

Draft Local Audit Bill: **Submission by the Local Government Association (LGA)**

15 October 2012

Introduction

- 1.1 The Local Government Association (LGA) exists to support, promote and improve local government. We will represent local government's interests and support councils through challenging times, focusing our efforts where we can have real impact. We will be bold, ambitious, and support councils to make a difference, deliver and be trusted.
- 1.2 The LGA welcomes this opportunity to offer written evidence to the ad-hoc Committee established to provide pre-legislative scrutiny of the draft Local Audit Bill. This response builds on our earlier submission to the Communities and Local Government Select Committee inquiry into the future arrangements for the audit and inspection of local authorities and our responses to previous Department for Communities and Local Government (DCLG) consultations on the future of local public audit.

1.3 Summary

- The proposals for local public audit are part of a new approach that devolves responsibility locally. They place the emphasis on greater transparency, stronger local accountability and sector owned and led improvement – the proposals should be assessed in this context.
- The proposed requirement for auditor appointments to be made on the basis of advice from an independent audit panel comprising a majority of independent members and an independent chair is both unnecessary and impracticable. It should be deleted from the Bill.
- Sufficient flexibility should be retained to allow councils to come together to explore the opportunities for joint procurement of audit.
- A new simpler and more easily understandable framework for published accounts is required that better enables local people to understand the true financial health of public sector organisations and empowers them to hold those responsible to account.
- The Commission's value for money profiles and financial ratios analysis tool are of potential on-going value to the sector and we are keen to work with the Commission to explore the synergies with LG Inform (the sector's own data comparison tool).
- We do not agree that the NAO should undertake examinations which include identifying 'improvements' in local government. Clause 94(3)(b) should therefore be deleted from the Bill.
- The Bill should be amended to introduce a requirement on the NAO to consult the LGA on its programme of studies and to involve the sector in the conduct of individual studies. The LGA and NAO should be required to agree a Memorandum of Understanding setting out how they will work together.

Submission

Objectives of the proposed arrangements

- 1.4 The Government's proposals for local public audit are part of a new approach to assessment and inspection that places greater weight on stronger local accountability rather than central monitoring and reporting.
- 1.5 The deficiencies of the previous 'new performance framework' with its panoply of centralised targets, performance indicators, Government office monitoring, data reporting and multiple inspections have been well documented. These limitations include the following points:
 - National targets and assessment regimes by their nature encourage compliance with centralised objectives inhibiting the ability and opportunity for locally elected councils to respond effectively to the priorities identified by local people and communities.
 - The assessment and inspection regimes have considerable compliance costs diverting scarce public resources away from direct delivery. In our evidence to the Communities and Local Government Select Committee inquiry the LGA estimated these costs to be in the order of £900m per annum though others, including the NAO, arrived at higher estimates.
- 1.6 Instead the new approach – of which local public audit is part – devolves responsibility locally and places the emphasis on greater transparency, stronger local accountability and sector owned and led improvement. The proposals for local public audit need to be assessed within this wider context, not apart from it.

Local appointment

- 1.7 The Committee's call for evidence invites views on whether the draft Bill provisions empowering local bodies to appoint their own independent external auditors will provide adequate safeguards, for example, to ensure independence.
- 1.8 In our view the proposed requirement for appointments to be made on the basis of advice from an independent audit panel comprising a majority of independent members and an independent chair is both unnecessary and impracticable. It should be deleted from the draft Bill.
- 1.9 The proposals are unnecessary for a number of reasons. Firstly, the eligibility requirements and regulation process provided under Part 4 of the draft Bill will be sufficient to ensure the professional integrity and independence of potential auditors. In practice this means that:
 - Audit firms will have to comply with the rules and practices governing the eligibility of firms to be appointed as local public auditors and the qualifications, experience and other criteria individuals must reach before being permitted to carry out a local public audit and sign off an audit report. These will be set by the professional accountancy bodies (recognised supervisory bodies)

which will be responsible for registration, monitoring and discipline for local public audit.

- Recognised supervisory bodies will monitor the quality of audits undertaken by their member firms and investigate complaints and disciplinary issues.
- The accountancy bodies themselves will be recognised and supervised by the Financial Reporting Council which will be the overall regulator. The FRC will be able to issue guidance to supervisory bodies. The Accountancy and Actuarial Disciplinary Board (part of the FRC) can investigate significant public interest disciplinary cases and impose sanctions on those auditors found guilty of misconduct in both the companies and public sectors.
- The approach auditors must follow when auditing local public bodies is set out in the audit codes of practice which will in future be the responsibility of the NAO to develop and maintain.

“If there needs to be an audit committee with a majority of independent members in order to select an independent auditor there is something wrong with the process for determining auditors’ eligibility for the role.” Feedback from a County Council.

(Source: LGA, June 2011 response).

1.10 Secondly, councils already operate within a complex regime of existing safeguards and controls designed to guarantee regularity and propriety including the requirement to set balanced budgets, to restrict borrowing to what is affordable, maintain sound systems of internal financial control, publish financial statements and secure continuous improvement. Monitoring Officers and Section 151 Officers ensure the legality and financial prudence of decisions.

1.11 And finally, councils are already responsible for procuring large volumes of goods and services in order to discharge their wider functions and have the skills and ability to appoint their own auditors. Indeed the Government has recognised that there are ‘...no barriers in terms of expertise that would prevent local public bodies appointing their external auditors...’ (para 57, Government response to the future of local audit consultation, January 2012).

1.12 We also believe the proposals to be impractical because councils’ experience demonstrates that it will be very difficult for some authorities to source appropriate (i.e. suitably knowledgeable and qualified) independent people to appoint to a committee, especially given the amount of time required to understand the complex environment within which councils operate. Of those councils expressing a view on this issue 89% indicated it would be difficult to source independent members compared with 11% who said it would not (para 5.7 *Future of local public audit – consultation: Summary of responses*, January 2012).

“The requirement to establish an audit panel is excessive and potentially unworkable as there will be difficulty in finding suitable independent members with the requisite skill set.” Feedback from a Shire district.

“The appointment of an independent auditor panel is considered to be an unnecessary bureaucracy. The requirement for independence is a clear duty on the appointed auditor and is implicit and explicit in the culture and legislation surrounding auditing.” Feedback from a County Council.

(Source: LGA response to draft Bill consultation, September 2012).

1.13 Foundation Trusts, Universities and Further Education Colleges appoint their own auditors. In the absence of any compelling evidence to support the need for passing these responsibilities to unelected people we continue to be of the view that the current audit committees provide a good basis for making recommendations to council about the appointment of auditors. Approximately 80% of councils already have some form of audit committee with the remit to challenge, review and scrutinise member and officer decisions on financial issues. This may include independent members and is often chaired by members of the opposition group. There is no reason to suggest that these arrangements could not provide a good basis for making recommendations to council about the appointment of auditors.

1.14 Giving councils the freedom to appoint their own auditors provides an opportunity to consider new approaches. We envisage there will be significant interest in some form of joint procurement. Sufficient flexibility should therefore be retained to allow councils to explore the opportunity to procure audit services, for example on a ‘class’ basis or a joint basis at local, regional or national level.

Transparency

1.15 The Committee’s call for evidence invites views on whether the provisions in the draft Bill will ensure that the results of audit are accessible to the public in a transparent and intelligible manner and data of interest to the public is easily available so that local bodies can be held to account for local spending decisions.

1.16 We see audit as one of the key mechanisms providing accountability for public resources. The primary audience for audit and audit reports should be local people and communities, including the voluntary sector and business community.

1.17 However the way accounts are presented has become tightly constrained. Councils are required to prepare their financial statements in accordance with international reporting standards (IFRS) with the effect that financial statements become longer and complex.

- 1.18 As the Audit Commission has noted: '*published financial information has become even more difficult for the general public to understand*' (para 20, Audit Commission draft Strategic Plan 2010).
- 1.19 A new simpler and more easily understandable framework for published accounts is required that better enables local people to understand the true financial health of public sector organisations and empowers them to hold those responsible to account.
- 1.20 In terms of the availability of data to enable local people to hold their councils to account for spending decisions councils already publish a wide range of information and data locally about their policies, performance and use of resources.
- 1.21 In addition the LGA has developed LG Inform, a free online service which allows local government officers and councillors to access and compare key data. It contains performance and financial data, as well as contextual data, across a range of services and themes. Users can view reports for every one of the 800 data items, make comparisons with other groups of authorities, and create their own charts or reports using the data. In 2013 a new version of LG Inform will be launched which allows the public to view the data, either for their own area or for an area of their choice, and choose their comparison groups as well. This will give local people easy access to data to make performance and cost comparisons.

Legacy and the winding up of the Audit Commission

- 1.22 The Committee's call for evidence invites views on whether the provisions in the draft Bill make adequate provision for the Commission's liabilities and ensuring that the expertise built up by the Commission is not dissipated.
- 1.23 As part of the work it undertakes to support local auditors the Audit Commission has developed and maintains value for money profiles which bring together data about costs, performance and activity of councils and fire and rescue authorities. It has also developed a financial ratios analysis tool to assist local authorities to compare their financial performance on a range of financial ratios against similar bodies.
- 1.24 These tools and the expertise necessary to maintain and develop them are of potential on-going value to the sector as a means of helping councils understand their performance in comparison with others. Raising public awareness of the tools could also provide an additional means of helping local people hold their councils to account. We are therefore actively exploring the synergies with LGA Inform (the sector's own data comparison tool).

The role of the National Audit Office

- 1.25 The Committee's call for evidence invites views on the intended role of the NAO and specifically whether the arrangements for value for money are adequate and whether in time the NAO will take over the role of the Audit Commission.

1.26 The draft Local Audit Bill gives new powers to the National Audit Office to undertake examinations into the economy, efficiency and effectiveness with which English councils have used their resources in discharging their functions. Any examination is to be carried out for the purpose of

- ensuring that the use of resources by a government department to fund councils represents an economical, efficient and effective use of resources and
- identifying 'improvements' that may be made by local authorities in the economy, efficiency and effectiveness with which they use resources in the discharge of their functions.

1.27 We do not agree that the NAO should undertake examinations which include identifying improvements.

1.28 The Government already supports a sector-led approach to improvement led via the LGA with funding provided via 'top slice.' Vesting improvement activity in another separate organisation is therefore inappropriate and risks duplication and a waste of scarce public money. The sector itself is better suited to undertake this activity, working with the LGA.

1.29 We therefore propose that the new power described in Clause 94(3)(b) should be deleted from the Bill. This view is supported by a large majority of the responses we have seen from councils commenting on this Part of the draft Bill.

1.30 However we do acknowledge the potential value of the NAO undertaking studies that focus on the use of resources by government departments to fund council activities (though we are aware that not all in the sector agree) because of the synergies with the NAO's primary role of helping to hold government accountable on behalf of Parliament for how government makes use of their resources.

1.31 As the NAO prepares to embark on these studies it is important to draw on experience of the Audit Commission's studies programme and to respond to the recommendations of the Communities and Local Government Select Committee inquiry into audit and inspection about the need to develop a coherent and coordinated programme of studies. We therefore propose that:

- The number of NAO studies undertaken each year should be limited to a maximum of six because experience demonstrates that the sector does not have the capacity to respond to and implement the recommendations from a large number of studies each year;
- the NAO should have regard to studies that the sector itself, including the LGA, may commission as part of sector led improvement;
- there should be consultation and agreement with the sector on the theme of the studies in advance;
- the NAO should not investigate and make judgements about the performance of individual local authorities or indeed classes of local government.

1.32 These views are supported by over 80% of the responses we have seen from councils commenting on this part of the draft Bill.

1.33 Whilst the policy narrative accompanying the draft Bill appears to indicate that DCLG are sympathetic to the LGA's views it seems they have no levers to influence NAO. We therefore propose that, as a minimum, the draft Bill should be amended to introduce a requirement on the NAO to consult the LGA on its programme of studies and to involve the sector in the conduct of individual studies. The LGA and NAO should be required to produce and agree a Memorandum of Understanding setting out how they will work together.

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END.