



Northern Ireland Audit Office

Louise Mason FCA
Assistant Auditor General

106 University Street
Belfast
BT7 1EU
Direct Line : (028) 9025 1048
Fax : (028) 9025 1051
E-mail : louise.mason@niauditoffice.gov.uk
webaddress : www.niauditoffice.gov.uk

Ms Sheila Mawhinney
Room 416
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

13 November 2013

Dear Sheila

Local Government Bill

My colleagues spoke briefly to you a few weeks back about the role of the local government auditor and the proposals in the Local Government Bill. I understand the Local Government Bill has been referred to the Committee for the Environment which has responsibility for the Committee Stage of the Bill. Although a deadline for submissions of views from interested parties was yesterday you kindly agreed to a short extension to this date for us.

You also advised that we submit an outline of our issues at this stage and then follow up with a more detailed response in the next few weeks. Therefore please find enclosed an outline submission setting out some comments from NIAO at this point.

Recently my staff have been heavily committed with the completion of our annual programme of audits of local government bodies, which has a statutory deadline of 31 October each year. Going forward, we are in a better position to give more detailed consideration to the Bill. In October we raised with the Department of the Environment a number of issues concerning the Local Government (Northern Ireland) Order 2005 which we felt could be addressed by the Bill. The Department has responded to us earlier this week and we are currently considering that before we give you our more detailed observations.

In the meantime I look forward to meeting you on 27 November. If there are any points you wish to discuss further please contact Rodney Allen (02890 251122) or Laura Murphy (02890 251139).

I am copying this letter to Leo O'Reilly at the Department.

Yours sincerely

A handwritten signature in black ink that reads "Louise Mason". The signature is written in a cursive style with a large initial 'L'.

Louise Mason
Chief Local Government Auditor

Outline Submission by the Chief Local Government Auditor, Northern Ireland Audit Office (NIAO), on the Local Government Bill – 13 November 2013

This outline submission identifies some points we wish to raise in relation to the Local Government Bill and also some matters in other legislation, such as the Local Government (Northern Ireland) Order 2005, which might be addressed in the Local Government Bill.

1. In principle we agree with the Bill's new proposals for Improvement Reporting and for a role for the Local Government Auditor. We note the proposals are broadly in line with Welsh and Scottish practices which are already established and in operation. However in our opinion it is important to ensure these are proportionate in relation to our local government context in Northern Ireland. We are concerned that the Bill does not provide flexibility for the auditor to consider matters such as a risk assessment of new authorities and determine the extent that reporting is required, rather than reporting on each new authority each year.
2. The principle of the Local Government Auditor's independence is something we consider needs further examination and would suggest the proposals in the Bill undermine the auditor's independence if a Department has the power to direct the auditor to carry out work. In our opinion it is more appropriate for the Local Government Auditor to have discretion to undertake work requested by the Department. The Department could request that the Local Government Auditor takes certain information into account in planning the forward work programme. This point would in principle apply to other legislation such as the Local Government (Northern Ireland) Order 2005.
3. The auditor's role will be more focused on public reporting rather than taking direct action. It occurs to us therefore that the surcharging power for the auditor should be removed and the power to apply for judicial review is unlikely to be required.
4. There may be a duplication of some aspects of the Local Government Auditor's role from the introduction of Improvement Reporting requirements that could now be streamlined.
5. In our opinion the Bill should align the Local Government Auditor's value for money powers with those that exist for the C&AG in the Audit (Northern Ireland) Order 1987.
6. The annual reporting of the Local Government Auditor's exercise of functions is currently an absolute requirement. It would be more helpful if this was at the Local Government Auditor's discretion rather than an annual requirement, particularly given the proposed new Improvement Reporting arrangements for each council.
7. There are issues we have identified in extant legislation affecting the appointment of the Local Government Auditor including:
 - In our opinion, auditor independence would be further strengthened if the C&AG was solely responsible for designating the Local Government Auditor role. The Bill assigns this role to the Department.

- We consider the legislation should allow for some flexibility in how the Local Government Auditor resources the audits. This would include incorporating other NIAO resources such as the use of temporary appointments to carry out this work, or procuring contractors for the work if the Local Government Auditor thinks appropriate.
8. The appointment of the deputy Local Government Auditor is a welcome addition. However it is not clear how the deputy can exercise the powers of the Local Government Auditor in the absence of the Local Government Auditor. A solution would be for the C&AG (or the Department under current wording) to have the power to temporarily designate a Local Government Auditor in the case where there is a prolonged absence.

We will submit a more detailed response in the near future including our consideration of other legislative references that may require updating.

Chief Local Government Auditor

13 November 2013



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Direct Line : (028) 9025 1048
Fax : (028) 9025 1051
E-mail : louise.mason@niauditoffice.gov.uk
webaddress : www.niauditoffice.gov.uk

Ms Sheila Mawhinney

Room 416
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

2 December 2013

Dear Sheila

Local Government Bill

Following my letter to you on 13 November 2013, I am now in a position to provide a more detailed response to the Local Government Bill. My focus is on those aspects of the Bill which directly impact on or refer to the role of the Local Government Auditor.

As I have indicated previously, this Office agrees in principle with the Bill's proposals for improvement reporting and for a role for the Local Government Auditor. We note the proposals are broadly in line with legislation that exists in Wales. This Office will need to engage in a period of research and development in 2014 and 2015 to put in place methodologies to respond to the new audit responsibilities. We would emphasise the importance of proportionality in relation to the audit of performance improvement given the relative remit of local government in Northern Ireland in comparison to other parts of the United Kingdom.

It is our view that the Bill should allow some flexibility for the auditor and I have suggested amendments below that would allow for this. Flexibility is important as the auditor's judgement plays a key role in determining the nature, scope, scale and duration of audit work to ensure there are sufficient levels of scrutiny. In meeting audit requirements certain information and explanations must be obtained to meet responsibilities. However, an audit is not designed to review all aspects of audited

bodies' arrangements, systems or records; instead it will conclude upon those that could have a significant impact on the audited body.

My comments on specific aspects of the Bill are as follows:

Part 9

Clause 56 (8)

We welcome the provision to consult the Local Government Auditor on the Code of Conduct for councillors.

Part 12

Clause 95 3 (a)

The proposed date for the publication of performance information by councils is 31 October, some seven months after the end of the financial year to which it refers. We consider an earlier date would be more preferable and would better inform the overall process including the scope for timely audit and assessment and informing future improvement planning. We note clause 95 3 (b) provides for the Department to specify a different date.

Clause 95 5 (a)

Similar to the above comment it would be preferable if a specific date were stipulated, and preferably a date that is early in the financial year such as 30 April or 31 May. Ideally, plans should be in place before the year that relate to gets underway. An early date is also important to facilitate timely audit of the information.

Clauses 96, 97 and 98

These clauses set out the requirements for improvement audits and assessments and are fixed that the local government auditor will examine and issue reports on each council each year. We have concerns this does not provide flexibility for the auditor to consider matters such as risk assessments to inform the extent of work and reporting that is necessary. It may be the case, certainly once the new arrangements are embedded, that it is unnecessary for the auditor to report in full and separately on each Council each year and exception reporting may become more appropriate. We would encourage flexibility in the Bill to accommodate this approach in the longer term.

Clause 98 (1) (d).

The assessment on whether Councils are likely to comply with requirements will require the auditor to assess whether proper arrangements are in place to enable the improvement plans to be successful. Satisfying this provision may entail most work for the auditor. We would also suggest the usefulness of audit recommendations will depend upon how quickly they can be communicated and applied. Therefore the availability of improvement plans and timeliness of the audit will be important to making this provision successful in practice.

Fulfilling the performance improvement audit obligations will require looking at proper arrangements and therefore it would appear to be appropriate to remove this aspect

from the Local Government (Northern Ireland) Order 2005. We have discussed this with the Department who has indicated they agree to the amendment in principle.

Clause 98 (3) (a)

This clause requires the auditor to provide copies of audit reports by 30 November. This seems unachievable in the current proposals as Councils will only publish their reports by 31 October. We would suggest a more realistic date for the audit reporting of this information of no later than 31 January. We understand that is the date that has been agreed in the Welsh model. An alternative more proactive approach would be to bring forward the Council's publication date to allow an audit reporting date of 30 November.

Clause 100 (1) and 3 (a)

In the interests of efficient reporting and proportionality it would be useful to have more flexibility in the audit reporting mechanism and the extent of required reporting. For example, over time it may be appropriate to produce a consolidated publication of Annual Improvement Reports rather than producing a separate annual report for each council. As the systems for improvement bed in, the results of each council could be reported within a composite report. Furthermore, if a full separate report is warranted, a reference to this report could be included in the composite report.

Clause 101

The principle of the Local Government Auditor's independence is something we consider needs further examination. We suggest that the proposals in the Bill undermine the auditor's independence if a Department has the power to direct the Auditor to carry out work. Instead, we suggest the legislation provides for the Department to request work to be carried out by the Auditor. This would equally apply to other extant legislation such as the Local Government (Northern Ireland) Order 2005. We are aware that similar provisions have been changed in recent Welsh legislation.

Part 15

Clause 110 (1)

A number of amendments are noted to the 2005 Order. We have raised with the Department a number of other matters which we would ask should be addressed as part of this legislation. This would include:

- a) Alignment of the Local Government Auditor's value for money powers with those that exist for the Comptroller and Auditor General in the Audit (Northern Ireland) Order 1987. This would provide greater independence for the Local Government Auditor to carry out value for money studies without a statutory need to consult other parties.
- b) Flexibility around the use of NIAO resources in exercising the local government auditor's functions.
- c) Discretion to permit the Local Government Auditor to produce a report on the exercise of functions rather than an absolute annual requirement as is currently the case. The new performance improvement reporting arrangements may reduce the need for an annual report.
- d) Allowing the C&AG to appoint the Local Government Auditor, rather than the

Department, again in the interests of auditor independence. We would also prefer that the C&AG had the power to temporarily appoint a Local Government Auditor, should a period of absence arise.

We have written recently to the Department with these and other detailed matters, such as an update of the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2006. The correspondence is attached for your information.

Clause 110 (1) 4.(6)

This provision relates to any liability arising from a breach of duty by the local government auditor (whether arising under a contract or otherwise) incurred in the performance of the local government auditor's functions is charged on the Consolidated Fund. We support this clause but would observe the importance of ensuring it has been agreed with the Department of Finance and Personnel.

Clause 111

We acknowledge the power to repeal the provisions relating to surcharge. However, given the proposed new ethics framework the powers of surcharge will become outdated. Its removal would allow consistency with local government audit arrangement in other UK regions. It would also re-establish the independent role of the auditor which traditionally brings matters to management's attention rather than acting directly upon them. The removal of surcharging would reduce the likelihood for auditor powers being needed in relation to judicial review.

Other

We note in NIGLA's written response to the Committee the suggestion to include statutory provisions for Audit Committee arrangements, including the requirement for independent members. This is an interesting proposal as independent Audit Committees are an important part of good governance arrangements in organisations.

Audit Cost Implications

I am aware of concerns raised in some of the written submissions to the Committee regarding audit capacity and resources to undertake the new responsibilities set out in the Bill. Those are not unreasonable concerns. I have already indicated that we plan some research and development prior to the legislation being effective in order to ensure we are best placed to take forward the associated work. That will also help us finesse the cost implications however even at this stage it is likely the cost of applying the proposed new audit functions will require a significant and dedicated staffing resource.

We are currently basing our plans on the assumption that audit fees will be charged to councils for this work, in the same way as we do for our financial audit work. However, an alternative arrangement could be that performance improvement audits are funded from central government. We would welcome clarification on funding arrangements and

recognition of the additional audit costs that will result from this Bill. We do intend that the flexibility we have proposed in applying the arrangements would allow the most efficient approach to be taken, particularly as systems for improvement become embedded.

Thank you for the opportunity to contribute to the Committee's consideration of the Bill. I apologise that we were unable to provide you with these observations at an earlier point. However, I trust the Committee will still be able to consider them and I can discuss further at the Committee's meeting scheduled for 12 December. In the meantime if there are any points you require clarification on please contact Rodney Allen (02890 251122) or Laura Murphy (02890 251139).

I am copying this letter to Leo O'Reilly and Linda MacHugh at the Department of the Environment.

Yours sincerely

A handwritten signature in black ink that reads "Louise Mason". The signature is written in a cursive style with a large initial 'L'.

LOUISE MASON
Chief Local Government Auditor