

**DCC Response to the DCLG Consultation on the Future of Public Audit
Report of the County Treasurer**

Please note that the following recommendations are subject to confirmation by the Committee before taking effect.

Recommendation: that Members

- i. consider the proposals for the future of local public audit and endorse or make changes to the draft response attached as appendix 1;

1 INTRODUCTION

1.1 The Coalition Government announced shortly after assuming power that it intended to abolish the Audit Commission by 2012/13. In preparation for the abolition, the Government has published a consultation on the future arrangements for local public audit. The consultation includes proposals relating to the role and composition of the Audit Committee. The deadline for responses is 30 June 2011. This report summarises the main issues arising from the consultation and appendix 1 sets out a suggested draft response for the Committee to amend and endorse.

1.2 The Key issues are:

- the imposition of independent but unelected chair, vice-chair and members of the Audit Committee;
- the impact on existing arrangements for member scrutiny in Devon;
- the potential for over-prescriptive and onerous external audit requirements;
- the proposed imposition of the role of commissioner of independent examinations and de facto regulator of smaller public bodies operating within the area of the County.

2 BACKGROUND

2.1 Since 1983, the Audit Commission has acted in roles of regulator, commissioner and provider of local public audit services. The current system is governed by the provisions of the Audit Commission Act 1998.

2.2 On 13 August 2010, the Secretary of State for Communities and Local Government announced plans to disband the Audit Commission and refocus audit on helping local people hold their councils and other local public bodies to account for local spending decisions.

2.3 On 30 March 2011 the Government published a consultation document setting out principles for the future of local audit. It contains proposals that would see all local public bodies with a turnover exceeding £6.5m appointing their own independent auditor. This appointment would be made in the light of advice given by an independent audit committee.

2.4 The consultation contains fifty questions. Responses must be submitted to the Department for Communities and Local Government (CLG) by 30 June 2011.

3 THE PRINCIPLES

3.1 The document states that the Government has followed four design principles in developing the proposals for the future of local audit. These are explained below: -

- Localism and decentralisation: freeing up local public bodies, subject to appropriate safeguards, to appoint their own independent external auditors from a more competitive and open market, while ensuring a proportionate approach for smaller bodies.
- Transparency: ensuring that the results of audit work are easily accessible to the public, helping local people to hold councils and other local public bodies to account for local spending decisions.
- Lower audit fees: achieving a reduction in the overall cost of audit.
- Higher standards of auditing: ensuring that there is effective and transparent regulation of public audit, and conformity to the principles of public audit.

3.2 Reference is also made to three long-standing principles of local public audit, which were codified in 1998 by the Public Audit Forum. These are:

- independence of public sector auditors from the organisations being audited;
- the wide scope of public audit, covering the audit of financial statements, regularity, propriety and value for money;
- the ability of public auditors to make the results of their audits available to the public, to democratically elected representatives and other key stakeholders.

3.3 The proposals in the consultation paper cover all local public bodies except health bodies and probation trusts. The consultation paper proposes that:

- pension funds will be included on the list of local public bodies statutorily subject to the new local audit framework; and
- Joint Committees will remain subject to audit, but it will be for the constituent authorities making up the Joint Committee to decide whether the Joint Committee is audited separately or as part of one of the authorities' own audits.

3.4 For local public bodies covered by the consultation paper, the DCLG's proposals cover:

- the regulation of local public audit;
- commissioning local public audit services;
- the scope of audit and the work of auditors; and
- the arrangements for smaller bodies.

- 3.5 Other functions currently carried out by the Audit Commission, such as grant certification, operation of the National Fraud Initiative and the auditor function of reporting on the Whole of Government Accounts returns will continue in some form but are not considered in detail as part of this consultation. These areas will be included in the forthcoming draft bill and accompanying consultation.

4 REGULATION OF LOCAL PUBLIC AUDIT

- 4.1 The National Audit Office (NAO) will produce Codes of Audit Practice and supporting guidance which will define the scope, nature and extent of local audit work. The Financial Reporting Council (FRC) will act as the 'overall regulator' and have responsibility for authorising professional accountancy bodies to act as recognised supervisory bodies for local public audit.
- 4.2 The eligibility criteria for auditor appointment will be based on those for the audit of companies to enable new firms to enter the local public audit market. However, there will be additional criteria to ensure that auditors have the necessary experience to be able to undertake a robust audit of a local public body. The appointed auditor will need to be a member of a recognised supervisory body and eligible for appointment under the rules of that body. It is also proposed that all eligible local public auditors will be placed on a public register. Recognised supervisory bodies for local public audit will have responsibility for monitoring the quality of audits undertaken by their members, as they do in the private sector.
- 4.3 The consultation paper asks whether the FRC should have a role in assuring quality, and undertaking independent investigation of the audit of local public bodies that might be considered analogous to public interest entities for the public sector.

5 COMMISSIONING LOCAL PUBLIC AUDIT SERVICES

- 5.1 All local public bodies whose income/expenditure is over £6.5m will be under a duty to appoint an auditor from the register of local public statutory auditors. Appointment will be made by the full council or equivalent, on the advice of an audit committee which the full council (or equivalent) may or may not accept; Legislation would provide for both joint procurement and 'joint audit committees'.
- 5.2 Each principal authority will be required to have an audit committee with a majority of members independent of the local public body and some elected members to strike a balance between objectivity and in-depth understanding of the issues. A possible structure is set out below.

6 STRUCTURE OF AUDIT COMMITTEES

- 6.1 There is reference to alternative arrangements and the need for authorities to have flexibility in the way they constitute and run audit committees, but the consultation sets out one particular model in some detail. This is shown in the box below which is a direct quote from the Consultation document.

Structure of audit committees

We envisage that in the new system, an audit committee could be structured in the following way:

- The chair should be independent of the local public body. The vice-chair would also be independent, to allow for the possible absence of the chair.
- The elected members on the audit committee should be non-executive, non-cabinet members, sourced from the audited body and at least one should have recent and relevant financial experience (it is recommended that a third of members have recent and relevant financial experience where possible).
- There would be a majority of members of the committee who were independent of the local public body.

Independent members of the committee

When choosing an independent member of the committee, a person can only be considered for the position if:

- he or she has not been a member nor an officer of the local authority/public body within five years before the date of the appointment
- is not a member nor an officer of that or any other relevant authority
- is not a relative nor a close friend of a member or an officer of the body/authority
- has applied for the appointment
- has been approved by a majority of the members of the council

6.2 Possible alternative arrangements under consideration are set out in paragraph 3.9 of the consultation, as follows:

- a) only the chair and perhaps a minority of members are independent of the local public body
- b) a chair and a majority of members independent of the local public body, as described above
- c) as for (b), but with independent selection of the members independent of the local authorities

6.3 Views are sought on the recruitment, skills and experience of independent members. The possibility of payment to attract suitable candidates is put forward.

6.4 Consideration is then given to the mandatory duties of the audit committee and the guidance that it will need. It could simply have a role in making recommendations to the full council on the engagement of an auditor and the resignation or removal of an auditor. Other duties could be added to the committee's role at the council's discretion.

6.5 Alternatively, the mandatory duties could be much more wide ranging. Paragraph 3.24 of the consultation states:

We could specify a much more detailed mandatory role for the audit committee which could include, but may not be restricted to the following:

- providing advice to the full council on the procurement and selection of their external auditor
- setting a policy on the provision of non-audit work by the statutory auditor
- overseeing issues around the possible resignation or removal of the auditor
- seeking assurances that action is being taken on issues identified at audit
- considering auditors' reports
- ensuring that there is an effective relationship between internal and external audit
- reviewing the financial statements, external auditor's opinions/conclusions and reports to members and monitor management action in response to the issues raised by external audit
- providing advice to the full council on the quality of service they are receiving
- reporting annually to the full council on its activities for the previous year

6.6 The draft response, attached at appendix 1, explains how the proposals could impact on the current arrangements for member scrutiny at Devon County Council. The concern is that the minimal duties of an audit committee outlined in paragraph 3.15. would be unlikely to attract independent members of the right calibre, whereas the more extensive duties outlined in the table in paragraph 3.16 would overlap with the current duties of the Audit Committee, and so lead to duplication or fragmentation of the work.

7 APPOINTMENT OF THE EXTERNAL AUDITOR

7.1 The audit committee will be expected to advise the council on the engagement process for the external auditor and it will monitor the independence and quality of the external audit. It is also suggested that the audit committee "may wish to have regard to advice from the section 151 officer" when formulating its guidance to the council on the engagement, including the criteria for selection and their weighting.

7.2 It is expected that the audit committee will receive copies of tenders for the external audit and "may, if they wish, indicate which auditor, in their view, presents the best choice." It is proposed that the full council will need to have regard to the advice of the audit committee on the selection of the external auditor, but it need not follow that advice. The advice provided by the audit committee will be published (subject to appropriate treatment of commercially confidential material). If the full council does not follow the audit committee's recommendation, it will be required to publish on its website a statement from the audit committee explaining its advice and a statement from the council explaining why it did not follow the advice.

7.3 Further involvement of the public is proposed by publishing in advance of the tender process a list of those firms that have expressed an interest in tendering. Members of the public could then make representations to the audit committee if they have any concerns. After the

appointment is made, members of the public with concerns about the auditors may raise them with the audit committee, which will investigate them as appropriate.

- 7.4 In the event of an authority failing to appoint an auditor, reserve powers are considered for the Secretary of State either to direct the authority to make an appointment or to make an appointment himself. Consideration is given to the process by which appointment of auditors will be monitored, to ensure that a failure to appoint does not go unnoticed.
- 7.5 To ensure rotation of auditors, it is proposed that the maximum duration of a firm's tenure will be two consecutive five-year periods. The firm would be formally reappointed each year, subject to satisfactory performance, and the contract would be retendered after five years.
- 7.6 Arrangements to apply to the removal or resignation of the auditor are discussed. Similar approaches are proposed, with 28 days notice of intention to remove or resign required, written submissions that will be published on the website and involvement of the audit committee and the audited body.
- 7.7 Finally in this section, consideration is given to the possibility of limitation of liability of auditors, recognising that a requirement for unlimited liability is likely to increase audit fees. It is envisaged that the public will be able to hold their local public bodies to account for the auditor appointment throughout the year as follows: -

8 SCOPE OF AUDIT AND THE WORK OF AUDITORS

8.1 Four options for the scope of the external audit are discussed as follows: -

- Option 1 involves reducing the scope closer to that applied to companies, with no assessment of value for money. There would be an opinion on whether the financial statements give a true and fair view of the body's financial position. Other information published with the financial statements would be reviewed and reported on as appropriate. This option would give the public less than is available now, with less information on how money is being spent and no view on the value for money achieved.
- Option 2 would largely replicate current arrangements, including a conclusion on whether the body has proper arrangements in place to secure value for money.
- Option 3 is intended to provide stronger assurances on the way local public bodies spend money. Opinions would be given on the financial statements, as in the options above, but in addition the auditor would provide conclusions on:
 - regularity and propriety – a conclusion on compliance with relevant laws and regulations and the audited body's governance and control regime
 - financial resilience – a conclusion about the future financial sustainability of the audited body and
 - value for money – in addition to proper arrangements in place to secure value for money, a conclusion about the achievement of economy, efficiency and effectiveness within the audited body

In practice, this work is largely being undertaken currently by the external auditors to inform their overall opinion, but it only appears in the published report as the opinion on whether or not proper arrangements are in place to secure value for money. The approach is very much in line with the requirements in the former Corporate Performance Assessment and

Comprehensive Area Assessment regimes. It would be surprising if, so soon after dispensing with these in order to give local authorities more freedom, the Government sought to impose similar requirements as a result of abolition of the Audit Commission.

- Option 4 seeks to replicate the legal requirement placed on companies to produce and publish an annual report, setting out its major activities during the year, and a business review, including risks and uncertainties.

Under this option, the auditor would be required to give an opinion on the financial statements, review the annual report and provide a reasonable assurance on the annual report.

While publication of the annual report and business review is undeniably good practice, there is a danger that setting it as a requirement to be audited will stifle innovation and prevent authorities from reporting in the ways that are most suited to local needs.

- 8.2 Public interest reports are issued by auditors when a significant matter has arisen during the audit that needs to be brought to the attention of the audited body and the public. The consultation proposes retaining this approach.
- 8.3 The Audit Commission's role in relation to the Public Interest Disclosure Act (receiving, acknowledging receipt of and forwarding the facts of disclosure) will be broadly transferred to the audit committee of the local public body.
- 8.4 Views are asked about whether external auditors should be allowed to undertake audit-related work for the body or provide other services to it and, if they are, what safeguards should be put in place to ensure independence is maintained and competition promoted. The document proposes that Auditors will be able to provide non-audit services, but must: continue to adhere to the ethical standards produced by the Auditing Practices Board; and seek permission from the audit committee, who would provide advice to the body on whether non-audit work should be undertaken.
- 8.5 The section closes with a discussion of transparency. It concludes that the opportunities for members of the public to raise issues of concern, the access they have to information through Freedom of Information and publication of transactional data and the right to make representations to the auditor all make the local taxpayer's right to object to the accounts redundant. It is proposed therefore that the formal right to object will be removed; but members of the public will retain the right to make representations to the auditor, raise issues with the auditor and to ask the auditor questions about the accounts. The auditor would have discretion whether to follow up any issues raised in this way but an auditor's decision not to consider a representation could be subject to judicial review.
- 8.6 As a further move for transparency, it is proposed that auditors will be brought within the scope of the Freedom of Information Act, to the extent that that information they hold relates to the public audit.

9 ARRANGEMENTS FOR SMALLER BODIES

- 9.1 The final section considers audit arrangements for smaller bodies. It is proposed that independent examination should apply, similar to the procedure in the charities sector. The rigour of the requirements and the qualifications of the independent examiner would increase depending on whether the size of the organisations turnover was:
- less than £1,000;

- between £1,000 and £50,000;
- between £50,000 and £250,000
- between £250,000 and £6,500,000.

- 9.2 Bodies at the first level would not require an audit. Above the first level, two options for appointing independent examiners are proposed. The first would require the appointment to be made by the county or unitary authority in which the body is located, possibly by the section 151 officer rather than the full council. For bodies at the second level, this could be an officer of the authority. Alternatively, bodies might be required to appoint an auditor themselves, taking account of the advice of an independent audit committee, which might be established to advise a number of other small public bodies operating in the same geographical or service area.
- 9.3 Consideration is also given to arrangements for public interest reporting, objections to accounts and the regulatory regime for smaller bodies. For the first and second of these, the proposal is that the county or unitary authority in which the body is located should take responsibility for receiving reports or representations and, if it considers it necessary, appointing an auditor to consider the issues raised. The conclusion is then reached that this in effect makes the county or unitary council the regulator for this sector, whether or not it is responsible for commissioning the independent examinations.
- 9.4 The number of smaller bodies to which these arrangements would apply means that there is the potential for a significant increase in workload and diversion from core responsibilities in upper tier authorities.

10 DEVON COUNTY COUNCIL'S RESPONSE

- 10.1 A draft response has been prepared. It focuses on the main issues for the County Council and does not attempt to respond to every question. The response must be submitted by 30 June.
- 10.2 The draft response is at appendix 1. Members of the Audit Committee are asked to consider the draft response and put forward any amendments or additions.

Mary Davis

Electoral Divisions: All
Local Government Act 1972

List of Background Papers

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Background Paper	Date	File Ref
Nil		

There are no equality issues associated with this report

FUTURE OF PUBLIC AUDIT – DEVON COUNTY COUNCIL DRAFT RESPONSE TO THE CONSULTATION DOCUMENT

Devon County Council welcomes the opportunity to comment on the proposed future arrangements for the audit of local public bodies. A response to the specific questions follows, but first we wish to give our view on the aspect of the proposals that causes the Council most concern: the composition and structure of the audit committee.

There is a presumption of a potential lack of independence of auditors and incapability of an authority to select its own independent auditors, it is a matter of concern that the proposals intend to secure independence and transparency of external audit through the recruitment of unelected chairs and members of audit committees.

Devon County Council has considered the consultation questions posed and our responses are given below.

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?

The document identifies the correct principles but it is difficult to see how they will be delivered in practice. There is a risk that by requiring local authorities to appoint their external auditors either independently or as part of a consortia of local authorities that economies of scale could be lost thereby actually increasing the cost of audit. The costs of tendering for External Audit services will fall directly onto local authorities and the need to prepare tenders for many different organisations could necessitate audit providers increasing their fees.

Currently all local authorities have their audit charges set by the Audit Commission through their scale of fees. This ensures that all local authorities are charged a standard rate regardless of whether the audit work is undertaken by the Audit Commission's in house auditors or external firms, the only variations being based on risk. By devolving the appointment of Auditors to Local public bodies, there could be significant cost variations across the country with authorities in the southwest for example having to pay more for their audit as the firms tend to have their staff based in the big cities such as Bristol and the travel time is considerably longer than for authorities based in the south east.

The proposals for independent members on Audit Committees could further increase the costs of audit as could the potential need for additional meetings to approve / monitor the External Auditor provider.

Although it is proposed that the National Audit Office will develop Codes of practice, this will need resourcing and in order for it to be effective, additional resources may be required. Similarly the proposed role for the Financial Reporting Council will also need resourcing.

The proposals offer local people the opportunity to challenge the appointment of the external auditor both pre and post appointment but it is not clear how this will generate appropriate transparency and public involvement.

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

No response as not applicable to the role of a local authority

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

The current Audit Commission Codes are high level documents which focus on core requirements for public sector audit and there are separate codes for local authorities and NHS. The codes set out the general principles to be followed by auditors in delivering their objectives and outline auditors responsibilities. The document proposes that the NAO should take over the development of the codes but makes no assessment of the resources required and whether the NAO is able to take on the role.

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?

This is supported in principle. However it is considered essential that Auditor accreditation should be facilitated for Members of the Chartered Institute of public Finance and accountancy (CIPFA) and there needs to be consideration of including CIPFA in the list of supervisory bodies. It must be noted that many auditors working in the companies sector are not familiar with the unique requirements of audit in the public sector and the current Accounting codes of Practice for Local Authorities are produced by CIPFA and it is these that are audited against.

To ensure quality there will need to be some form of accreditation or practising certificate for auditors to be eligible to work as public sector external auditors. The Financial Reporting Council would appear to be the logical body to undertake the regulatory role but there are significant concerns about its ability to resource the additional responsibilities and also its technical expertise. As mentioned previously the focus of public sector auditing is different from that for companies and there will need to be additional resources made available in order for the role to be fulfilled. This could potentially increase the cost of audit at a time when local authorities are already facing significant cuts. There needs to be a clarification on who will meet any additional costs arising from the regulatory regime.

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

The list of registered statutory public auditors should be managed centrally, either by the Secretary of State, the National Audit Office or potentially by one of the recognised Accountancy bodies.

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?

The Secretary of State should consider maintaining a framework of registered auditors who could be pre qualified via a procurement process. Public bodies could then invite tenders / bids from a number of prospective auditors on the list. This would help ensure only appropriately qualified and experienced auditors are appointed and potentially help to reduce costs.

All Auditors expressing an interest need to be able to provide evidence of appropriate experience and qualifications. The quality of the audit is paramount.

There is the potential for the procurement of external auditors by local authorities to be caught by the EU Procurement regulations. This will further increase the costs to public authorities and possibly interested suppliers. It is desirable to avoid overly bureaucratic EU procedures if possible and some form of a framework could help in this regard.

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?

Auditors need to be able to demonstrate appropriate experience of auditing large complex organisations and a knowledge of public sector finance. The quality of the audit is paramount. Auditors need to be sufficiently financially robust to provide continuity of service and have appropriate resources to be able to deliver the audit service and assurance required.

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?

As a minimum all significant public bodies with turnover in excess of the levels prescribed in the document and the Accounts and Audit regulations should be considered a public interest entity.

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?

Not sure there is any particular need for additional regulation or monitoring of local public bodies providing appropriate safeguards are in place to ensure all auditors are suitably approved and registered, and follow a robust and comprehensive auditing process in line with Codes of Practice and transparency.

10. 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 have a right to investigate significant public interest cases and imposing sanctions where applicable and where this is in the public interest. Any such intervention should be proportionate to the size of the organisation and should be both consistent and transparent across all organisations.

Any such regulation should be consistent with the definitions of size contained within the Accounts and Audit Regulations.

Any regulatory role adopted should not be part of the regulators normal role and any such costs associated with this work should be borne by the organisation concerned. It would not be equitable to include such costs in the regular fees charged to public authorities. The

appointed Auditors should undertake public interest investigations where required rather than the regulator in the first instance.

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?

The document is not specific as to how a co-operative approach would operate or what the make up of a joint Audit Committee would be. The regulations should allow for joint procurement but will need to provide suitable guidance as to how this would work.

Local Public bodies would need to have their own Audit Committee / Scrutiny Committee to consider reports from their Internal Auditors and the External Auditors, and also many Audit Committees undertake a wider range of governance related tasks such as risk management, Annual Governance Statement etc. These tasks would not be transferable to a Joint Audit Committee. Joint Procurement would allow individual authorities to maintain their stand alone audit committees but attracting independent members to serve on such committees may be difficult.

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

The suggested criteria would seem to address the key requirements in terms of independence. However the document does not identify or suggest any qualitative criteria for the selection of independent 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?

Independent Members would benefit from having some financial expertise or experience of undertaking a similar role to enable them to be fully effective. It will be necessary to provide training to any independent members appointed, both in respect of the way a public body committee works and also in terms of what the audit role entails..

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

Experience with other Committees has led to the conclusion that independent members are currently difficult to recruit and often do not stay long in the role. It is difficult to see there being a significant pool of interested and experienced individuals willing or able to sit as independent members unless there is some form of remuneration. It may be that as a minimum such independent members should receive some form of allowance based on the existing Members Allowances scheme.

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?

The document does not expand on whether the proposal is for a stand alone Audit Committee that only has a role in the appointment and possibly monitoring of the External Auditor, or whether this is seen as an add-on to the regular Audit Committee role in respect of the governance of the local public body. In terms of providing the necessary safeguards to ensure the independence of the auditor appointment, then it would seem reasonable for this to be undertaken by the Audit Committee. Further it would seem logical to amend the structure and membership of that Audit Committee to ensure it has the capacity to operate independently of the Executive function.

It is considered that it would be better to have an elected member as the chair of the Committee and not an independent member as the Chair. An elected chair would mean that there was a better link with the rest of the Council and that there was direct accountability to the electorate.

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?

The Audit Committee should have a wider role than simply the appointment of the External Auditor. There needs to be a robust monitoring process in place to ensure the external auditor is delivering but also to ensure any recommendations from the auditor are followed through. If this role is not undertaken by the Audit Committee, it is difficult to see where it could be done effectively. Most Audit Committees currently undertake a similar role currently and also include Internal Audit within their remit. It would seem logical therefore to continue this approach under the new regime.

Therefore Option 2 would seem to offer the best balance between a localist approach and robustness.

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

The role outlined in Option 2 is essentially the current role of the Audit Committee with the addition of the provision of advice to full Council on the appointment and removal of the external auditor, and setting a policy on the provision of non-audit work by the statutory auditor. Essentially therefore the suggested roles and responsibilities are appropriate.

Legislation should prescribe that all public bodies should have an Audit Committee and that the role could include but not be limited to the responsibilities outlined in Option 2. Public Authorities should have freedom in determining what other roles over and above the suggested minimum that their Audit Committee should undertake. For example it would make sense to include internal audit and risk management in the remit of the Audit Committee.

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?

Minimum standards and appropriate guidance should be produced by the Secretary of State to ensure consistency and fairness across the public sector. However these standards should not be prescriptive and should allow some flexibility to respond to local circumstances.

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

Public involvement is encouraged within the parameters of the terms of reference for the Audit Committee. Although the idea is supported in principle, it is considered that the process would need appropriate safeguards to prevent vexatious involvement by aggrieved members of the public. Any questions or representations will need to be related directly to the auditor in question.

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

No response needed

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?

It is difficult to foresee a public body failing to appoint an Auditor where required to do so under legislation. Therefore it is considered unlikely that the situation referred to in the document will arise. However should such a situation arise it would seem logical for the Secretary of State to appoint an auditor from a panel of Auditors identified for this purpose.

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?

Local public bodies should be required to identify their appointed auditor on their website and in any documents made available to the electorate. They should only be required to inform the appropriate body / regulator if they fail to appoint an Auditor.

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

Not considered necessary to inform a body when auditor appointed.

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

This would seem to restrict the ability of a public body to build up a long term relationship with their external auditor and could potentially lead to additional costs and reduced competition. The Auditor should however be required to rotate Partners, Managers and Audit staff along the same lines as currently required by the Audit Commission and in the case of listed companies to ensure continued independence of the Auditor.

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?

The ethical standards as proposed would appear to provide sufficient safeguards

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?

The proposals are consistent with other sectors and the previous public audit regime and are therefore considered appropriate

- 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?**

The proposal would seem to mirror the approach currently applicable to the private sector and should provide sufficient safeguards to ensure appropriate consideration prior to any possible removal or resignation.

It is not clear however whether the intention would be for this process to apply if the public body decided to not re-appoint the Auditor on an annual basis. Presumably if the Auditor resigned or was removed, the public body would then need to procure a new Auditor, which may create an issue with audit continuity and coverage.

- 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?**

Auditors have a duty of care to the audited body and any provisions that protect auditors from liability for negligence, default, breach of duty or trust should not be allowed in the same way that they are not allowed in the Companies Act. Such provisions should not require a process to be established which would require specialist expertise on behalf of the public authority which could lead to additional cost.

Given the nature of public authorities, it is arguable that the Auditor has a duty of care to the local electorate / tax payer as well as the public body. Appropriate safeguards / framework will be needed to ensure this is recognised and the legislation is fair to all parties.

Not clear as to what a liability limitation agreement would include but would expect any such agreement to be agreed by the full Council or equivalent and be sanctioned by the respective legal professionals.

- 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?**

Option 1 would seem to provide a reasonable balance of non financial and financial information for citizens and would potentially help to reduce audit costs

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

This would seem to be adding extra layers of bureaucracy and would make the annual report a lengthy document. With the move to reduce bureaucracy as supported by the Secretary of State this would seem an unnecessary burden for public authorities.

- 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?**

Local Authorities are not currently required to produce this information and the proposal would seem to be adding to the burden on public authorities.

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

The introduction of an annual report requirement would increase the burden on public authorities who already provide a great deal of information to the general public. The assurance provided by the Auditor on the financial statements should be in line with that provided under the Companies Act, and by the National Audit Office,

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

The need for an annual report is not supported as it would increase the reporting burden on public authorities. However, should an annual report be required then guidance would need to be provided as to the basic content of the annual report and the appropriate sources of assurance / information for the report. CIPFA produced detailed guidance for the Annual Governance Statement for public authorities and could therefore be tasked with producing a similar document for the annual report

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?

The proposal to retain the current public interest reporting framework is supported and the safeguards suggested should be sufficient to allow this. However it is noted that there is no requirement in the companies sector for such reports.

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?

It is logical to allow Auditors to undertake additional work for a local public body providing appropriate safeguards are in place. Auditors build up knowledge of the audited body and are therefore best placed to deliver specific pieces of work at that body. It is right that such work is approved and scope agreed in advance and that the Audit Committee has a role in commissioning and monitoring such work

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

It is reasonable to expect Auditors to adhere to the ethical standards produced by the Auditing Practices Board and to only undertake additional work if it will not compromise, nor be perceived by the public to compromise their independence. The role of the Audit Committee in considering all relationships between the body and the Auditor and whether there is any impairment to the auditor's objectivity and independence of such additional work should further support the maintenance of a correct balance.

The issue of increasing competition is separate in that, although there will be greater opportunity for firms to bid for work, the cost and time involved in bidding for hundreds of public bodies could preclude / discourage some firms from participating. The lack of public sector audit experience in a number of firms could further restrict the ability of some firms to win contracts.

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?

It would clearly make sense for the Auditor to be a designated prescribed person under PIDA. It may also be logical for the Chair of the Audit Committee to be so designated. In terms of receiving and investigating referrals under PIDA, the Chief Internal Auditor of a local public body is usually best placed to undertake this work but the support and backing of the Chair of the Audit Committee and the Auditor would provide additional safeguards.

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

The proposals seem to make sense and are broadly supported

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?

The proposals seem to make sense and are broadly supported

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?

It is not considered necessary for Auditors to be included within the remit of the FOI legislation. Much of the information relating to the respective public authority which would be requested under FOI is already available from that authority, and by bringing Auditors within the remit of FOI would probably lead to increased costs. The cost of responding to any such request would be included within the overall audit fee and the costs of any specific request would also be charged to the client.

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)?

As per the response to Question 41, it is not considered appropriate for Auditors to be included within the FOI legislation. It is difficult to judge whether there would be any detrimental effect on the Auditor / Audited Body relationship as it is not clear what requests might arise that could not already be obtained from the body directly. Internal Audit reports are available under FOI unless one of the exemptions contained within the Act can be deemed to apply, and presumably similar rules will apply to external audit reports.

The issue around costs is a difficult one. There would need to be agreement between the Auditor and the Audited Body as to where such costs should be charged. If such costs are wholly attributable to the Auditor then there is a good chance fees will be revised upwards to price the risk of significant unscheduled time and costs affecting profitability and service delivery.

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

It is agreed that the appointment process for the independent examiner should be proportionate. However the proposal for the County or Unitary Council to appoint an

independent examiner would potentially lead to increased costs and risk for the Unitary or County Council, and it is more appropriate therefore for the small bodies to make their own arrangements, probably through some form of collaborative procurement with similar bodies. This could lead to increased costs for small bodies as the level of profit the Audit firms could generate would be reduced. If the Unitary or County Council were required to make an appointment, this could also detrimentally affect the relationship between the two bodies.

- 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?**

It is not considered appropriate for the County or Unitary Council to have the role of commissioning the independent examiners due to the potential associated costs and risk.

- 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?

As stated above the County/Unitary Council should not have a role in this

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

No response required

- 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?**

No response required.

- 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?**

The proposed four level approach seems proportionate to the level of public money expended and is supported.

- 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?**

The suggested approach appears proportionate. However County or Unitary Councils should not have a role in appointing auditors to smaller bodies due to the reasons outlined above.

- 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?**

No response required.

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?

No response required.