

Appendix 2

LGA response : Consultation: addressing the local audit backlog in England

February 2024

About the Local Government Association

1. The LGA is the National Voice of Local Government. We're on the side of councils: promoting their work, supporting them to improve and helping them make a difference to people, places, and the planet. As the national membership body for local authorities, we provide the bridge between central and local government and we help councils deliver the best services to their local communities.
2. This response has been cleared by the LGA's Economy and Resources Board.

Introduction

3. It has been clear for a long time that local audit is in crisis. Identifying the causes of the crisis is not simple; it has been recognised that the causes are multi-faceted and complex and will take time to address. We have been pressing the Government to set a firm timetable by which timely audits will be restored so it is good that the proposals being consulted on have been published and we welcome the opportunity to comment.
4. The need to come to a pragmatic solution to the backlog is urgent. However, this must not lead to reputational damage for councils as a result of a problem that is not of their making. There is much in these proposals that will be hard for local authorities to deal with (and also much that will be hard for others in the system). Nevertheless, overall, the proposals represent the best opportunity for resolving the situation and must therefore be supported overall, subject to some caveats that are outlined in responses to individual questions.
5. The fact that the proposed reset period will take until 2028 shows the complexity of the problem to be solved. Ultimately, a long-term solution is needed to this crisis which will require a joint effort from a range of stakeholders including the Government, the audit firms, the regulators and Chartered Institute of Public Finance and Accountancy (CIPFA). While there is reference to the long-term proposals, more attention is paid in the proposals to the short term reset and the implementation of backstop arrangements. While this is understandable, it is crucial that the actions taken are part of a long-term plan that will restore confidence in the local audit arrangements, restore timely audits permanently, and improve financial reporting.
6. There are some areas that need further clarification. In particular the process for how audit fees will be adjusted to reflect work actually done needs to be clear (this is also picked up in answers to questions 5 and 9).
7. It is also not clear how the backstop proposals will impact on the role of members of audit committees in having to sign off audited accounts. In signing off accounts,

audit committee members rely on both the views of the auditors and on the views of the section 151 officer. The backstop approach could potentially limit the information on which they can rely, as there could be accounts that members are asked to sign off that have had a very limited audit (or even, in extreme cases, no audit at all) and where the view or opinion of the auditor is therefore very limited.

8. It is also important that the proposals in this consultation and in the parallel one from the National Audit Office align with the forthcoming consultation from CIPFA on changes to the accounting code.

Specific Questions

Question 1. Notwithstanding the possibility of exemptions in exceptional circumstances (covered by questions 3 and 4 below), do you agree that Category 1 authorities should be required to have published audited accounts for all financial years up to and including financial year 2022/2023 by 30 September 2024? (agree, disagree, unsure).

Do you have any comments on this issue?

9. Agree.

10. This is clearly a necessary part of implementing the proposals to reset the system.

11. Although the legal position is that it is the responsibility of the local authority to publish the accounts, it has to be recognised that this can only be done once an audit report and opinion have been received. The requirement on the auditor to deliver an opinion (report) in order to enable the publication of the accounts by the back stop date needs to be clear. In the draft Code of Audit Practice being consulted on by the NAO the proposal is for the auditor to deliver the opinion (report) "in time" for publication at the backstop date. "In time" needs to be defined more clearly and set at a time that is sufficient to allow publication by the back stop date – for example it might need to be at least two weeks or maybe a month before the back stop date.

Question 2. Do you agree that the requirement at Regulation 10(2) for Category 1 authorities to publish a delay notice should be disapplied in relation to any outstanding audits covering financial years 2015/2016 to 2022/2023? (agree, disagree, unsure)

Do you have any comments on this issue?

12. Agree.

13. Removing this requirement should help to avoid confusion when the backstop arrangements are put in place.

Question 3. Do you think it would be appropriate for Category 1 authorities to be exempt from the statutory backstop date of 30 September in circumstances where the auditor is unable to issue their opinion due to outstanding objections to the accounts that could be material to that opinion? (agree, disagree, unsure)

Please explain your response.

14. Agree.

15. It is important to show that objections have been dealt with fairly and transparently. The same point applies to future years (see question 7).

Question 4. Do you think there would be any other exceptional circumstances which might create conditions in which it would be appropriate for Category 1 authorities to be exempt from the 30 September backstop date? (agree, disagree, unsure)

Please explain your response, including, where relevant, details of exceptional circumstances you consider would justify an exemption.

16. Agree.

17. It is possible that there will be exceptional circumstances. If so, it is important that (i) Such potential circumstances are identified up front and (ii) that the process for applying them is clear, open, and transparent and decided independently. It is vital that all parties have confidence that any such exemption has been applied fairly. We note that the National Audit Office (NAO) draft code of practice consultation running alongside this one already specifies the circumstances that would justify an exemption; clearly this needs to be consistent.

18. The same points apply to future years (see question 8).

Question 5. We intend to publish a list of local bodies and audit firms which meet statutory deadlines for the publication of audited accounts and those which do not. Do you think there should be additional consequences for Category 1 authorities or audit firms (excluding an authority or firm covered by an exemption) if they do not comply with the statutory deadline of 30 September 2024? (agree, disagree, unsure)

Please explain your response and, where relevant, include any suggested consequences.

19. Unsure.

20. As mentioned in the answer to question 1, above, although it is the responsibility of the local authority to publish the accounts, it has to be recognised that this can only be done once an audit report and opinion have been received. Details of whether the statutory deadline is met or not should be completely transparent. Such information will be in the public domain already at a local authority level and it is not clear what publishing such a list centrally would seek to achieve.

21. It is not clear what additional consequences (eg financial penalties or something other such as removing auditors' accreditation?) are being considered and this needs to be clear before a view can be taken on whether there should be any. Arguing over apportioning blame for missed deadlines is unlikely to be good use of time and this will be more likely if there are consequences attached.

22. It is more important that Public Sector Audit Appointments (PSAA) have strong powers to impose variations to reduce fees for audit work that has not been carried out, for previous as well as current years. That this is being proposed has been highlighted in the communications alongside the consultation, and we

understand that such a move will require a change to the regulations. However, there are no formal proposals in either the DLUHC consultation or in the NAO consultation; in the documents published by the Financial Reporting Council (FRC) it just says that PSAA will “revisit” scale fees for 2023/24. This suggests that no adjustment will be made for audit work not done for 2022/23 and earlier years for the September 2024 backstop which is not satisfactory and clear proposals need to be brought forward.

23. These points apply to all years – see response to question 9.

Question 6. Notwithstanding the possibility of exemptions in exceptional circumstances (covered by questions 7 and 8 below), do you agree that Category 1 local authorities should be required to publish audited accounts for financial years 2023/2024 to 2027/2028 by the following dates (agree, disagree, unsure)

- **2023/24: 31 May 2025**
- **2024/25: 31 March 2026**
- **2025/26: 31 January 2027**
- **2026/27: 30 November 2027**
- **2027/28: 30 November 2028**

Do you have any comments on these dates? (open text)

24. These dates seem sensible as a plan. However, we would emphasise again that although it is the responsibility of the local authority to publish the accounts, it has to be recognised that this can only be done once an audit report and opinion have been received. We would also reiterate that the requirement on the auditor to deliver an opinion (report) in order to enable the publication of the accounts by the back stop date needs to be clear. In the draft Code of Audit Practice being consulted on by the NAO the proposal is for the auditor to deliver the opinion (report) “in time” for publication at the backstop date. “In time” needs to be defined more clearly and set at a time that is sufficient to allow publication by the back stop date – for example it might need to be at least two weeks or maybe a month before the back stop date.

Question 7. Do you think it would be appropriate for Category 1 authorities to be exempt from the statutory backstop dates for Phase 2 in circumstances where the auditor is unable to issue their opinion due to outstanding objections to the accounts that could be material to that opinion? (agree, disagree, unsure)

Please explain your response.

25. Agree.

26. As with our answer to question 3, it is important to show that objections have been dealt with fairly and transparently.

Question 8. Do you think there would be any other exceptional circumstances which might create conditions in which it would appropriate for Category 1

authorities to be exempt from the backstop dates for Phase 2? (agree, disagree, unsure)

Please explain your response, including, where relevant, details of exceptional circumstances you consider would justify an exemption.

27. Agree.

28. As outlined in our answer to question 4, it is possible that there will be exceptional circumstances. If so, it is important that (i) Such potential circumstances are identified up front and (ii) that the process for applying them is clear, open and transparent and decided independently. It is vital that all parties have confidence that any such exemption has been applied fairly.

29. We note that the NAO draft code of practice consultation running alongside this one already specifies the circumstances that would justify an exemption; clearly this needs to be consistent.

Question 9. We intend to publish a list of local bodies and audit firms which meet statutory deadlines for the publication of audited accounts and those which do not. Do you think there should be additional consequences for Category 1 authorities or audit firms (excluding an authority or firm covered by an exemption) if they do not comply with the statutory deadlines for Phase 2? (agree, disagree, unsure)

Please explain your response and, where relevant, include any suggested consequences.

30. Unsure.

31. As mentioned in the answer to question 1, above, although it is the responsibility of the local authority to publish the accounts, it has to be recognised that this can only be done once an audit report and opinion has been received. As outlined in our response to question 5, details of whether the statutory deadline is met or not should be completely transparent and such information will be in the public domain already at a local authority level. It is not clear what publishing such a list centrally would seek to achieve,

32. It is not clear what additional consequences (eg financial penalties or something other such as removing auditors' accreditation?) are being considered and this needs to be clear before a view can be taken. Arguing over apportioning blame for missed deadlines is unlikely to be good use of time and this will be more likely if there are consequences attached to apportioning blame.

33. It is more important that PSAA have strong powers to impose fee variations to reduce fees for audit work that has not been carried out, for previous as well as current years. That this is being proposed has been highlighted in some of the communications alongside the consultation, and we understand that such a move will require a change to the regulations. However, there are no formal proposals in either the DLUHC or the NAO consultation and in the documents published by the FRC is just says that PSAA will "revisit" scale fees for 2023/24. This is not enough and clear proposals need to be brought forward.

34. These points apply to all years – see response to question 5.

Question 10. The Accounts and Audit Regulations (regulation 15(1)(a)) currently requires Category 1 local authorities to publish unaudited accounts by the 31 May following the end of the financial year. In light of the proposed deadlines for the publication of audited accounts, do you think the 31 May deadline remains appropriate for financial years 2024/2025 to 2027/2028? (agree, disagree, unsure)

Please explain your response.

35. Unsure.

36. In our [response](#) to the consultation on moving the deadline to 31 May for the 2022/23 accounts, we argued that 30 June would be a more practical option for that year, and in hindsight it is clear that the move to 31 May for 2022/23 did cause problems. It meant for the first time that a significant number of local authorities did not publish their draft unaudited accounts by the deadline. Some of our members would prefer the deadline to be moved to 30 June, while others do not object to the 31 May deadline. We suggest the DLUHC review the responses to this question from individual local authorities before making a final decision.

37. It is more important that auditors start work on auditing the accounts as soon as possible and complete as much work as possible to reduce the number of modified opinions.

Question 11. The existing annual deadline for the publication of unaudited accounts is 31 May. As set out above, we are proposing a backstop date for the publication of audited accounts for the financial year 2023/2024 of 31 May 2025. This would mean that 31 May 2025 would be the statutory deadline for both the publication of audited accounts for financial year 2023/2024 and unaudited accounts for financial year 2024/2025. Do you expect this would create any significant issues? (agree, disagree, unsure)

Please explain your response.

38. Unsure.

39. In theory this should not cause problems for most local authorities. The backstop date is a not a target and in theory most audited accounts should have been published in advance of it (the target date will be 30 September, several months earlier), so in theory there shouldn't be a clash. In reality, however, it must be accepted that is likely that many publications will be delayed until the backstop resulting in many local authorities having a clash at 31 May 2025. This will mean that accounts preparers will have to decide which set of accounts to prioritise. It therefore needs to be made completely clear (either by DLUHC or by FRC as system leader) to local authorities what the priority should be and which set of accounts and deadline should be prioritised – should it be to meet the backstop for 2023/24 or should it be to publish the draft unaudited accounts for 2024/25? We recommend that the FRC, as system leader, issues guidance on prioritisation, following consultation with the sector and with auditors.

Question 12. The government anticipates that the Phase 1 backstop proposals will result in modified or disclaimed opinions. A modified or disclaimed opinion

at the end of Phase 1 would require auditors to subsequently rebuild assurance. The Phase 2 backstop dates are intended to enable this work to be spread across multiple years. Given this additional work, and noting the further explanation at paragraphs 15 to 46 of the Joint Statement, do you have any views on the feasibility of audited accounts being published by the proposed statutory backstop dates for Phase 2?

40. This is an area of concern. If a modified or disclaimed opinion in the first year were to result in an adverse opinion in the next year due to the auditor's inability to rely on opening balances, then the process will have failed. There ought to be sufficient time for auditors to obtain the necessary assurance as the proposed backstop dates are all later than the accounts deadline. But the existence of the backlog shows that this is an optimistic assumption. It is therefore crucial that other actions are taken to increase capacity and reduce the amount of audit work needed.

Question 13. Do you agree that it would be beneficial for the 2015 Regulations be amended so that Category 1 bodies would be under a duty to consider and publish audit letters received from the local auditor whenever they are issued, rather than, as is currently the case, only following the completion of the audit? (agree, disagree, unsure)

Do you have any comments on this issue?

41. Agree. This should improve timeliness of information and so is supported.

Question 14. Do you have any comments on whether any of the proposals outlined in this consultation could have a disproportionate impact, either positively or negatively, on people with protected characteristics or wish to highlight any other potential equality impacts?

42. The audit of a council's accounts can relate to all aspects of local authority services. The audit of the accounts affects local authorities and their residents as a whole and it is difficult to assess what individual impacts there are on people with protected characteristics. Ensuring the accessibility of the accounts to all is an important part of achieving transparency and good governance. Improving the position on completion of audits of the accounts should help local authorities in deploying resources to deliver services and aid them in being able to improve equalities generally.

Question 15. Finally, do you have any further comments on the proposed changes to the 2015 Regulations not covered by the questions so far, including relating to any unintended consequences?

(Where possible, please limit your response to 500 words)

43. Please see comments made in the introduction, above, paragraphs 3 through to 8.

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