

List of consultation questions

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?

Response; In the context of the Minister's aims the design principles are appropriate. However, as the report itself states, page 11 paragraph 1.8, 70% of the current local public audits are undertaken by the Audit Commission and the removal of such a significant service provider may put at risk the principle of lower audit fees. The removal of Audit Commission will increase the demand for services from a limited pool of large audit firms who dominate the market, and this may actually result in an increase in audit prices for local public bodies.

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

Response; Not applicable to MFRA

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

Response; 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?

Response; Yes, although it would be beneficial if appointed auditors had specialised knowledge of the sector in which they are to audit. It would be inappropriate to suggest that audit in the public and private sectors are the same. They are not. This may however act as a deterrent to opening up the market to firms outside the major accountancy firms and act as a barrier to market entry.

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

Response; The Financial Reporting Council could fulfil this role.

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?

Response; The question to consider is not one of balance but whether the appointed auditor is sufficiently qualified/experienced to provide high quality audit. New firms should ensure that they satisfy these criteria if they wish to enter the market. If auditors lack skills and specific sector experience then this will have an impact on the quality of public audit.

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?

Response; Capacity of audit firms may be an issue. Firms will be working to tight deadlines and require specialist knowledge in a number of service areas. The ability of audit firms to react to unforeseen events, business continuity issues for example, will be a key criterion in evaluating tenders. This may restrict the ability of smaller audit firms to enter the market.

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?

No response

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?

No response

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

No response

11. 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?

Response; Authorities currently have specific rules regarding the commissioning of services or procurement of supplies in order to safeguard public funds, ensure value for money, and assessing suppliers ability to deliver the services or goods required. In a significant number of cases it is a requirement that before any tenders can be accepted a report must go before Members so they can independently challenge the process. It seems the consultation paper does not recognise this fact and is concentrating on establishing a commissioning process that delivers flexibility and independence in the process that in reality either currently exists or is not required.

Currently members of the Audit Committee are independent of the executive management team and provide the relevant level of challenge and scrutiny expected. Independent advisors are available to Members of the Authority's Audit Committee as and when required.

Setting up a joint committee for different authorities whilst fine in theory, may be complex and counter productive as there ought to be a clear line of accountability from the Audit Committee to each authority / council.

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

Response; see Q14.

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?

Response; see Q14.

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

Response; If the role of the committee is to select and advise on the choice of auditor and suggest alternative services, then specific skills would seem to be an essential for members (finance or commissioning or both?). There is a cost associated with all this – recruiting suitable members, training them, paying them and servicing the committee. There may be some difficulty in appointing independent members with suitable skills. As an additional option, why not use the local authority Members. So long as the process is transparent and Members are accountable for their actions then why are external members needed?

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?

Response; Option 1 is all that is necessary to specify in relation to the appointment of the auditor.

HOWEVER currently audit committees have a greater role; an important scrutiny function in terms of reviewing financial performance of the organisation, consideration of internal audit reports, annual governance statements and other constitutional and service issues. Most of these are outlined in option 2 BUT these roles are perhaps better fulfilled by the authority itself (through a designated committee) rather than the type of independent audit committee being proposed in the consultation paper.

The existence of “two” audit committees may be a consequence of the consultation papers proposals IF CLG continue to require the chair, vice-chair and majority of the members of the audit committee are to be independent of the local public body.

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?

See Q15

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

Response; The roles for the audit committee specified in legislation should be limited to that outlined in option 1 i.e. to provide advice on the appointment and removal of the external auditor. There is a much wider role for an audit committee and that may include some of the functions set out in Option 2, however, by specifying these in legislation would remove any flexibility for committees to change and develop their effectiveness over time and in response to local circumstances. The broader role of an audit committee is best dealt with through the provision of best practice guidance, for example that already provided by CIPFA.

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?

Response; Using guidance would be the best approach. The audit body could then be asked to state reasons for not following the guidance when appropriate. Guidance could be produced by CIPFA/Solace or the NAO.

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

Response; It is important to avoid specifying in too much detail the public's involvement in the appointment process.

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

No response

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?

Response; Suggest that there should be reserve powers for the Secretary of State to act if necessary.

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?

Response; There should be no requirement to inform a body that an appointment has been made, it should only apply when an authority has failed to make an appointment.

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

Response; National Audit Office

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

See Q26

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?

See Q26

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?

Response; Apply the same appointment terms applicable to private sector audits. If appointment terms are set too short then the burden on the audited body tends to increase as new auditors have to come in and understand systems, no time to develop relationship, etc.

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?

Response; 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?

Response; This would seem appropriate, but need to consider cost implications as it is likely to feed into audit charges.

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?

See answer to Q33

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

See answer to Q33

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?

See answer to Q33

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

See answer to Q33

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

Response; Option 2 would seem to strike the right balance. There is a danger that publishing performance and plans could become an industry akin to CPA/CAA with the emphasis on managing the data in the plans rather than focussing on service delivery. Annual reports are a good idea but should authorities not be free to publish their own information (to include a set of summarised / simplified accounts) and do these have to be audited? Any requirement to audit annual reports would increase the cost of audit and therefore be adverse to CLG's design principles. Regarding the use of simplified accounts, perhaps a standard template could be developed similar to the main accounts but with all detail excluded? It may perhaps be logical for CIPFA to advise and develop guidance for annual reports weighed up against the requirements for a local approach and cost factors.

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?

Response; Yes

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?

See answer to Q36

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

Response; Authorities are at times obliged to seek external financial advice and this is subject to normal commissioning arrangements. It would not be unreasonable for the same firm to provide advice and audit statements providing suitable checks and balances are in place (professional ethics, etc).

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?

Response; It would seem sensible.

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

Response; Yes...As the consultation paper states this does not remove the ability of the public to make representations to the auditor, raise issues and ask questions about the accounts, but has the benefit of providing auditors with discretion on how they deal with these enquiries.

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?

Response; Seems a sensible way forward

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?

Response; Auditors should be subject to FOI but not with regard to the affairs of their clients, these should still be addressed by the relevant body.

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)?

Little or no impact if suggestion in response to Q40 is followed.

THE AUTHORITY HAS NO RESPONSES TO CONSULTATION QUESTIONS
42 to 50

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

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?

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?

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