



5 December 2008

To: Chief Executives,
Directors of Finance
Local Authorities in England

Our ref: Accounts and Audit
Regulations amendments

Audit Commission
Relevant associations of local authorities
Appropriate accountancy bodies

Dear Colleague,

Proposals to amend the Accounts and Audit Regulations

1. This is a consultation for the purposes of section 27(3) of the Audit Commission Act 1998. The proposals to amend the Accounts and Audit Regulations 2003 (SI 2003/533) with effect from the accounts for the 2008-09 financial year are set out below. The key proposal is to require the statements of accounts of certain bodies to be certified as presenting a "true and fair" view. There are a further five changes to the regulations. These amendments apply only to England.
2. This consultation also seeks views on amending the Accounts and Audit Regulations to improve levels of disclosure of remuneration within local authorities. Your comments on both the 2008-09 proposals and the possible future amendments on remuneration are invited by **23 January 2009**.

Proposals affecting 2008-09 accounts and audits

3. Currently, local authorities are required to prepare accounts that "present fairly" the financial position of the body at the end of year and its income and expenditure for the year, or a record of receipts and payments that "properly presents" the receipts and payments for the year. It is proposed to amend the Accounts and Audit Regulations so that, with effect from the accounts for the 2008-09 financial year, the responsible financial officer of bodies required to prepare a statement of accounts is required to certify that the statement provides a "true and fair" view. More details of this proposal are given in Annex A.
4. Internal Drainage Boards, which are responsible for the drainage of land in some parts of the country under the Land Drainage Act 1991, are moving to prepare their accounts on a Financial Reporting Standard 17 (Retirement Benefits) basis i.e. fully recognising the future pension liability that has accrued for that year in respect to their employees. For local authorities such charges are reversed out and replaced by the employer

contribution they are required to make to the pension fund and other amounts due to be paid in the year. This prevents excessive charges to taxation. It is proposed to apply the same rule to the drainage boards. As these bodies are not covered by the power in the Local Government Act 2003 to specify accounting practices, we propose to use these regulations to make the change. The same approach was taken for Passenger Transport Executives in regulation 7A (inserted by the Accounts and Audit (Amendment) (England) Regulations 2006).

5. There are four further changes which are set out below, three are consequential to amendments to audit legislation made by the Local Government and Public Involvement in Health (LGPIH) Act 2007, and the final change corrects an error in the 2006 amending regulations.:
 - Regulation 2(1) – remove the reference to parish councils that are best value authorities from the definition of smaller relevant body reflecting section 136 of Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) (parish councils and community councils etc not to be best value authorities)
 - Regulation 17 – remove reference to “proposed” objection, reflecting the requirement introduced by section 161 of the 2007 Act that the objection itself is now to be made in writing
 - Regulation 21 – remove the reference to attending before the auditor, reflecting the abolition of that right effected by section 161 of the 2007 Act
 - Regulation 12(1) – remove the words “of that meeting”, which are superfluous.
6. Annex B provides an initial draft of how the amending regulations might be worded, but this will be subject to further review in the light of the comments received from this consultation. We would welcome your comments on these proposals.

Views on reporting remuneration

7. Financial statements in the private sector are required to disclose information about basic pay, pensions and bonuses of senior managers, by name. Similarly in central government, the Financial Reporting Manual issued by HM Treasury requires departments to disclose the names and remuneration (basic pay, benefits in kind and pension contributions) of the permanent secretary and senior officials within £5000 bands. However, in local government, a council is obliged to disclose the number (but no names) of officers it employs, graded according to ‘remuneration’ in £10,000 bands increasing from a threshold of £50,000. The Government is considering bringing forward requirements for the improved disclosure of pay and remuneration in local government which will more closely match that found in central government and the private sector.
8. We would welcome your views on how best to achieve this. We recognise that this is a complex issue, and there are a number of options available – either by further changes to the Accounts and Audit Regulations or by other means.
9. Depending on the responses of stakeholders to this initial invitation to comment, there will follow a subsequent consultation on specific proposals for disclosure, with a view to introducing new requirements for the financial reporting year 2009-10.

Responses

10. Your comments should be sent by **23rd January 2009** to Eleri Jones, Local Government Finance, Workforce, Pay and Pensions, 5/F5 Eland House, Bressenden Place, London, SW1E 5DU. Electronic responses can be sent to eleri.jones@communities.gsi.gov.uk Further information about responses to this consultation is given in Annex C.

Yours sincerely,

Manj Kalar
Local Government Accountancy Adviser
Communities and Local Government

Annex A

True and Fair View

Regulation 10(2) requires the responsible financial officer (RFO) to sign and date:

- the statement of accounts;
- income and expenditure account and statement of balances; or
- record of receipts and payments

as appropriate, and certify that it presents fairly the financial position of the body at the end of year and its income and expenditure, or in the case of a record of receipts and payments that it properly presents the receipts and payments for the year. For a statement of accounts the auditor then gives an opinion on whether the statement presents fairly the authority's financial position and results.

The form of words accepted in the UK as confirming that published accounts meet the highest standards of accounting practice is "true and fair". Thus:

- under section 393 of the Companies Act 2006 the directors of a company must not approve accounts unless they are satisfied that they give a true and fair view;
- the Charities (Accounts and Reports) Regulations 2008 require the accounting statements of a charity to give a true and fair view; and
- section 5 of the Government Resources and Accounts Act 2000 requires the Treasury to exercise its powers of direction under that section with a view to ensuring that the resource accounts of a government department present a true and fair view.

The financial reporting standards issued by the Accounting Standards Board (ASB) are applicable to financial statements that are intended to give a true and fair view.

The view was taken until recently that a true and fair RFO certification and audit opinion should not be given for local government accounts because they departed in significant ways from financial reporting standards and other aspects of generally accepted accounting practice. The departures in question arose in large part from legislative requirements.

But in the last few years changes to the form of local authority accounts have meant that the accounts now include a presentation of the financial results and position of an authority that conforms to generally accepted accounting practice, while also being consistent with the requirements of legislation. This has been a significant achievement of the CIPFA/LASAAC Local Authority SORP Board. The Board is responsible for preparing the SORP, the Code of Practice on Local Authority Accounting in the United Kingdom, which is recognised by the ASB as a Statement of Recommended Practice (SORP). The SORP is part of the proper practices in relation to accounts with which statements of accounts prepared by English local authorities must conform (see regulation 7).

The chair of the Board has written to the Department drawing attention to the progress made and conveying the Board's view that the "true and fair" wording should be adopted for local authorities. The Audit Commission has supported this view.

The Government agrees that the time is now right to make this change, so that local authorities' accounts receive an opinion of the same standing as other major organisations. It is proposed to amend the Accounts and Audit Regulations so that, with effect from the accounts for the 2008-09 financial year, the RFO is required to certify that the accounts give a true and fair view of the financial position of the authority at the year end and of its income and expenditure for the year. The form of opinion to be given by the auditor is a matter for the Audit Commission, but we understand that the Commission would intend to move to a true and fair opinion on the same timetable.

This change will apply only to bodies required by regulation 7 to prepare a statement of accounts. Where the accounting obligations of a body are governed by regulation 9 the RFO will continue to be obliged to certify that the accounts present fairly or properly present the finances of the body in accordance with the present rules.

It is understood that the devolved administrations in Scotland, Wales and Northern Ireland will be pursuing similar changes for local authorities in their countries.

The move to International Financial Reporting Standards as the basis for local authority accounts, which the SORP Board has announced that it plans to implement from 2010-11, does not affect this change.

Annex B – Draft Accounts and Audit Regulations

STATUTORY INSTRUMENTS

2009 No. XXXX

LOCAL GOVERNMENT, ENGLAND

The Accounts and Audit (Amendment) (England) Regulations 2009

<i>Made</i>	- - - -	xxxx
<i>Laid before Parliament</i>		xxxx
<i>Coming into force</i>	- -	31st March 2009

The Secretary of State, in exercise of the powers conferred by section 27 of the Audit Commission Act 1998 (“the 1998 Act”)(1) and section 134 of the Greater London Authority Act 1999(2), having consulted in accordance with section 27(3) of the 1998 Act, the Audit Commission, such associations of local government as appear to the Secretary of State to be concerned and such bodies of accountants as appear to the Secretary of State to be appropriate, makes the following regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Accounts and Audit (Amendment) (England) Regulations 2009 and shall come into force on 31st March 2009.

(2) These Regulations apply in England only(3).

Amendment of the Accounts and Audit Regulations 2003

2. The Accounts and Audit Regulations 2003(4) are amended as set out in regulations 3 to 8.

Interpretation and application

3. In regulation 2(1) (interpretation and application) omit the words “, other than parish councils subject to any of the duties under Part 1 of the Local Government Act 1999 (best value authorities),” from the definition of “smaller relevant body”.

Internal drainage boards

4. After regulation 7A insert the following regulation—

“7B. Internal drainage boards

For each year ending on or after 31st March 2009, an internal drainage board shall charge to a revenue account an amount equal to the retirement benefits payments and contributions to pension funds which are payable for that year in accordance with—

(1) 1998 c. 18 which has been amended by the Local Government and Public Involvement in Health Act 2007 (c. 28).

(2) 1999 c.29.

(3) The Secretary of State’s functions under the Audit Commission Act 1998 (c. 18) so far as exercisable in relation to Wales are now vested in the Welsh Ministers. They were previously transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 SI 1999/672: see the reference to the Audit Commission Act 1998 in Schedule 1. By virtue of paragraphs 30 and 31 of Schedule 11 to the Government of Wales Act 2006 (c. 32) they were transferred to the Welsh Ministers.

(4) S.I. 2003/533 which was amended by the Accounts and Audit (Amendment) (England) Regulations 2006 (S.I. 2006/564).

- (a) the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007⁽⁵⁾; and
- (b) the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000⁽⁶⁾ or the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006⁽⁷⁾.”.

Signing and approval of statements of account

5. In regulation 10 (signing and approving of statements of account etc) for paragraph (2) substitute—

“(2) Before the approval referred to in paragraphs (3) and (4) is given, the responsible financial officer of a relevant body shall—

(a) in the case of a smaller relevant body which has prepared a record of receipts and payments, sign and date that record of receipts and payments, and certify that it properly presents its receipts and payments for the year to which it relates;

(b) in the case of any other smaller relevant body, sign and date the income and expenditure account and statement of balances, and certify that they present fairly the financial position of the body at the end of the year to which they relate and that body’s income and expenditure for that year;

(c) in the case of any other relevant body, sign and date the statement of accounts, and certify that it presents a true and fair view of the financial position of the body at the end of the year to which it relates and of that body’s income and expenditure for that year.”

Publication of income and expenditure account and receipts and payments

6. In regulation 12(1) (publication of income and expenditure account and receipts and payments) omit the words “of that meeting”.

Written notice of proposed objection

7. In regulation 17 (written notice of proposed objection)—

(a) omit “proposed” from the heading;

(b) in subsection (1)—

(i) for “a proposed” substitute “an”; and

(ii) for “proposes to rely” substitute “relies”.

Extraordinary audit

8. In regulation 21 (Extraordinary audit) omit the words “to attend before the auditor and”.

Signed by authority of the Secretary of State for Communities and Local Government

Minister of State
Department for Communities and Local Government

⁽⁵⁾ S.I.2007/1166
⁽⁶⁾ S.I.2000/1410, amended by S.I. 2001/3649, 2002/769, 2003/1022, 2005/3069
⁽⁷⁾ S.I.2006/2914



Annex C

1. This consultation will be available for viewing at:

- <http://www.communities.gov.uk/corporate/>
- <http://www.local.communities.gov.uk/finance/capital/capdirsum.htm>

A summary of responses will be published within 3 months of the close of the consultation on this website.

2. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

3. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

4. The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.