

to Luke Scofield,
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APPENDIX 2

your ref
my ref IEC/TS
service Finance
tel 0151 666 3056 Please ask for Ian Coleman

Dear Sir.

RESPONSE TO FUTURE OF LOCAL PUBLIC AUDIT CONSULTATION

Wirral Council welcomes the opportunity to comment on the Consultation document on the Future of Local Public Audit issued by the Department, and responses to the individual questions follow.

Introduction

Q1: 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?

Yes. Most are currently in place with the Audit Commission. The key areas are consistency and the depth to which individual auditors carry out their investigations.

Q2: Do you agree that the audit of probation trusts should fall within the Comptroller and Auditor General's regime?

No view.

Regulation of local public audit

Q3: Do you think that the National Audit Office would be best placed to produce the Code of Audit Practice and the supporting guidance?

The organisation needs to understand the sector and to give clarity and so the National Audit Office is probably best placed to deliver this.

Q4: 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?

Yes.

Q5: Who should be responsible for maintaining and reviewing the register of statutory local public auditors?

The Financial Reporting Council could be able provided that they can prove that they have both the resources and the expertise to undertake the role.

Q6: How can we ensure that the right balance is struck between requiring audit firms eligible for statutory local public audits to have the right level of experience, whilst allowing new firms to enter the market?

If the Financial Reporting Council is acting as the regulator then it could include any 'newer bodies' and effectively give them a 'trial period'.

Q7: What additional criteria are required to ensure that the auditors have the necessary experience to be able to undertake a robust audit of a local public body, without restricting the market?

Market forces will probably limit the number of auditors.

Q8: What should constitute a public interest entity (i.e. a body for which audits are directly monitored by the overall regulator) for the purpose of local audit regulation? How should these be defined?

The changing role of local authorities and the move to being a commissioner of services will lead to more voluntary / faith sector bodies providing services. For consistency all should be operating under the same rules.

Q9: 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 and expenditure? If the latter what should the threshold be?

This proposal is based upon a spend threshold. The approach should be similar for all bodies but the value could determine the degree / depth of audit.

Q10: What should the role of the regulator be in relation to any local bodies treated in a manner similar to public interest entities?

The regulator should oversee all such bodies.

Commissioning local public audit services

Q11: Do you think the arrangements we set out are sufficiently flexible to allow councils to co-operate and jointly appoint auditors? If not, how would you make the appointment process more flexible, whilst ensuring independence?

Having the auditors on an approved list and selected by councils from the list is flexible enough. Wirral may be interested in a cross-Merseyside contract for consistency of audit approach.

Q12: Do you think we have identified the correct criteria to ensure the quality of independent members? If not, what criteria would you suggest?

The selection process needs to ensure skills are relevant and that value can be added by the members.

Q13: 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?

The skills needed to chair the committee are different and may be different from someone with financial expertise. However all members do need to be aware of the sector, of finance and of their role as members.

Q14: Do you think that sourcing suitable independent members will be difficult? Will remuneration be necessary and, if so, at what level?

This will depend upon their reason for being interested. Remuneration will be an issue and should be similar to members allowances and expenses.

Q15: Do you think that our proposals for audit committees prove 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? If not, how would you ensure independence whilst also ensuring a decentralised approach?

The independence of the auditor appointment is not seen as an issue. Option 2 gives the committee a role of adding value.

Q16: Which option do you consider would be the best balance between a localist approach and a robust role for the audit committee in ensuring independence of the auditor?

Same answer as Q15.

Q17: Are these appropriate roles and responsibilities for the audit committee? To what extent should the role be specified in legislation?

They do link together and for consistency and to encourage independent members across the sector it would be preferable to specify the role.

Q18: 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 promote and maintain this?

The Financial Reporting Council / National Audit Office are best placed to determine a code of practice or guidance.

Q19: Is this a proportionate approach to public involvement in the selection and work of auditors?

It is not clear how access from the public to the scrutiny of accounts is made. There needs to be a contact otherwise direct access to the committee when reviewing the accounts may be preferred.

Q20: How can this process be adapted for bodies without elected members?

Best to await the developments from the Police Reform and Social Responsibility Bill before determining the way forward. Would need clarity as to which bodies are included e.g. voluntary bodies.

Q21: Which option do you consider provides a sufficient safeguard to ensure that local public sector bodies appoint an auditor? How would you ensure that the audited body fulfils its duty?

Local Authorities are responsible organisations and would make such an appointment but option 2 with the power of the Secretary of State to intervene provides further assurance.

Q22: 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 due date?

If the Financial Reporting Council are maintaining a list of appointed auditors then local authorities should ensure that they keep this up-to-date.

Q23: If notification of auditor appointment is required which body should be notified of the appointment / failure to appoint an auditor?

See Q21 and Q22.

Q24: Should any firm's term of appointment be limited to a maximum of two consecutive five year periods?

This complies with the practice in other sectors.

Q25: 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?

Standards seem to cover the issues and the engagement would include a review of the key personnel involved and so would require details of experience, etc.

Q26: Do the proposals regarding the appointment 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?

The five year term provides sufficient time for this to occur as supported by the annual reviews. Extending this to a possible 10 years after a competitive exercise adds to this.

Q27: Do you think this proposed process provides a 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. The public sector relationship with auditors has been different from the private sector in the past and this brings a more consistent approach.

Q28: 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. Again if there is consistency across sectors then the Financial Reporting Council could set out the provisions.

Scope of the audit and the work of auditors

Q29: 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 provide sufficient assurance and transparency to the electorate? Are there other options?

Option 4 and the requirement for all public bodies to produce an annual report which would encompass value for money arrangements would provide this transparency.

Q30: Do you think local public bodies should be required to set out their performance and plans in an annual report? If so, why?

Yes. This information would further enhance the transparency of public bodies thereby increasing accountability and providing consistency. However, the financial resilience issue would depend upon greater clarity from the Government over future funding.

Q31: 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?

Yes. This would allow others to make comparisons across the sector and is information already held by authorities..

Q32: Should the assurance provided by the auditor on the annual report be 'limited' or 'reasonable'?

The auditor's comments should be based upon the accounts which would then translate to 'reasonable' assurance on the annual report.

Q33: What guidance would be required for local audit bodies to produce an annual report? Who should produce and maintain the guidance?

There needs to be guidance on the content which is best maintained by the Financial Reporting Council. Local electorates can determine any value for money considerations in relation to the size and style of the annual report.

Q34: 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. The way it is investigated and then reported is more of a factor and these can be considered as part of any annual review of performance.

Q35: Do you agree that auditors appointed to a local public body should also be able to provide additional audit related or other service to that body?

Yes. Auditors are in a good position to provide external advice and support as has been the case for local authorities for many years.

Q36: Have we identified the correct balance between safeguarding auditor independence and increasing competition? If not what safeguards do you think would be most appropriate?

All additional work should be undertaken through the Audit Committee to control the additional work and help safeguard the independence of the auditor.

Q37: 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?

Yes. This strengthens the role of the Committee and the links with the management of the appointed auditor.

Q38: Do you agree that we should modernise the right to object to the accounts? If not, why?

Yes. The process presently in place is rarely used given the other means of access open to anyone or any body with an interest in local authorities.

Q39: 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?

If the accounts are published then one of the options may be similar to that currently in place (and in companies) in that they are considered at an 'open' meeting similar to an Annual General Meeting.

Q40: Do you think it sensible that auditors are brought within the remit of the Freedom of Information Act to the extent of their functions as public office holders? If not why?

Yes but this should be kept under review as the scope and cost of this work would ultimately have to be met by the public sector bodies concerned.

Q41: 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)?

There needs to be recognition that some of the requests passed to authorities may well then be passed onto the auditors incurring duplication of effort. The costs do need to be monitored as in Q40 but in principle it is the correct action.

Arrangements for smaller bodies

Q42: Which option provides the most appropriate approach for smaller bodies? What could happen to the fees for smaller bodies under our proposals?

Option 2 for the involvement of independent examiners and an Audit Committee is the preferable approach but see Q43 as fees need to be controlled.

Q43: 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 to county or unitary authorities?

Bringing the smaller bodies under the unitary authorities would help with consistency and the localism developments. This would increase costs but could be mitigated by the use of either the unitary Internal Audit or an additional role for the authority appointed auditor.

Q44: What guidance would be required to enable county / unitary authorities to:-
a) appoint independent examiners for smaller bodies within their area?
b) outline the annual return requirements for independent examiners?
Who should produce and maintain this guidance?

The table presented should be amended to include the expected role and indicative fees would assist in the engagement as the smaller bodies are independent of the council. Any guidance should come from the Financial Reporting Council.

Q45: Would option 2 ensure that smaller bodies appoint an external examiner whilst maintaining independence in the appointment?

If this was managed by local authorities this could be supported.

Q46: Are there other options given the need to ensure independence in the appointment process? How would this work where the smaller body eg a port health authority straddles more than one county / unitary authority?

In the case of local authorities, services across authorities are not uncommon and there tends to be an appointed lead authority for any such activities.

Q47: 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 £6.5 million or £500,000? Are there other ways of dealing with small bodies eg a narrower scope of audit?

There is the option to merge the lower bands and have up to £250,000, £250,000 to £500,000 and £500,000 upwards. For the lower levels there should be limited use of audit such as a review by the unitary internal audit.

Q48: 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 reasonable because if the unitary authority is involved in the appointment this can be beneficial.

Q49: 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 proposals strengthen the links to the unitary authorities but this could see the smaller bodies operating 'under' the unitary.

Q50: Does this provide a proportionate but appropriate system of regulation for smaller bodies? If not, how should the audit for this market be regulated?

This would depend upon the overall intent which could be that set out under Q49.

The following paragraphs provide an overview of the responses made to the detailed questions and seek to summarise some of the issues.

A large element of the consultation seeks to provide greater consistency across the public and private sectors in the approach to the appointment and engagement of the auditors. By using the Financial Reporting Council to oversee the registration of audit firms and to monitor and enforce audit standards this will increase the consistency of approach. This is welcomed given the desire for greater consistency across the sectors and the increasing joint working in many areas in delivering services.

The nature of public bodies is different from those in the private sector. Public bodies are more open and transparent and already subject to much greater public scrutiny. As such this brings additional controls which are not deemed essential to those in the private sector. One example is the role of the Audit Committee and its membership. Elected Members, without being on the main decision-making body, already fulfil the role of independent members. Separately appointed independent members on the Committee may add to this scrutiny, as the Elected Members do already fulfil this role.

The relationship with the auditor is also different in the public sector. Bodies will appoint auditors but the extent and degree of audit scrutiny is variable because of the diverse nature of public bodies. This is reflected in the issues raised with the auditor and also the sources from which these issues are raised. Therefore the changes proposed under Freedom of Information, whilst agreed in principle, will need to be managed as this change could lead to duplicated requests and increased costs to local authorities.

In terms of the accounts, local authority accounts are publicly available and more open to scrutiny, including through the publication of information throughout the year, but the accounts are becoming increasingly complex due to accounting requirements. This has led to an increased use of annual reports by local authorities although all are mindful of the way such publications can be viewed by the electorate. Guidance would be welcomed.

As regards the audit arrangements for smaller bodies the way forward will depend upon whether the intention is to see smaller bodies being under the 'management' of unitary or county authorities or whether they are seen as remaining completely independent. The former will bring an additional burden for local authorities, the scale and cost of which will depend upon the number and size of such bodies within the local area.

Yours sincerely,

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