

Written evidence to
Audit Committee Northern Ireland Assembly
Subject: Review of governance and accountability
arrangements for the Northern Ireland Audit Office and the
Northern Ireland Public Service Ombudsman

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29th January 2021

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2 Introduction

This paper is presented in response to a call for written submissions on governance and accountability arrangements for the Northern Ireland Audit Office and Northern Ireland Public Services Ombudsman.

This paper addresses issues related to public audit as this is my area of research. However many of the principles which apply to public audit could also be applied to public service ombudsmen.

The paper consists of four parts. Firstly accountability and the important role Supreme Audit Institution (SAI)¹ plays in this regard is discussed. Secondly the principles of independence and accountability for audit offices and auditors general will be outlined together with a discussion of the issues identified in previous research. Thirdly the governance and accountability arrangements for the audit offices of the UK are discussed which highlight the differences across the administrations. Finally, areas with scope for improvement and recommendations are presented.

3 Accountability

Accountability has been described as a cultural icon for our time² and as a “magic concept”³. That is a wide scope concept covering a large sphere that has overwhelmingly positive connotations - no one can be against it. Any media report about failings in public services or inquiry into disasters is accompanied by a call for more accountability, often without any debate about what is meant by the term. What is accountability? There are varied definitions but at its simplest it is:

¹ Supreme Audit Institution is an independent and professional auditor responsible for auditing government revenue and spending. It is a *government* entity, but independent of government, whose external audit role is established by the constitution or law (OECD 2018)

² Dubnick (2014) p.25 Accountability as a Cultural Keyword. In: Bovens, M., Goodin, R., and Schillemans, T., eds. *Oxford Handbook of Public Accountability*. Oxford: Oxford University Press, 25-34.

³ Pollitt and Hupe 2011 Talking About Government. *Public Management Review*, 13(5), 641-658.

“The obligation of those entrusted with particular responsibilities to present an account of, and answer for, their execution.”⁴

Accountability is the means by which authorities are held accountable by citizens. In democracies accountability mechanisms provide citizens with tools “to force those rested with public power to speak the truth.”⁵

While the public might at one time have accepted what those in authority told them, this is no longer the case. The demands of the general public have changed⁶; nothing is taken on trust as there is “continuous public chastening of those who exercise power”, and many public officials are seen by the public as having considerable power. Public accountability is seen as an essential precondition for democratic processes to work. A better educated and less deferential public, more organised and vocal interest groups and the growth of social media fuels these demands⁷. In the modern context accountability may be both informal, as exercised by the media who demand answers for conduct, and formal, through official channels.

It may be concluded that no one approach to accountability is appropriate “because the concept itself has many meanings and dimensions and must be seen as a system woven into the political and social life as a whole.”⁸

Formal public accountability must fulfil the following purposes⁹:

- To control the abuse and misuse of public authority;
- To provide assurance about the use of public resources; and

⁴ Organisation for Economic Co-operation and Development (OECD) (2005) p.2 *Public Sector Modernisation: Modernising Accountability and Control*, OECD Policy Brief. Paris: OECD.

⁵ Bovens et al. 2008 Bovens, M., Schillemans, T. and 't Hart, P. (2008) Does public accountability work? an assessment tool. *Public Administration*, 86(1), 225.

⁶ Keane, J. (2009) *The life and death of democracy*. Sydney: Simon and Schuster.

⁷ Aucoin, P. and Heintzman, R. (2000) The dialectics of accountability for performance in public management reform. *International Review of Administrative Sciences*, 66(1), 45-53.

⁸ Day and Klein (1987 p.249) Day, P. and Klein, R. (1987) *Accountabilities: five public services*. London: Tavistock Publications.

⁹ Aucoin, P. and Heintzman, R. (2000) The dialectics of accountability for performance in public management reform. *International Review of Administrative Sciences*, 66(1), 45-53.

- To encourage and promote learning in the pursuit of continuous improvement.

Formal mechanisms are “of crucial importance in democracies as they aim to ascertain appropriate behaviour and organisation performance”¹⁰, and the public nature of accountability processes teaches others in similar positions what acceptable behaviour is¹¹.

One of the mechanisms available to meet this demand for public accountability is the SAI, headed by an Auditor General (AG) or Comptroller and Auditor General (C&AG).

“External scrutiny and imposition of appropriate sanctions are certainly not the only mechanism of democracy, but they remain fundamentally important”¹²

As special rights of access to information are afforded to the SAI, and as these rights are enshrined in legislation, the auditor is in a unique position. He/she may as Dicey¹³ stated “follow the public pound wherever it may flow”. SAI is independent of government and an officer of the legislature. He/she is free to choose any public body in receipt of significant public funds as the subject of his/her inquiries. Therefore he/she is in a powerful position to draw attention to failings in the management of public money.

¹⁰ Schillemans, T. (2016) Calibrating public sector accountability: Translating experimental findings to public sector accountability. *Public Management Review*, 18 (9), 1401-1420

¹¹ Bourn, J. (2007) *Public sector auditing*. Chichester: John Wiley & Sons Ltd.

¹²Mulgan, R. (2003) *Holding Power to Account: Accountability in Modern Democracies*. Basingstoke: Palgrave.

¹³ Dicey, A.V. (1959) *An Introduction to the study of the law of the constitution*. 10th ed. London: Macmillan.

4 General Principles on Independence of Audit Offices.

SAIs such as the NIOA fulfil a need for assurance about the use of public resources first identified by Gladstone in 1861 when he established the office of C&AG to address overspending by the Navy, a model which has since been adopted worldwide ¹⁴.

When public officials spend public money, three key principles apply:

1. Money must be used only for the purposes authorised by the legislature (Regularity);
2. The way in which money is spend must be in accordance with agreed standards for conduct (Propriety). This concerns the behaviour of individuals. In a UK context these standards are embodied in the Nolan Principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.
3. Resources must be employed to achieve value for money, which is the optimum intended outcome. This is often referred to as the 3Es, economy, efficiency and effectiveness.

SAIs play a key role in accountability systems¹⁵ and have been described as the “eyes and ears” of the legislature¹⁶.

SAIs carry out two different types of work,

- 1) Traditional financial auditing, when reports on the financial statements of government department and public bodies are prepared. The SAI reports on whether the financial statements present a true and fair view of the financial position of the entity.
- 2) Value for money (VFM) reports, which now form a large part of the work programme of SAI. These are examinations into how public bodies use their resources or measure performance in the delivery of public services.

¹⁴ McGee, D. (2002) *The Overseers: Public Accounts Committees and Public Spending*. London: Pluto Press.

¹⁵ Posner, P and Shahan, A. 2014 Audit Institutions. In Bovens, M., Goodin, R., and Schillemans, T., eds. *Oxford Handbook of Public Accountability*

¹⁶ Broadbent and Laughlin 1997 p.494. Broadbent, J. and Laughlin, R. (1997) Evaluating the "new public management" in the UK: a constitutional possibility? *Public Administration*, 75 (3), 487-507.

Originally the focus of SAI was on regularity, propriety and financial audit. More recently value for money has become the focus as money may be spent but the intended outcomes may not have been achieved. Now many audits concentrate on evaluating the performance of government agencies¹⁷. Additionally in the public sector “auditors are expected to be bloodhounds that chase down proactively, not just watchdogs”¹⁸.

The independence of the auditor is well established as both a legal and professional requirement, in both the private and public sector. Indeed it could be argued that higher standards are demanded in the public sector. In order to accomplish its role in public accountability the SAI must be independent of government. This principle is identified by much of the research in the arena. It is the bedrock on which financial accountability rests. The independence of the SAI from those he/she audits is integral to the financial accountability process. Indeed it has been highlighted as a prerequisite.¹⁹

In order to carry out its work effectively, the auditor must be free of political interference²⁰ ²¹This was also endorsed by the United Nations General Assembly in December 2011, when it passed a resolution which stated:

“Supreme audit institutions can accomplish these tasks objectively and efficiently only if they are independent of the audited entity and protected against outside influence”²²

¹⁷ Suzuki, Y. (2004) Basic structure of government auditing by Supreme Audit Institutions. *Government Auditing Review*, 11. 39-53

¹⁸ Heald, D. (2018) Transparency-generated trust: The problematic theorization of public audit. *Financial Accountability and Management*, 34. 317-335

¹⁹ Overseas Development Institute (ODI) (2008) Enhancing accountability for the use of public sector resources: How to improve the effectiveness of Public Accounts Committees, *Triennial Conference of Commonwealth Auditors General*, 2008.

²⁰ ODI, 2008; White, F. and Hollingsworth, K. (1999) *Audit Accountability and Government*. Oxford: Oxford University Press.

²¹ PEFA (Public expenditure and Financial Accountability) Secretariat (2016). *Framework for assessing public financial management*. Washington DC: PEFA Secretariat.

²² United Nations (2011), Resolution A/66/209 adopted on 22 December 2011 by the 66th United Nations General Assembly. Available at: <http://www.un.org/en/ga/66/resolutions.shtml> [accessed 8 January 2021]

Independence from both the executive and legislature is required. As the main purpose of SAI is to audit public bodies, the auditor must not be under the control of the executive. As the government usually dominates the legislature the auditor must also be independent of the legislature. The danger is that political party management might lead to backdoor executive control of the auditor.²³

However, as the SAI provides information to and supports the legislature there is also interdependence. In holding officials to account, usually through a PAC, the legislature depends on the information provided by the auditor. On the other hand the auditors' findings are reinforced by the support from PAC inquiries, and debates in the legislature.

However, while a good working relationship is required there is a danger that the legislature can be over-reliant on the audit office. A balance needs to be struck.

“Too close a relationship with parliament can threaten the SAI's independence – a vital foundation for its credibility. If the relationship is too distant, parliament may ignore important audit findings.”²⁴

Independence requires both institutional arrangements and appropriate processes²⁵. The different aspects of SAI independence have been classified in various groupings by academics but include²⁶:

1. Organisational Independence. This refers to the way in which the SAI is organised, how it is financed and how it relates to other government institutions;

²³ Heald, D. (2018) Transparency-generated trust: The problematic theorization of public audit. *Financial Accountability and Management*, 34. 317-335

²⁴ OECD 2002 Organisation for Economic Co-operation and Development (OECD) (2002) *Relations between supreme audit institutions and parliamentary committees. SIGMA papers: No. 33* CCNM/GOV/SIGMA (2002)1. Paris: OECD available from [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=ccnm/gov/sigma\(2002\)1](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=ccnm/gov/sigma(2002)1) [accessed 8 January 2021]

²⁵ Cordery, C. and Hay, D. (2019) Supreme audit institutions and public value: demonstrating relevance. *Financial Accountability and Management*, 35. 128- 142

²⁶ White and Hollingsworth (1999 p.95) White, F. and Hollingsworth, K. (1999) *Audit Accountability and Government*. Oxford: Oxford University Press.

2. Personal independence. Studies have shown that auditors general enjoy an enduring reputation for personal integrity^{27 28}
3. Operational independence. How the SAI carries out its functions such as choice of areas for investigation.

4.1 Organisational Independence

4.1.1 Appointment and Dismissal.

The auditor should have security of tenure. Appointment and dismissal arrangements may pose a threat to independence. If the appointment is at the favour of the executive there is a danger that the appointee may be an auditor who is unlikely to criticise the executive. If the power of dismissal is in the hands of the executive there is a danger that the AG may act in a way that ensures he/she is not dismissed, such as choosing those audit topics which do not pose difficulties for the executive or being less critical of the government than he/she might otherwise be. Arrangements are usually in place to ensure that the executive does not control the appointment and does not have the power to dismiss the AG. Dismissal normally requires a vote in the legislature and a two-thirds majority.

4.1.2 Term of office

Traditionally the appointment was until retirement age, but most administrations have moved to fixed terms of 8-10 years in line with recent developments in corporate governance which now deems excessively long tenure as a risk to effectiveness and independence. Renewable terms are also not encouraged.

4.1.3 Resources

The auditor must have adequate resources to fulfil the duties of his office. The independence of the AG may be compromised by the allocation of resources. One of the ways to reduce the amount of work undertaken by the AG is to reduce the

²⁷ Funnell, W. (2015) Performance auditing and adjudicating political disputes. *Financial Accountability and Management*, 31(1). 92-111

²⁸ Christensen, J.G (2009) *Notat vedr. Statens revision*. Aarhus: Institut for Statskundskab, Aarhus Universitet. Available at : http://www.ft.dk.statsrevisorene/arbejde/~/_media/Statsrevisorerne/om/Statens_revision_pdf.ashx

resources available to the office. Therefore agreeing the budget of SAI usually falls to the legislature or one of its committees and not the executive.

4.1.4 Access to Information

The auditor requires access to information of departments and public bodies to fulfil his/her duties and this is enshrined in legislation. Difficulties with access which may arise are set out later in this paper.

4.1.5 Reporting Arrangements

The AG, while head of the audit office is a personal appointment, and the rights and responsibilities of the office rest with the appointee. To ensure continuity of the office it is often a corporation sole. This is a legal entity separate from the individual. The auditor reports to, and is an officer, of the legislature.

4.2 Operational Independence

4.2.1 Authority to employ staff

The auditor must have the authority to employ, direct and dismiss SAI staff. SAI staff are not civil servants, under the direction of the executive.

4.2.2 Choice of Topic

The auditor requires discretion to choose subjects of audit. He/she may consult the legislature or a committee, and the work programme with indicative timings is often agreed, but he/she cannot be directed, as to do so would impinge on the auditor's independence. On the other hand, it would be unwise for the auditor to ignore concerns raised by politicians concerning matters within his remit. However the final decision must be rest with the SAI alone.

4.2.3 Freedom to Publish

The auditor must have freedom to publish audit reports at a time of the auditor's choosing. Publication of reports which may be embarrassing to the executive at a time when it is vulnerable such as near elections can cause friction between the executive

and the SAI²⁹. This is the reason reports are generally not published during purdah. SAI must also have discretion to make such recommendations as he/she considers appropriate and to follow up on the implementation of these recommendations. SAI recommendations are often supported by the PAC.

4.3 Issues which threaten Independence.

4.3.1 Agreeing Reports.

It is the custom and practice in the UK for the audit report to be agreed as to fact, by the auditee in advance of publication. This also occurs in other jurisdictions such as Denmark³⁰. This process may result in negotiation between the SAI and the auditee, and delays in publication of reports. It has been argued that this may result in recommendations which the auditor anticipates are acceptable to the executive³¹ particularly where VFM audits are concerned. The auditor walks a tightrope between being a fearless advocate of the public interest and providing information which is useful to the auditee in making improvements.³²

4.3.2 Access to information

One of the principles of public audit set by INTOSAI³³ is that SAI rights to access information of departments and public bodies is enshrined in legislation. However, the growth of VFM audits and the complexity of modern public service delivery results in private company involvement, where problems of access may arise. The auditor may raise the issue with the legislature although he/she may be reluctant to do so.

An example is provided of Camelot, which in 1997 refused to allow the UK C&AG to access its records. The matter was raised in the National Lottery Distribution Fund

²⁹ Funnell, W. (2015) Performance auditing and adjudicating political disputes. *Financial Accountability and Management*, 31(1). 92-111

³⁰ Triantafyllou, P. (2020) Playing a zero-sum game? The pursuit of independence and relevance in performance auditing. *Public Administration* 98. 109-123.

³¹ Ibid.

³² Funnell W. (2015) Performance auditing and adjudicating political disputes. *Financial Accountability and Management*, 31(1). 92-111

³³ International Organisation of Supreme Audit Institution (INTOSAI) (2019) *Mexico Declaration on SAI Independence*. Available at: https://www.intosai.org/fileadmin/downloads/documents/open_access/INT_P_1_u_P_10/INTOSAI-P-10_en.pdf. [accessed 8 January 2021]

certification. This resulted in an amendment to legislation, supported by PAC, with rights of access being incorporated in the National Lottery Act 1998³⁴. This was a very public event but it is likely that negotiation for access takes place behind the scenes which may threaten independence as it brings the auditor into the political arena.

4.3.3 Policy Objectives

The legislation generally states that the SAI must not question the policy objectives of a programme. However no clear definition of policy is provided and the distinction between policy and implementation is not always clear-cut.³⁵ The growth of VFM audits may give rise to particular difficulties. The SAI can question the adequacy of the information supplied to those with decision making powers. However the difficulty may be in objecting to the information supplied without questioning the merits of the policy decision and being drawn into the political arena.

4.3.4 SAI as Consultant.

SAI reports to the legislature but the role also includes a requirement to assist the auditee by making recommendations for improving internal control. This may then result in a challenge to the auditor's independence if the SAI later audits the system recommended.

4.4 Value arising from Independence.

In 2013 INTOSAI stated that SAI create public value by ensuring public accountability and by independently and objectively supporting reform³⁶. Value is derived from independence in a number of ways. Firstly as the role of the SAI is to provide assurance to the legislature and to the public on the use of public resources trust is required. SAI independence enhances accountability but it also builds trust,

³⁴ White, F. and Hollingsworth, K. (1999) *Audit Accountability and Government*. Oxford: Oxford University Press.

³⁵ Gay, O. and Winetrobe, B. (2003) *Parliamentary audit: The Audit Committee in comparative context, a report to the Audit Committee of the Scottish Parliament*. London: Constitution Unit UCL

³⁶ International Organisation of Supreme Audit Institutions (2013) ISSAI 12: The value and benefits of supreme audit institutions- Making a difference to the lives of citizens. Copenhagen: NTOSAI

strengthens credibility and supports the auditors moral legitimacy^{37 38}. Moral legitimacy is the perception that the organisation promotes what is in the public interest³⁹.

The work of SAIs, carried out independently and objectively, results in publishing audit recommendations. If these recommendations are accepted, which they overwhelmingly are, SAIs support reform and improvements in financial procedures, governance and service delivery⁴⁰. Additionally independent audit reports are valued by the legislature which can intensify the pressure for reform through PAC inquiries and debates in the house.

Implementation of audit recommendations falls to the auditee. It is therefore important that they see themselves as agents of improvement. From the auditees perspective SAI independence gives the position of the auditor legitimacy⁴¹.

The legislature holds officials and ministers to account using information and reports prepared by the auditor. Independence reassures the legislature that their inquiries have legitimacy. Those called to account on foot of audit reports can then have confidence that the reports it receives are free from bias and political influence.

From the perspective of the executive financial audits conducted by independent SAIs can assist the credibility of the executive as positive reports are seen as indicators of the ability of the executive to manage state finances while positive VFM reports enhance the executive political legitimacy⁴². However, it must be acknowledged that

³⁷ Cordery, C. and Hay, D. (2019) Supreme audit institutions and public value: demonstrating relevance. *Financial Accountability and Management*, 35. 128- 142;

³⁸ Talbot, C. and Wiggan, J. (2010) The public value of the National Audit Office. *International Journal of Public Sector Management*, 23 (1), 54-70.

³⁹ Suchman, M. C. (1995) Managing legitimacy: Strategic and institutional approaches. *Academy of Management Review*, 20. 571-610

⁴⁰ Cordery, C. and Hay, D. (2019) Supreme audit institutions and public value: demonstrating relevance. *Financial Accountability and Management*, 35. 128- 142

⁴¹ Talbot, C. and Wiggan, J. (2010) The public value of the National Audit Office. *International Journal of Public Sector Management*, 23 (1), 54-70.

⁴² Funnell, W. (2015) Performance auditing and adjudicating political disputes. *Financial Accountability and Management*, 31(1). 92-111

many performance audit reports are highly critical, but where the auditor has legitimacy and credibility the executive may have difficulty in refuting the findings. Therefore the legislature can use the reports to hold the executive to account. Furthermore a positive relationship has been found in the US between the independence of state auditors and the quality of the audited financial statements.⁴³

4.5 Accountability of the SAI

In the same way that the SAI acts as an external scrutineer of government departments and public bodies, it itself must be subject to external scrutiny, including audit and independent review⁴⁴. In order to build and maintain trust the SAI must have exemplary financial procedures, governance and accountability.⁴⁵

A high level of accountability is required of SAIs, but it must be achieved while also having regard to the primacy of the independence of the office.

5 Governance and accountability arrangements in the SAI of the devolved administration of the UK.

Devolution resulted in new arrangements for financial accountability in the devolved administrations. These arrangements, while sharing many features, developed differently in Scotland, Wales and Northern Ireland. The auditor general reports to the legislature in each of the devolved administrations. The devolved Parliaments/Assembly established standing committees similar to those in Westminster:

- (1) PAC to undertake inquiries on accounts and reports on accounts laid before the legislature; and
- (2) an audit committee with responsibility for overseeing the budget and governance of the SAI.

⁴³ Schelker, M. (2008) Public Auditor: Empirical evidence from the US states. Available from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=957528 [accessed 8 January 2021].

⁴⁴ Barrett, P. (1996) Some thoughts about the roles, responsibilities and future scope of auditors' general. *Australian Journal of Public Administration*, 55 (4), 137-146.

⁴⁵ Cordery, C. and Hay, D. (2019) Supreme audit institutions and public value: demonstrating relevance. *Financial Accountability and Management*, 35, 128- 142

However, the history of public audit varied across the administrations and it is likely that these initial arrangements influenced the way in which financial accountability processes and systems developed.

Prior to devolution responsibility for auditing public bodies in Scotland and Wales fell to the National Audit Office (NAO)⁴⁶, which had offices in Cardiff and Edinburgh in addition to its London base. There was no independent audit office in Edinburgh or Cardiff. NAO also had responsibility for auditing public bodies in England, which made up most of its work. All NAO reports, whether concerning England, Scotland or Wales were laid before the House of Commons and considered by the PAC. In Northern Ireland the system for financial accountability had developed independently prior to devolution, and mirrors that in Whitehall to a greater extent than the arrangements in Scotland and Wales. For example the post of Treasury Officer of Accounts (TAO)⁴⁷, an official in the Department of Finance (DoF) mirrors that at the Treasury. No similar post exists in Scotland or Wales.

The position of C&AG for Northern Ireland was created by the Exchequer and Audit Act (Northern Ireland) 1921. At that time, the C&AG had powers to carry out financial audits of departments and public bodies. He and his staff were located as a division within the Department of Finance. The Northern Ireland Audit Office (NIAO) in its current form was established as a body independent of government by The Audit (Northern Ireland) Order 1987, to support the C&AG in his work. Therefore, when devolution took place in 1999 the office was already well established in Belfast. Devolution resulted in reports from NIAO being laid before the Northern Ireland Assembly where previously they would have been laid before Westminster and considered by the HoC PAC.

In Wales, there was not an independent audit office or Auditor General for Wales until five years after devolution. During the interim period Sir John Bourn carried out audit

⁴⁶ The National Audit Office is the SAI for the UK, supporting the UK C&AG.

⁴⁷ This official is responsible for maintaining an effective accounting framework and ensuring high standard of regularity, propriety and accountability and is the focal point for relations with the PAC, the C&AG, and audit office. They are responsible for ensuring PAC rulings are properly carried out. The TOA attends all meetings of the PAC at which evidence is taken from departmental accounting officers and answers to the Committee on behalf of the Treasury/DoF

duties in Wales on a part time basis while continuing to act as UK C&AG and head of the NAO. He was supported by the NAO office in Wales during this period.

In Scotland, there was an independent audit office from the start of devolution, headed by an AG with previous local government experience.

The arrangements in all the devolved administrations were designed to ensure that the dimensions of independence previously outlined in this paper were addressed. Moreover, the SAI must be independent and be seen to be independent, as the public depend on the SAI to play a vital role if public accountability is to be achieved. Each AG reports to the legislature. The postholder is independent of the audit office he/she leads and each of the AG/C&AGs of the UK are designated as an officer of the relevant legislature.

5.1 Appointment and Dismissal of the Auditor General

The UK C&AG is a crown appointment on the recommendation of the Prime Minister and the chair of PAC, and under the Budget Responsibility and National Audit Act 2011 holds office for a maximum of 10 years. In Scotland, Wales and Northern Ireland, the AG is appointed by the Crown on the recommendation of the Parliament/Assembly. In Northern Ireland, there is no maximum period of office. No amendments to the legislation concerning the appointment of the C&AG NI have been made since devolution was enacted.

In Scotland and Wales, the post can be held by an individual for a maximum of eight years. Additional provision was made in the Public Audit (Wales) Act 2013 that the post holder may be subject to dismissal by the Crown on the grounds of misbehaviour on the recommendation of the Assembly, having passed a resolution by two thirds majority. Similar arrangements apply in Scotland and Northern Ireland.

The review of arrangements for public audit in Wales came about after the resignation of the AG in scandalous circumstances, complaints from staff about bullying and financial irregularities. It is debatable if this review would have taken place had it not been for these unfortunate events. A review of arrangements in Scotland, which resulted in the introduction of the position of AG Scotland as a fixed term

appointment⁴⁸, took place in 2008 following the Tiner Review⁴⁹ into the management of NAO.

5.2 Resources

In all the devolved administrations the resources required by the SAI are paid out of the Consolidated Fund, before monies are allocated to departments. Resources for all the SAIs of the UK are approved by committees before being laid before the legislature.

In Scotland, the Scottish Commission for Public Audit (SCPA), a committee made up of five MPs including the chair of the Public Audit and Post-Legislative Scrutiny Committee (PAC equivalent), considers the resource needs of Audit Scotland before reporting to parliament. In Wales, Audit Wales provide an estimate for the Senedd, where the Finance Committee scrutinise the use of resources. The committee can make changes to the estimate but must consult the AG. In Northern Ireland the responsibility for agreeing resources for NIAO lies with the NIA Audit Committee. Attempts to reduce the SAI budget in NI were made which attracted widespread adverse media attention, highlighted the role of NIAO and added legitimacy to the C&AG⁵⁰.

5.3 Board Structure

All the SAIs of the UK have a board. The responsibilities of the boards are to support the AG and to provide constructive challenge. A Memorandum of Understanding or Code of Practice is agreed between each AG and audit office.

Audit Scotland is governed by a board of five members consisting of the AG, the chair of the Accounts Commission (local government audit) and three non-executive members who are appointed by the SCPA. There are two committees of the board;

⁴⁸ Public Services Reform (Scotland) Act 2010.

⁴⁹ House of Commons Public Accounts Commission, 15th Report, *Corporate Governance of the National Audit Office: Response to John Tiner's Review*, March 2008 HC402 (2007-08)

⁵⁰ Archer, B. (2012) Anger as Wilson seeks to cut Audit Office funding. *The Irish News*, November 24, 1.

Audit Committee and Remuneration and Human Resources Committee. Both committees have one executive member and two non-executive members.

The Audit Wales board of nine is made up of five non-executive members, the AG and three employee members, two of whom are elected and one employee who is appointed on the recommendation of the AG. The current appointed employee is the Corporate Services Director. Two committees are appointed by the boards; The Audit and Risk Assurance Committee, consisting of two non-executive members and one independent external members and the Remuneration Committee, comprising three non-executive members and one elected employee member. The Finance Committee of the Senedd recommends the appointment of non-executive directors, one of whom is the chair. The board appoints internal auditors and receives advice on the reliability of sources of corporate assurance and the integrity of the financial statements from the Audit and Risk Assurance Committee. In the 2020 Annual Report Audit Wales announced that it intended to set up an Audit Quality Committee in the current year, to review the quality of the work it undertakes.⁵¹

Unlike its peers NIAO is not a corporate body, but it has an advisory board. The Advisory Board of the NIAO is made up of six members including the C&AG, Chief Operating Officer and four non-executive members including the chair. The current chair was appointed by the C&AG in open competition and other non-executive members were appointed by the C&AG. It too has two committees, Audit and Risk Assurance and Remuneration Committee.

5.4 Audit Quality Assurance

It is a prerequisite of public accountability that the quality of the audits carried out by the SAIs of the UK is of the highest standard. As registered auditors the SAIs of the UK must comply with a regulatory regime which includes International Standards on Auditing (UK and Ireland) and Financial Reporting Council's (FRC) ethical standards when carrying out their audit duties. These standards are similar to those that apply in the private sector except that there is additional emphasis on specific fraud risks and best value which are relevant to the public sector. All the SAIs of the UK have broadly similar audit quality arrangements and assurance frameworks consisting of

⁵¹ Audit Wales(2020) Annual Report 2020. Available at :<https://www.audit.wales/publication/annual-report-and-accounts-2019-20> [accessed 8 January 2021]

internal independent review, review of sample files by their peers in the other SAIs of the UK and contracted professional accounting bodies, ICAEW and ICAS, to carry out reviews. Audit Quality is a key strategic objective and is overseen by the boards through the audit committees.

5.5 Public Face of Independence

Observations of PAC proceedings in Wales show that the AG sat beside of the PAC chair during public sessions, having previously provided private briefings. This was not the original arrangement, but was an innovation that was adopted during the 2011- 2016 Assembly. This gave the appearance of a close relationship between the SAI and the legislature. However, Scotland takes a different approach where briefings take place in public session, with the AG being treated like any other witness to the committee. In Northern Ireland, briefings in private are given by the C&AG in addition to evidence in public session, but at a distance from the committee. He did not sit with the committee, as was seen in Wales.

6 Scope for Improvements

When considering the accountability of the NIAO there are two main issues; governance arrangements and quality assurance of its audit work. All the SAIs of the UK have broadly similar robust audit quality arrangements which are in accordance with best practice in the sector.

However, governance arrangements currently in place in Northern Ireland are inconsistent with those observed elsewhere in the devolved legislatures of the UK and further afield. The primacy of the independence of the C&AG must remain at the forefront of any amendments. However, this independence needs to be balanced with the requirement that C&AG and NIAO are subject to the highest requirements of accountability and governance. Loss of creditability in the auditor with adverse consequences for the discharge of public accountability in the administration is likely to result if the governance and accountability arrangements are not exemplary.

6.1 C&AG Term of Office

No significant change has been made to the term of office of the C&AG since the position was first created in 1921, except the removal of the retirement criterion. The

current unlimited term for the position is not compatible with best practice and current governance principles.

It is therefore recommended that upon retirement of the incumbent the position of C&AG becomes a fixed term non-renewable appointment of eight or 10 years.

If this amendment is made consideration must be given to any future career of the postholder following his/her term as C&AG. It is likely that having served for 8-10 years the individual may will to continue his/her career. Safeguards would be required to ensure that any employment following service as C&AG does not bring the office into disrepute or compromise public accountability. The restrictions paced on former senior civil servants regarding future employment may be appropriate.

The arrangements in Wales⁵² require that former AGs consult a nominee of the legislature before taking up any post and prohibits them, for a period of two years after leaving office, from holding a position with any organisation or person whose accounts fall to be examined by the AG Wales.

In Scotland the legislation as amended⁵³ states that the AG holds office on such terms and conditions as the Parliamentary corporation may determine. The current AG Scotland was appointed in 2020. The terms and conditions of the position, as advertised, state that on ceasing to hold office the AG must seek the approval of Scottish Parliament Corporate Body, to hold office in or be an employee of any body subject to audit by AG Scotland. This restriction applies from the date the postholder leaves office until the end of the financial year in which it started.⁵⁴

It is recommended that Northern Ireland follow the practice adopted in Wales, as it captures all employments and offices regardless of whether the position is in the private or public sector.

6.2 Appointment of External Auditors

In the private sector the external auditors are proposed by the board but appointed by the shareholders. These arrangements are required under company law to ensure that there is independence and to provide shareholders with assurance concerning the

⁵² Public Finance (Wales) Act 2013. Part1 , ch1 section 5

⁵³ Public Finance and Accountability (Scotland) Act 2000 part 2. Section 13 (5)

⁵⁴ Scottish Parliament (2020) Auditor General Information for Applicants Available at:[https://www.parliament.scot/SPCB/Information_for_Applicants\(1\).pdf](https://www.parliament.scot/SPCB/Information_for_Applicants(1).pdf) [accessed 20 January 2021]

board's stewardship of company resources. In the public sector, in the absence of shareholders, arrangements must be in place to provide the public with assurance of stewardship by the public body.

In Scotland and Wales, as in NAO, the AG does not appoint external auditors; this duty falls to the relevant legislative committee which makes the appointment on the recommendation of the board. In Northern Ireland the external auditor is appointed by the Department of Finance under Section 6 (4) The Audit (Northern Ireland) Order 1987. This legislation predates devolution and this provision has not been reviewed until now.

It is recommended that the appointment of external auditors become a responsibility of the NIA Audit Committee to bring it into line with its peers.

6.3 Corporate Structure

All the SAls of the UK are bodies corporate except the NIAO. This difference is a product of the history of the NIAO which predates devolution.

It is recommended that the NIAO become a body corporate.

All the boards are made up of both executive members and non-executive members. Non-executive members play a key role in providing constructive challenge to the organisation. For this reason it is recommended that non-executive independent members have the majority of board positions and only non-executive board members sit on the remuneration committee.

It therefore follows that the executive members should not appoint the non-executive members. In Scotland, Wales and NAO the non-executive board members are appointed by the relevant legislative committee. In Northern Ireland the non-executive members are appointed by the C&AG who may seek approval from the NIA Audit Committee, but there is no requirement to do so.

It is therefore recommended that non-executive members to the NIAO board be appointed by the Audit Committee.

The author is willing to expand on the detail of this written submission through oral evidence to the audit Committee.