

Draft Response to DCLG Consultation Paper regarding the future of Local Public Audit

South Somerset District Council welcomes the consultation in terms of the ability in future to appoint our own auditors and to be able to work with our partners in procuring an efficient and cost effective service.

Attached are the updated and currently draft Terms of Reference for South Somerset's Audit Committee. As you can see the Audit Committee has a wider remit than just dealing with external audit for example it has a wider remit in the scrutiny of treasury management. The consultation paper does not take into account the championing role in good governance and risk management that most Audit Committees currently have. The Audit Committee has been instrumental in embedding the improvement and adherence to these important areas for both officers and members. As elected members they also understand the objectives of a local authority in the provision of local services and the equality and diversity of the residents they serve.

Although the consultation outlines that there will be further proposals for grant certification, Whole of Government Accounts, and NFI it would be onerous for local authorities to have these managed through various other means. The management of these areas also currently enables the Audit Commission to take these areas into account when they are preparing the Annual Audit Letter for local authorities. They also produce a report for Audit Committees on grant certification. The Audit Commission also play a part in the combating of fraud through NFI and also alerting authorities and collecting the data on fraud across the country. We would suggest that NFI be moved to the National Audit Office so that there is a national role in combating fraud with grant certification and WGA's approved by the externally appointed auditors.

The Audit Committee has considered the questions asked and I have outlined below their response:

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?

A – The design principles need to include good governance and include more of the best practice within current Audit Committees

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

A - No comment

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

A - yes

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?

A - yes

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

AC

A – National Audit Office

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?

A - Suggest a framework agreement where firms are assessed centrally (perhaps through the National Audit Office) to ensure a consistent standard and then Local Authorities can appoint from the list.

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?

A - none

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?

A – same as is used now

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?

A - No

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

A- duties in para 2.22 of the consultation paper.

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?

A – the method outlined involving each Audit Committee and each full Council would make this very difficult. An example would be if all authorities within the South West Audit Partnership were to appoint the same external audit we would have to find agreement within 11 Audit Committees and 11 Councils – this would involve around 550 councillors and possibly up to 50 independent members. It would be much better to follow a normal joint procurement process.

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

A – difficult to identify the criteria without outlining the full responsibilities of the role. It is too long a time period of five years to exclude previous officers and members – two years would be more than sufficient. You also need to clarify what is meant by “recent and relevant financial experience” for elected members.

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?

A - concerned that having a majority of independent members destroys some of the role of the Audit Committee in championing the audit/governance/risk role within the authority. It should be outlined that it is useful but not necessary to have relevant financial experience.

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

A – yes we already find it difficult to source suitable independent members for our Standards Committee. We have also tried to co-opt an independent member to the Audit Committee in the past with no success. It does seem odd that the public elect members to represent them but then decisions are made by non elected independent members. Remuneration would be expected by those independent members – currently the independent Chair of Standards receives £2,800 and independent members of the Standards Committee receive £400 per annum.

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?

A - the auditor appointment should be a simple procurement under a framework agreement, The approach outlined is not needed.

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?

A – as 15. above

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

A – as 15. above. It is appropriate for the Audit Committee to be part of the procurement process but to retain their current functions.

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?

A – no procurement procedures should be used and a framework agreement developed. The framework agreement would ensure that only auditors of sufficient independence, qualification, and experience are included. The National Audit Office could define the minimum requirements for inclusion.

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

A – no this is already in place through the election of councillors. Should be a simple procurement process.

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

AC

A - N/a

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?

A - Make it a role of one of the statutory officers (probably in this case the S151 Officer) to appoint in the event that the local public body fails to.

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?

A - do not feel that this is necessary.

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

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

A - yes

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?

A - 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?

A - yes

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?

A - yes

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?

A - 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?

A - decide the minimum level and let the local public bodies decide if they want anything further.

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

A – this should be part of the annual accounts. There is no point in the public viewing performance and spend in different documents.

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?

A – no should all be part of the annual accounts

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

A - reasonable

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

A - guidance should be included as part of the annual accounts and therefore it should be produced by whoever gives the guidance on the annual accounts.

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?

A - yes but public interest reports need to be published centrally i.e. by the National Audit Office.

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?

A - no

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

A - yes but taken too far in terms of auditor independence.

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?

A - Yes

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

A - yes but you will need to clarify what “increased publicity requirements for audit bodies” means. We produce a summary “Statement of Accounts” and send it to every resident currently but once the accounts have been audited. This still does not create many queries or comments from the public.

AC

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?

A – yes subject to the comments already made in 38.

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?

A - unsure as to why they need to be as the information would be most likely to originate from the public body. Most requests may come from the public body if they are in dispute with their Auditor!

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)?

A - see 40. above. There will be an impact on fees as the auditors will try to estimate as part of the contract the time they may have to spend on FOI requests.

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

A – option 2 but again would be made much easier through a simple procurement exercise through a framework agreement. We see no need for an Audit Committee in this case and the appointment could be made through their equivalent of full council.

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?

A - No a localism approach should be used and smaller bodies allowed to appoint their own auditors under the framework agreement. District/Unitary Authorities could ensure that each town and parish council had an appointed auditor as part of the annual precepting procedure.

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?

A – This is not a practical solution.

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

A - see answer to 42.

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?

A - see answers to 42 and 43 outlined above.

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?

A - the four-level approach looks reasonable but at level 2,3, and 4 the body should have a right to appoint its own auditor. If they request that the independent examiner is from a local authority, the independent examiner should include an officer of a district council as well as those of county or unitaries. The smaller bodies that may request this would be town and parish councils that already look to Districts to assist in some matters. The smaller bodies threshold should remain at £6.5 million.

Local authorities also in some cases e.g. joint committees have “smaller body” accounts within their administration. It is important that authorities when appointing an auditor for their own body are able to also appoint the same auditor to encompass all accounts that need to be compiled within their administration.

It would be worth exploring a narrower scope of audit for smaller bodies.

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?

A – No as outlined above the smaller bodies should be empowered to appoint their own auditors. The precepting authorities should be on hand to advise and assist with these issues when they arise. The precepting authorities including the Districts should only check that there is an auditor appointed within the framework agreement and it is only when there is no appointment should any precepts be withheld. A public interest report should be made to the smaller body with recommendations on how those issues should be addressed – it is for the elected members of those bodies to take action.

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?

A - they are not acceptable the smaller bodies are and should be responsible for taking action.

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?

A – no the smaller bodies should be allowed to appoint their own auditors from the framework agreement or from District/County/ or Unitary suitably qualified officers should they wish to do so. The District or Unitary would only regulate that an auditor had been appointed as part of the precepting process.