

Audit Commitments and Consultation Questions

Consultation questions

Question 1: Do you agree the LAO should become a new point of escalation for auditors with concerns?

We agree that a new local audit body would be integral to system reform and that it should become a new point of escalation for auditors with concerns, provided that individual external auditors have formally registered and robustly discussed their concerns in advance with their clients and attempted to resolve the issues prior to escalation.

Question 2: Do you agree relevant issues identified should be shared with auditors, government departments and inspectorates?

See our answer to Question 1. It should be for auditors and their clients to attempt to resolve issues before they enter the escalation process. As the consultation states, local bodies, auditors and the LAO “will” cooperate to achieve the purposes of local audit and collaboratively build confidence that public money is well managed. A productive mutually supportive relationship between auditors, the LGA, government departments and inspectorates is vital and needs to be proactively rapidly established and developed to help this relationship succeed.

Question 3: Should the LAO also take on the appointment and contract management of auditors and for smaller bodies in the longer term? If so, when should responsibilities transfer from SAAA?

Yes, they clearly should, and they should be aligned with the PSAA’s contracts for 2023/24 – 2027/28 and transfer in April 2028 and should not include an option for extension.

Question 4: Should the LAO oversee a scheme for enforcement cases relating to local body accounts and audit?

We agree this would be logical if LAO, as a single regulator with responsibility for local audit, is to assume the functions of appointing and contracting auditors for local authorities. It will be a step towards a single source of accountability as it would streamline the current fragmented accountability arrangements.

Question 5: How could statutory reporting and Public Interest Reports be further strengthened to improve effectiveness?

We support the early warning system of statutory recommendations, Advisory Notices and/or Public Interest Reports, which can identify issues such as emerging threats to financial sustainability. These reports are valuable to the public and have been integral to local decision making and informing government intervention in the past.

PIRs were numerous and high profile in England prior to the implementation of the Audit Commission's corporate inspections and interventions under CPA/CAA. For example, in 1985 there were 54 and in 1986, there were 89—with later high-profile reports in the London Boroughs of Westminster (1988) and Hammersmith & Fulham (1989).

There was another spate of reports around the time Best Value and CPA/CAA were introduced in 2002. PIRs were incredibly useful in a number of intervention cases (e.g., Erewash, NE Derbyshire), particularly when issued in association or in parallel to a critical Corporate Inspection of LAs. However, Tony Redmond in his 2019/2020 review noted that PIRs '*seem to no longer be used*' which '*is surprising given the increasingly high profile of commercial and other new arrangements entered into by some local authorities*' (Redmond, 2019, p. 29).

A more recent PIR was issued to Nottingham City Council in August 2020. It related to the governance and financial affairs of their Robin Hood Energy company established by the council in 2015. In Nottingham, the auditors having previously expressed concerns to senior officers and the audit committee, decided in October 2019 that it was appropriate for them to make formal recommendations to the council to draw attention to the level of risk faced and encourage the council to take further action to manage those risks. However,

'We determined, that it was not in the public interest at that time for such consideration to be made public, and we therefore agreed with the council that it would treat our recommendations as if they were statutory recommendations with the exception of meeting the publicity requirements.' (Grant Thornton 2020).

This proved to be an unfortunate decision, and both delayed the start of the intervention and recovery and allowed culpable individuals to evade sanction.

The non-issuing of a PIR has also been part of the long-running saga at Northamptonshire County Council. In their fifth report to the Secretary of State for local government in March 2020, the commissioners in the Northamptonshire Intervention case stated:

"After a lengthy period of deliberation, the Council's previous auditors have decided not to issue a Public Interest Report into the events leading up to the financial collapse of the organisation. We are disappointed by this decision. For the first local authority in a generation to effectively declare itself insolvent not to be the subject of such a report is certainly surprising given the subject matter of previous Public Interest Reports ... we believe there is a lot to learn from Northamptonshire" (McArdle & Roberts, 2020, p. 2.)

As we have previously explained, in our view, PIRs, Advisory Notices and statutory recommendations are all useful parts of the public assurance and financial investigation portfolio, as are statutory interventions based on part 3 of the Local Government Act 1999 (Best Value inspections). There are circumstances where any of these can be effective, but none of them are sufficient to cover all relevant circumstances (Murphy and Lakoma 2021). We think they should all be retained (and commend the NAO Code of Practice for giving them more profile), but given past experience and the proliferation of commercial involvements and hybridized governance arrangements, we think they need revitalizing with much stronger prescriptive guidance in the proposed new LAO Code of Conduct.

References

Grant Thornton. (2020). Nottingham City Council Report in the Public Interest concerning the Council 's governance arrangements for Robin Hood Energy Ltd. Available at <https://www.nottinghamcity.gov.uk/media/2835756/report-in-the-public-interest-rhe.pdf>

McArdle, T., & Roberts, B. (2020). Northamptonshire county council: Fifth commissioners' report. MHCLG and TSO

Murphy, P and Lakoma, K. (2021). Debate: Public audit, the Redmond review, and the use of public interest reports. *Public money and Management* 41(2). 150-151.

Redmond, T. (2019). Independent review into the arrangements in place to support the transparency and quality of local authority financial reporting and external audit in England. TSO.

Question 6: Should the scope of Advisory Notices be expanded beyond unlawful expenditure, or actions likely to cause a loss or deficiency, as defined by the Local Audit and Accountability Act, to include other high-risk concerns?

Although we are amenable to the inclusion of high-risk concerns, this wording is far too vague and generic. We would therefore like to see this issue revisited by the LAO when it comes into place. We would welcome more specific wording together with proposed examples of the other high-risk concerns that might be within any revised scope of Advisory Notices.

Question 7: Should the LAO own the register of firms qualified to conduct local audits?

It is more logical for the LAO to own the register of firms qualified to conduct local audits rather than ICEAW. The public and interested parties would assume that LAO is where it would be kept and could be inspected.

Question 8: Should the LAO hold the power to require local bodies to make changes to their accounts, so that auditors could apply to the LAO for a change to be directed instead of needing to apply to the courts?

We agree the current procedure is unnecessarily cumbersome and lengthy and that auditors should be able to apply to the LAO for change(s) to be directed.

Question 9: What are the barriers to progressing accounts reform?

There has not been sufficient 'will' nor sufficient 'wherewithal' in either the former governments, the senior civil service or from some key stakeholders within the sector. Kingman and Redmond reported in 2018 and 2020 respectively, it is now 2025. The current government recognises that "despite the best efforts of many, the system will continue to fail without structural change". We suspect the public would like to see such changes expedited, and we consider that much of the agenda in this consultation could have been expedited by the current government since taking power.

Question 10: Are there structural or governance barriers to accounts reform that need to be addressed?

We agree that that decoupling the pension fund accounts from the main accounts and publishing them separately and subject to a separate audit certificate would have numerous benefits for both local government and the NHS. It would also be consistent with the approach successfully adopted by the Local Government Pension Scheme in Scotland and Wales.

Question 11: Should any action to reform be prioritised ahead of the establishment of the LAO?

A longer-term solution to infrastructure assets has not been developed and the government intends to extend – via secondary legislation - the current exemption, reducing the audit workload in the medium term. If the government is committed to identifying a longer-term solution as soon as possible, it should be commenced prior to the establishment of the LAO.

Question 12: Are there particular areas of accounts which are disproportionately burdensome for the value added to the accounts?

In response to the Redmond Review, 87% of respondents to the Call for Views thought that the going concern assumption is "meaningless" never mind "disproportionately burdensome" in a local authority context.

Question 13: Do you agree that the current exemption to the usual accounting treatment of local authority infrastructure assets should be extended and if so, when should it expire?

In the current circumstances, we acknowledge the practical necessity for the current exemption to be extended via secondary legislation. (See response to Question 11). An expiry date of 31st March 2027 should be set but this should be revisited in March 2026 one year prior to expiry.

Question 14a: Should the LAO adopt responsibility for CIPFA's Code of Practice on Local Authority Accounting?

Yes, this would otherwise look anachronistic to the public (similar to ICEAW continuing to own the register of firms qualified to conduct local audits).

Question 14b: Are there other options relating to responsibility of CIPFA's Code of Practice?

The only real alternative would be to leave it where it is or give it to another professional accounting body or the NAO.

Question 15: Should the Accounting Code be freely available if it is not transferred to the LAO?

Yes. It should be published on the web and is part of government being open and transparent - CIPFA needed to charge because of commercial considerations.

Question 16: What additional support should be provided to finance teams, audit committees and elected members to develop and strengthen financial governance?

The government is committed to work with the LGA (and presumably CIPFA) on targeted support for local authority finance teams, audit committees and elected members to strengthen financial governance. Ideally, we would like to see sector and government-backed independent improvement units (similar in purpose to the former Improvement and Development Agency), to provide expert advice on financial planning, resilience, and service delivery, and to assist LAs in developing and implementing recovery plans, particularly during times of financial distress. These units would offer tailored advice and capacity-building support across local government services and not only financial advice.

Question 17: How should KAP eligibility be extended further, should some categories of local audit be signed off by suitably experienced RIs (and if so, which)?

We acknowledge that the government wish to develop the market and encourage new KAPs and RIs but we have insufficient knowledge of this area to contribute to this question.

Question 18: Should the market include an element of public provision?

We strongly support supplementing private sector audit with the reintroduction of public provision. District Audit and public auditing in the UK had an enviable international

reputation prior to 2014. The former CEO of CIPFA, Rob Whiteman, drew attention to the successful performance of the mixed market in the 40 years prior to the implementation of the Local Audit and Accountability Act 2014 (Whiteman 2022). Following the 2014 Act, however, England moved from a mixed market to a predominantly private market. Since 2014, all public audits have been carried out by private firms using the auditing standards developed by the FRC, meaning that English local public audit has been effectively within the group of predominantly private audit systems, as defined by Manes Rossi et al. (2021)¹.

The move towards private auditing has had disastrous consequences. The NAO pointed out in 2019 that around 25% of finance directors did not think that their audit team had the appropriate skills and expertise to deliver the opinion on the accounts (Murphie and Fright 2023).

We believe Local Public Audit needs to recover its previous efficient and effective reputation and the confidence of the public. Rigorous public oversight of public money is necessary to protect the public interest. To do this the system needs the assurance of at least an element of public provision.

References

Manes Rossi, F., Brusca, I., & Condor, V. (2021). In the pursuit of harmonization: Comparing the audit systems of European local governments. *Public Money & Management*, 41(8), 604–614.

Murphie, A., & Fright, M. (2023) Local public audit—Start from scratch or start from here? *Public Money & Management* 42(3) 225-226.

NAO (2020) Timeliness of local auditor reporting on local government in England, 2020, Session 2019–2021, 16 March 2021, HC 1243.

Whiteman, R. 2022 We can turn around the problems of local audit. *Local Government Chronicle*. 15/ March 2022

Question 19: If yes, should public provision be a function of the LAO?

Not necessarily – it could be a separate operation. However, District Audit previously sat very comfortably within the former Audit Commission (Campbell-Smith 2008) and is part of Audit Scotland, Audit Wales and the Northern Ireland Audit Office. A new organisation would not help transparency to the public. We agree that this would need

¹ Manes Rossi et al (2021), compare local government audit in 18 European Union member countries, as well as comparing England and Switzerland. Their study presents a classification of audit systems based on who carries out audits, their frequency, the types of audits, and the auditing standards adopted. It distinguishes predominantly public, predominantly private and mixed systems.

to be urgently considered ahead of the establishment of the LAO but we are of the view that the LAO should have the power to provide some level of public provision. We acknowledge that appropriate ethical walls would need to be in place, but this has not been beyond the Audit Commission, Audit Scotland, Audit Wales or the Northern Ireland Audit Office.

Reference

Campbell-Smith, D. 2008. *Follow the Money: The Audit Commission, Public Money and the Management of Public Services, 1983 – 2008*. London: Allen Lane.

Question 20: What should the initial aim be in relation to proportion of public and private provision?

Under the Audit Commission the split was 70% (Public) and 30% (Private) but given the current circumstances to aim at 70% would be impractical. It does however need to be a not-insignificant part of the market and perhaps 20% would be more realistic.

Question 21: Should the Secretary of State, in consultation with the LAO and for defined periods, set an envelope within which the body could determine the appropriate proportion of public provision for the market?

We agree that the Secretary of State would, in consultation with the LAO and for defined periods, should set an 'envelope' within which the body could determine the appropriate proportion of public provision for the market. We recommend this be between 20 and 25% of the market.

Question 22: Do you think that the Chair of an audit committee should be an independent member?

Yes, despite the challenges of recruiting independent members with technical knowledge and experience, on balance, the benefits outweigh the challenges.

Question 23: Do you have views on the need for a local public accounts committees or similar model, to be introduced in combined authority areas across England?

The Centre for Governance and Scrutiny advocated local public accounts committees as they see a pressing need for a "whole system" overview of public spend at the combined authority, or sub-regional, level. This has come to prominence as combined authorities have realized that delivery is not about a single institution doing something, but in a wide range of partners across a broader area working in concert (originally envisaged in Local and Multiple Area Agreements between 2009-2010, Total Place initiatives and subsequent experience in Scotland with single Outcome Agreements).

We are currently responding to the English Devolution White paper and submitting evidence to the current MHCLG Select Committee Inquiry on *The Funding and Sustainability of Local Government Finance* wherein we advocate, in the long term for a

single regional 'pot' of public service financial support (along the lines of the three devolved nations) and an appropriately formulae (similar to an updated Barnett Formulae) to determine allocation. This would then be distributed sub-regionally and locally by a regionally based mechanism with distribution based upon actual need. If a local public accounts committee or a similar model is to be considered at the combined authority, or sub-regional, level, it should be nested with a system that scrutinises public expenditure across the 9 individual regions.

Question 24: Would such a model generate more oversight of spending public money locally?

This would probably improve scrutiny (and the co-ordination of scrutiny) and raise media interest at local and subregional levels provided it included all of the public expenditure in a defined area. The quality and quantity of scrutiny differs between different sectors (Police, Fire, Health, Local Government, Criminal Justice, National Parks, Economic development Agencies etc) and this could act as a quality assurance mechanism to raise standards.

Question 25: How would the creation of such a model impact the local audit system and the work of local auditors?

Auditors would still have to scrutinise their individual organisations, but it would certainly help their understanding of local contexts and hence assist their judgements and reports.

Question 26: Do you agree that the MLA threshold should be increased?

The current MLA thresholds were established over 10 years ago, and with proposals in the English Devolution White Paper for more large authorities it seems appropriate to reconsider the threshold. However, the 'perceived additional regulatory risk' of MLAs should also be addressed and reduced by the new LAO and make clear when and if additional audit testing and quality control procedures are appropriate, particularly in organisations that do not present high risks.

Question 27: Do you agree that some local bodies should be declared exempt from the regulatory focus of an MLA? For example, should Integrated Care Boards be exempt?

Integrated Care Boards (ICBs) have no direct powers to compel expenditure by individual organisations and the individual organisations have their own audit arrangement so in the current circumstances they should be exempt until relevant circumstances change.

Question 28: Do you agree that smaller authorities' thresholds should be increased?

As smaller bodies have gradually been given more and more responsibility, for example, through the transfer of assets, many of them could be approaching the full audit

threshold of £6.5 m. We therefore suggest increasing the smaller public bodies' full audit turnover threshold to avoid more onerous audit arrangements. The £6.5 m turnover threshold is also not being in line with the £10.2 m turnover threshold in the Companies Act 2006 or the £3.26 m turnover threshold in the charity sector.

However, we acknowledge that this would escalate the ongoing issue of a step change from intermediate audit at £200,000 and above, to full audit at £6.5 m and above. Nonetheless, most smaller authorities are currently subject to limited assurance arrangements (if their turnover was above £25,000) or exempt from audit (if their turnover was below £25,000).

Question 29: Do you agree that the lower audit threshold of £25,000 should be increased broadly in line with inflation?

Yes, it could be an option. However, we argue that having smaller authorities who meet the exemption criteria (threshold of up to £25,000) automatically exempt from audit, without needing to self-certify (completing the Annual Governance and Accountability Return), would have a bigger impact than increasing the threshold in line with inflation. This in turn would improve the efficiency of the auditing process and allow auditors to focus on audit work rather than chasing non-responders. See our answer to Q30.

Question 30: Are there other changes that would improve the accounting and limited assurance regime for smaller authorities?

The issue of exemption from audit of smaller authorities is also questionable. We found that a number of smaller authorities, who meet the exemption criteria (below £25,000 threshold), do not submit their Annual Governance and Accountability Return or do not confirm that they are exempt, ultimately causing investigation problems (Lakoma et al. 2024). Having smaller authorities who meet the exemption criteria, meaning they are automatically exempt from audit, without needing to self-certify, would greatly improve the efficiency of the process, and allow auditors to focus on audit work rather than chasing non-responders. This has been notable in the case of small 'parish meetings', which cause a disproportionate number of problems due to them not responding to auditors. Parish meetings do not exist in Scotland, Wales and Northern Ireland. Hence, in our view they could be removed from the limited assurance regime (£25,000 threshold), and in the longer term, be phased out of the regime. Removing parish meetings from the audit regime would have advantages, especially as the amounts of public money involved are minimal. Alternatively, parish meetings could be required to become parish councils, which would also bring greater assurance to residents.

Reference:

Lakoma, K., Murphy, P. and Toothill, A., 2024. External auditing arrangements of smaller authorities in England. *International Journal of Auditing*, 28(4), pp.792-805.

Question 31: What additional support, guidance or advice do local bodies and/or auditors need for future statutory deadlines (including backstop dates) for the publication of audited accounts?

There is clearly a systemic capacity issue, and we acknowledge national partners collective ongoing work, but we would urge some additional resources and publicity for both Accountancy Apprenticeships and Audit Apprenticeships with a campaign to attract recruits to both the LAO and the new public provision.

Question 32: Do you think that financial reporting and/or auditing requirements should be amended for a limited period after the backlog has been cleared and as assurance is being rebuilt, to ensure workload and cost are proportionate?

There is a clear public interest in the system recovering as soon as feasible. We agree with governments and key local audit system partners aspiration that disclaimed audit opinions driven by backstop dates, should, in most cases, be limited to the next 2 years (up to and including the 2024/25 backstop date of 27 February 2026). A further year should be allowed to ensure workload and cost are proportionate.