

# TONBRIDGE & MALLING BOROUGH COUNCIL

## AUDIT COMMITTEE

17 June 2013

### Report of the Director of Finance and Transformation

#### Part 1- Public

#### Matters for Information

#### 1 LOCAL AUDIT AND ACCOUNTABILITY BILL

The purpose of this report is to inform Members that on 9 May, the Local Audit and Accountability Bill was introduced into Parliament and following the first reading of the Bill a copy posted on the Parliament website.

#### 1.1 Introduction and Background

- 1.1.1 On 13 August 2010, the Secretary of State for Communities and Local Government announced plans to disband the Audit Commission. The aim to replace the current, centralised audit systems managed by the Audit Commission, with a new decentralised regime where local public bodies will be free to appoint their own external auditors while ensuring that there continues to be robust local public audit.
- 1.1.2 The current arrangements and the Government's vision and intentions were set in a report presented to the meeting of this Committee on 20 June 2011. The report also included our response to the consultation paper where we made the point, amongst others, that we were not convinced that it would lead to a reduction in audit fees. In addition, that there would be additional costs associated with the establishment of an audit committee (independent auditor panel) along the lines suggested.
- 1.1.3 The Government's response to the consultation was published in January 2012 from which it was apparent that it intended to press ahead with its plans to disband the Audit Commission and introduce a decentralised regime along the lines set out in the consultation.
- 1.1.4 The process began with the Audit Commission outsourcing all its in-house local public audit work to the private sector in 2012/13. The contracts are expected to run for three or five years giving local councils and other public bodies the time to plan for appointing their own auditors.

- 1.1.5 The Bill runs to some 105 pages and the associated explanatory notes to some 41 pages so rather than reproduce in hard copy, the documents can be found at the following links:

<http://www.publications.parliament.uk/pa/bills/lbill/2013-2014/0004/2014004.pdf>

<http://www.publications.parliament.uk/pa/bills/lbill/2013-2014/0004/en/2014004en.pdf>

- 1.1.6 The Department for Communities and Local Government has also produced a plain English guide to the Bill and runs to some 10 pages. A copy of this document is attached at **[Annex 1]**.

## **1.2 Local Audit and Accountability Bill**

- 1.2.1 The Local Audit and Accountability Bill is the final step to deliver the Government's commitment to close the Audit Commission and transfer its remaining functions.

- 1.2.2 The Local Audit and Accountability Bill:

- Introduces a new local audit and accountability framework for local public bodies in England.
- Protects the rights of taxpayers to inspect local public bodies' accounts and allow them to say if they think there are matters that the auditor should examine.
- Maintains public interest reports.
- Gives greater force to the Code of Recommended Practice on Local Authority Publicity.
- Extends the power of local taxpayers to veto excessive council tax increases, by taking account of any changes in levies paid to external bodies.
- Allows for the continuation of the National Fraud Initiative.

## **1.3 Overview**

- 1.3.1 A summary of the main issues set out in the Bill are as follows:

- The accounts of a relevant authority (which we are) must be audited by an auditor appointed by that authority in accordance with this Act.
- The relevant authority must appoint an auditor (either individually or jointly with other local authorities) to audit its accounts for the financial year not later than 31 December in the preceding financial year (the appointment to be made by full Council). Appointment may be for more than one financial

year, but the authority must make a further appointment of an auditor at least once every five years. However, this does not prevent the authority from reappointing an auditor. Auditor appointed must be eligible for appointment as an auditor.

- A liability limitation agreement must comply with regulations made by the Secretary of State. Before entering into a liability limitation agreement, a relevant authority must consult and take into account the advice of its auditor panel.
- The relevant authority must consult and take into account the advice of an independent auditor panel on the selection and appointment of an auditor.
- The independent auditor panel is to consist of a majority of independent members (or wholly of independent members) and must be chaired by an independent member. Deemed independent if the panel member has not been a member or officer of the authority within the period of five years; officer or employee of an entity connected with the authority; a relative or close friend of a member or officer of the authority or an officer or employee of an entity connected with the authority. Creation of an independent auditor panel will inevitably bring with it additional administrative work and cost.
- An independent auditor panel must advise the authority on the selection and appointment of an auditor to audit its accounts; and advise the authority on the maintenance of an independent relationship with the auditor appointed to audit its accounts.
- The relevant authority must within the period of 28 days beginning with the day on which the appointment is made, publish a notice about the appointment on its website.
- If the authority fails to appoint an auditor the authority must inform the Secretary of State. The Secretary of State may direct the authority to appoint the auditor named in the direction, or approach an auditor on behalf of the authority. The Secretary of State may by regulations make provision about the resignation of an auditor; and the removal of an auditor before the expiry of the term of that office.
- Auditors will continue to be required to comply with a code of practice developed by the Comptroller and Auditor General of the National Audit Office and approved by Parliament.
- Accountancy professional bodies, under the supervision of the Financial Reporting Council, to be responsible for the registration of audit firms, individual auditors able to undertake public audit and for the monitoring and enforcement of audit standards.

- The Bill will enable the National Audit Office to undertake value for money examinations relating to thematic issues faced by local public bodies.
- The Bill amends section 4 of the Local Government Act 1986 to ensure that local authorities comply with some or all of a code of recommended practice on local authority publicity.
- The Bill amends the council tax referendums provisions in Chapter 4ZA of Part 1 of the Local Government Finance Act 1992 so that levies are included in a local authority's calculation of whether its council tax is excessive for the purpose of determining whether it is required to hold a council tax referendum. If this is retrospectively applied as is being suggested to 2012/13 then any council tax increase could have to be less than the threshold set by the Secretary of State in order not to 'trigger' the requirement to hold a referendum.
- The Bill also allows the continuation of the National Fraud Initiative. The Bill transfers the Audit Commission's data matching powers for the purposes of assisting in the prevention and detection of fraud to Government.
- The new framework will retain a proportionate audit regime for smaller authorities (those with a turnover below £6.5 million). This will include exempting those authorities with an annual turnover below £25,000 from automatic external audit and introducing a new transparency requirement to enable local people to access relevant information about the authorities' accounts and governance.

## **1.4 Audit Commission**

- 1.4.1 As Members are aware 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.
- 1.4.2 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 (although we will have to allow a sufficient lead in time to put in place the requisite arrangements, and to appoint an auditor to audit the accounts for the financial year not later than 31 December in the preceding financial year).

## **1.5 Local Government Association**

- 1.5.1 The Local Government Association will be working with parliamentarians to make clear that a centrally imposed limit should not exist for the setting of council tax,

that the Secretary of State should not have the power to interfere with council publications and that national procurement of audit is the most efficient way for councils to procure auditors.

## **1.6 Legal Implications**

- 1.6.1 The current system for the audit of local public bodies is operated and overseen by the Audit Commission under the provisions of the Audit Commission Act 1998 as amended. Acting as the regulator, the Audit Commission publishes two statutory Codes of audit practice – one for local government and one for health bodies. Codes of audit practice will continue to be approved by Parliament.

## **1.7 Financial and Value for Money Considerations**

- 1.7.1 The requirement to establish an independent auditor panel along the lines set out will bring additional work and cost, as will the competitive appointment process (either individually or jointly) and we are not convinced that our audit fees will reduce to cover the additional cost, indeed our audit fees could increase.

## **1.8 Risk Assessment**

- 1.8.1 There is a risk that any reduction in audit fees, which itself is not certain, will not cover the additional costs likely to arise from the new decentralised regime.
- 1.8.2 There is a risk that the auditors charged with carrying out the audit might not have the same level of knowledge of local government finance as our current auditors and the consequent adverse impact this could have on the audit process.

Background papers:

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Nil

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