit Bill. The draft Bill to be the subject of consultation before legislation is introduced in due course. Attached to the report is our response to the questions asked in that consultation.

1.1 Introduction

1.1.1 On 6 July 2012 the Department for Communities and Local Government published a draft Local Audit Bill. The draft Bill is the latest development in the government's policy to abolish the Audit Commission and enable councils to appoint their own external auditors.

1.1.2 As a draft Bill it contained a number of consultation questions aimed to enable the Bill to be refined before legislation is introduced in due course. The return date for responses to the consultation was 31 August 2012. As a result I sought the approval of your Chairman and the Cabinet Member for Finance to my response to the consultation. A copy of the response can be found at **[Annex1]**.

1.1.3 The draft Bill runs to more than 200 pages so rather than reproduce in hardcopy, the document can be found at the following link:

<http://www.communities.gov.uk/documents/localgovernment/pdf/2174738.pdf>

1.1.4 Attached at **[Annex 2]** is a briefing paper prepared by LG Futures which draws out the key elements of the draft Bill and runs to ten pages.

1.2 Draft Local Audit Bill

1.2.1 The draft Bill abolishes the Audit Commission and repeals the Audit Commission Act 1998. A firm date for the abolition of the Audit Commission is not specified, but the draft Bill includes a provision to transfer any audit contracts that are still running to a new body.

- 1.2.2 The Audit Commission has outsourced the work of its in-house audit practice to four private firms and as part of that process had been able to secure significant reductions in the cost of audit services. Contracts in the London (South) Surrey and Kent area were let to Grant Thornton from 2012/13. The contracts are for a five-year period with the option of a further three-year extension.
- 1.2.3 As it is envisaged that the Commission will have been abolished by that date, the contracts will transfer so that they can run their full duration. As a result councils will be **responsible for appointing external auditors from 2017 at the earliest**.
- 1.2.4 Key elements of the Bill include:
- The audited body will have to take into consideration the advice of an independent auditor panel before making the appointment of their auditor. The Bill makes it clear that the appointment of an auditor must be made by the full Council. The appointment must be made at least every five years and existing auditors may be re-appointed.
 - The auditor panel must consist of a majority of independent members and must have an independent chair. To be classified as independent, a panel member must not have been a member or officer of the body within the last five years, and must not at that time be a relative or close friend of a member or officer of that body. The auditor panel has three functions set out in legislation: to advise on the appointment of an auditor; to advise the audited body on the maintenance of an independent relationship with the auditor; and to advise on proposals for a public interest report. The audited body will be able to delegate additional functions to the auditor panel if they so wish.
 - The draft Bill requires that all appointments are publicised, together with the advice given by the panel and the reasons why the audited body chose not to follow the advice given where relevant.
 - The draft Bill includes the provision for the Secretary of State to make regulations regarding the resignation or removal of an auditor. It is envisaged that the auditor will be required to make a statement explaining the reasons for their resignation to the audited body and the auditor panel, and the auditor's supervisory body. The audited body would then be required to publish a response. In the case of removal, the audited body would be required to give notice to both the auditor and the auditor panel, including a statement of reasons. The auditor will be able to respond to this statement, with the response considered by the auditor panel.
 - The draft Bill provides powers for the Secretary of State to authorise the professional accountancy bodies to act as recognised supervisory bodies. In practice, the Secretary of State will delegate these powers to the Financial Reporting Council. The role of the supervisory bodies will be to

put rules and practices in place to cover the eligibility of firms to be appointed as local public auditors; the qualifications, experience and other criteria that individuals must have before being permitted to carry out an audit of a local public body and sign off an audit report; and arrangements for monitoring the quality of audit work by member firms.

- The Secretary of State will make regulations regarding the preparation and maintenance of a register of those firms and individuals eligible to undertake local public audit work. The register itself to be held by one or more of the recognised supervisory bodies.
- The new framework will include a proportionate regime for smaller local public bodies defined as those with an annual turnover (income or expenditure) of less than £6.5 million. Where audit work is required, the existing limited audit regime will continue. The local electorate will be able to inspect the accounts of smaller bodies and make complaints to an auditor. Therefore, all smaller public bodies will still be required to have an auditor to whom people can report problems.

1.3 Observations

- 1.3.1 As set out in our response to the consultation paper in June 2011 establishing an independent auditor panel along the lines suggested would bring with it **additional administration and cost**. Whilst the point about independence is acknowledged, the currently structured Audit Committee, although comprising only elected Members, **provides an adequate independent scrutiny role**. The point we made in the earlier consultation was that we felt the use of independent members should be discretionary – i.e. independent members could be appointed if it was felt there was a “gap” in the skill set of the Committee. Were the proposals as set out to go ahead, this would in due course **require a change to the Council’s Constitution**.
- 1.3.2 As mentioned at paragraph 1.2.2 the Audit Commission has outsourced the work of its in-house audit practice to four private firms and as part of that process had been able to secure significant reductions in the cost of audit services. The concern is when councils approach the marketplace to appoint their own auditors in due course, either individually or jointly, will the **reductions in the cost of audit services be eroded over time without that ‘bulk purchasing power’**. The competitive tendering exercise would under current rules be subject to EU tendering rules which brings with it additional **cost in time, effort and resources**.

1.4 Legal Implications

- 1.4.1 The National Audit Office will become responsible for preparing detailed audit codes of practice. Any draft Code will be subject to consultation and continue to be approved by Parliament.

1.5 Financial and Value for Money Considerations

- 1.5.1 The requirement to establish an independent auditor panel along the lines suggested and the competitive appointment process (either individually or jointly) brings with it additional administration and cost. In addition, the reduction in audit fees may be eroded over time.

1.6 Risk Assessment

- 1.6.1 There is a risk that the recent and welcome reduction in audit fees will over time be eroded.

1.7 Equality Impact Assessment

- 1.7.1 See 'Screening for equality impacts' table at end of report

1.8 Recommendations

Members are requested to **endorse** the response to the consultation as previously agreed with the Chairman of your Committee and the Cabinet Member for Finance.

Background papers:

contact: Neil Lawley

Nil

Sharon Shelton
Director of Finance

| Screening for equality impacts: | | |
|---|--------|---|
| Question | Answer | Explanation of impacts |
| a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? | No | This report sets out our response to the draft Local Audit Bill published by the Department for Communities and Local Government. |
| b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? | No | See above. |
| c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above? | | Not applicable. |

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.