

REGULATORY APPRAISAL

LOCAL GOVERNMENT, WALES

THE ACCOUNTS AND AUDIT (WALES) REGULATIONS 2005

Purpose and Intended Effect of the Measure

1. Sections 39 and 58 of the Public Audit (Wales) Act 2004 contains the primary legislation to make regulations applying to local government bodies (other than local probation boards) whose accounts are required to be audited in accordance with Part II of the Act. Section 39 allows the Assembly to make, by Regulations, provisions with respect to:
 - (a) the keeping of accounts;
 - (b) the form, preparation and the statement of accounts;
 - (c) the deposit of accounts;
 - (d) the publication of information relating to the accounts and the statement of accounts;
 - (e) the exercise of any rights of objection conferred by Sections 29, 30 and 31 of the Act.
2. The power enabling this Instrument to be made is contained in Sections 13, 32, 105 and 106 of the Local Government Act 2000, and sections 39 and 58 of the Public Audit (Wales) Act 2004. These powers have been conferred upon the National Assembly for Wales.
3. The Accounts and Audit Regulations 1996 (as amended) will be revoked when the Account and Audit (Wales) Regulations 2005 come into force. The intention is to incorporate a number of new provisions, which will bring up to date the rules on the keeping of local authority accounts, reduce unnecessary bureaucracy, and improve local authority corporate governance and accountability. It is also important to bring these regulations into effect as early as possible to ensure that local authorities have sufficient time to prepare for the regulations particularly, those regulations which relate to the bringing forward of the accounts approval and publication deadlines.
4. To support the aims of reducing unnecessary bureaucracy, and improve local authority corporate governance and accountability it is intended that the new regulations:
 - ensure that the accounting burden on authorities is proportionate to the size of the authority and the level of finance involved;
 - bring forward the deadlines for approval and publication of accounts, in a phased way over a number of years, from the end of September to the end of June and end of December to end of October respectively (a commitment in the Freedom and Responsibility Policy Statement);
 - bring authorities up to date with best practice in internal audit;

- promote effective governance and corporate responsibility - a new requirement for the “relevant body” under audit to be explicitly responsible, as part of its corporate responsibility for internal control, financial management and risk management. The relevant body should review at least once a year the effectiveness of its internal control systems and include a statement on internal control with the financial statements;
- raise the threshold above which community councils are required to prepare income and expenditure accounts and statement of balances from £50,000 to £100,000; and
- raise the threshold above which community councils are required to produce a full statement of accounts from £500,000 to £1 million.

Risk Assessment

5. It is important to bring these regulations into effect as soon as possible to allow adequate preparation time for local authorities to take on board the new requirements introduced in the Regulations.
6. There is a potential risk, in relation to the bringing forward of the approval or publication deadlines for the statement of accounts for principal authorities, that they might have some practical problems achieving the new deadlines. However, local authorities have been aware of this policy commitment since the issue of Freedom and Responsibility Policy Statement in March 2002. This risk has been managed by introducing both deadlines in a phased way over a two year period. The deadlines are also set to coincide with the production of information for the Whole of Government of Wales Accounts (WGWA) in 2006-07. Guidance has been issued by Chartered Institute of Public Finance and Accountancy (CIPFA) to assist local authorities with their preparations for early closure. In March this year, CIPFA and the Audit Commission in Wales have also hosted regional seminars on early closing of local authorities' accounts.
7. There is a possibility that some authorities may experience difficulty producing a statement of internal control for the first year of its implementation, 2005-06. However, issuing the regulations as soon as possible and allowing maximum preparation time for this new requirement will reduce this risk. It will also be promoted strongly by officials. This new regulation represents an important requirement that will encourage good corporate governance by promoting effective internal control, and risk management. It brings local authorities in line with best practice in the private and public sectors. Additionally, the risk assessment that is updated annually as a part of the implementation of the Wales Programme for Improvement should provide an effective background for the annual review of internal control and the statement of internal control. CIPFA has produced guidance on the review of internal control and the production of the statement on internal control with the financial statements. This will support local authorities in the introduction of the new duty.

8. Raising the accounting thresholds for the lowest threshold for community councils (i.e. the receipts and payments basis from £50,000 - £100,000) and the income and expenditure statement threshold from £500,000 to £1 million could mean that these less onerous accounting requirements may lead to less control of the financial arrangements of individual community councils. However, community councils remain bound by Section 151 of the Local Government Act 1972 which requires that every local authority put in place proper arrangements for their financial affairs. The increase from £500,000 to £1 million will mean that the accounting threshold will differ from the thresholds for external audit regimes. However, discussions are ongoing with the Audit Commission in Wales to address this.
9. In addition the risks of implementing the new deadlines and duties will be mitigated by the production of guidance to accompany the new Regulations which will make clear recommendations of good practice. It will also suggest that the deadlines should be adopted at the earliest opportunity.

Options

Identifying the issue

10. Two options have been identified:-

Option 1 - Do Nothing

11. If this option was chosen local authorities in Wales would be producing their accounts in line with regulations that are almost ten years old and now out of step with modern approaches to corporate governance and modern accounting practice. Doing nothing would realise none of the benefits identified in paragraphs 4 and 14 of this appraisal. It would also mean that the Assembly Government would not be able to produce Whole of Government of Wales Accounts.

Option 2 - Make this Legislation

12. The development of these regulations has been based on the improvements to the 1996 Accounts and Audit Regulations and to the English Regulations, (the Accounts and Audit Regulations, England 2003 (S.I. 533)). Consultation issues have been discussed informally with the Welsh Local Government Association, Office of the Deputy Prime Minister, Audit Commission in Wales and Chartered Institute of Public Finance and Accountancy

13. A commentary on the all the amendments to the 1996 Regulations was included in the consultation paper.

Benefits

14. The Accounts and Audit (Wales) Regulations 2005 will provide clarity, consolidate and improve on the current 1996 Accounts and Audit Regulations. The Regulations will ensure a flexible but robust approach in accordance with best practice on internal control, financial and risk management and internal audit. They will also require adherence to proper

practices in relation to the production of their statement of accounts and internal audit.

15. The new Regulations will bring forward approval and publication timescales for the statement of accounts which will lead to:

- local authorities having more accurate information to meet the requirements of the Whole of Government of Wales Accounts (WGWA).
- encourage effective financial management and planning as accurate outturn information will be available far earlier in budget planning time-tables, this will also feed positively into planning mechanisms for local authorities prudential indicators;
- accurate outturn information will feed into the financial and performance information included in authorities' published Improvement Plans.

16. The new accounting thresholds for community councils will align the Best Value and accounting thresholds.

17. The regulations will also have the advantage of ensuring that these community councils do not have a disproportionate burden in terms of their accounting arrangements.

Costs

18. There are no additional costs for the Assembly as a result of these Regulations.

19. The costs of making the necessary amendments to the draft regulations and of supporting the legislative process will be met from within the existing budgets of Office of the Counsel General and Local Government and Modernisation Division.

20. For local authorities there may be some additional project management/set up costs for both the introduction of the new approval and publication deadlines and the annual (or more frequent) effectiveness review and statement of internal control. These can be absorbed in normal running costs and be outweighed by the benefits provided in terms of better financial planning and management information and the assurance of more effective internal controls

21. These regulations have no implications for the business or voluntary sector.

Competition Assessment

22. This is not applicable to these regulations.

Consultation

23. The National Assembly for Wales has used powers transferred on it under Section 27 of the Audit Commission Act 1998, and has consulted, in accordance with section 27(3) of that Act, the Audit Commission, all local authorities in Wales and such associations of local authorities as appear to be appropriate. Section 27(3) of the Audit Commission Act states "Before making any regulation under this Section, the Secretary of State shall consult (a) the Commission; (b) such associations of local authorities as to appear to him to be concerned, and (c) such bodies of accountants as appear to him to be appropriate.
24. These identical powers have been included in the Public Audit (Wales) Act 2004, and on that basis the consultation remains valid. The consultation papers were issued in hard copy and electronically to all county and county borough councils, national parks, police and fire authorities, all the accounting bodies including the CIPFA, the Audit Commission in Wales, all community and town councils in Wales and One Voice Wales.
25. The amendments to the Accounts and Audit Regulations are closely associated with the changes proposed in *Freedom and Responsibility in Local Government*, and the subsequent Local Government Act 2003 which introduced the Prudential Framework for Capital Expenditure. Local authorities have been given greater control over their own decisions under the new Act there is therefore a need to ensure that there are robust frameworks for financial accountability and control and for the preparation and audit of the annual statement of accounts.
26. The proposed amendments will potentially have a significant impact on the management arrangements of authorities and the work of external auditors. It was therefore necessary to obtain views on:
27. whether the proposals were workable; this is particularly important for the target deadlines;
28. the extent to which consultees believe the proposals would achieve the Assembly Government's objectives highlighted in the summary; and
29. where new freedoms were being offered, whether appropriate safeguards were in place to prevent a weakening of financial control.
30. The consultation period commenced on 2 April 2004 and closed on 2 July 2004. The delay in making these regulations has been caused by the need to commence provision in the Public Audit (Wales) Act 2004 upon which these regulations rely for statutory authority.
31. Sixty three responses were received: eleven county and county borough councils; two national park authorities; one fire authority; forty five community and town councils; the Society of Welsh Treasurers (SWT), the Society of Local Council Clerks (SLCC), the Audit Commission in Wales (ACiW) and the Institute of Chartered Accountants in England and Wales (ICAEW). The Consultation responses are detailed in Annex 1 attached.

Review

32. Once new regulations are in force the Assembly will continue to review their efficacy with local government finance groups, CIPFA and the Audit Commission in Wales.

Summary

IN SUMMARY, THE INTENTION IS TO UPDATE THESE REGULATIONS TO REQUIRE THAT LOCAL AUTHORITIES PRODUCE ACCURATE AND TIMELY INFORMATION IN RELATION TO THEIR FINANCIAL STATEMENTS IN ACCORDANCE WITH PROPER PRACTICES. THIS MEANS THAT BEST PRACTICE IS ADHERED TO IN RELATION TO INTERNAL CONTROL AND UNNECESSARY BURDENS ON COMMUNITY COUNCILS ARE REDUCED

ANNEX 1

1. The significant detail of the consultation responses was as follows:
2. Functions not to be the Responsibility of the Executive – The ACiW gave support to the proposal that it be made clear that responsibilities for financial control would not be functions of the Executive, considering that this would reinforce the separation of the accountability between the Council and the Executive.
3. Internal Control – Proposals for specific responsibilities for internal control and financial management were commented on by 14 respondents, with only three making any adverse comment. These respondents were not seeking to argue that internal control should not be as strong as the proposals would require, but that this could be achieved by reliance on “proper practices” rather than the detailed provisions proposed. This was countered by the ICAEW view there was a possibility of non compliance and therefore the regulation should be promoted strongly.
4. Accounting Records and Control Systems – no strongly positive or negative comments were made with regard to proposals relating to the duty of the Responsible Financial Officer (RFO) to ensure on behalf of the authority that the accounting records and control systems are in place.
5. Internal Audit – there was no disagreement to the introduction of an addition to this regulation to require this duty to be performed in accordance with proper practices.
6. Statement of Accounts – there was no groundswell of opinion to support a reliance on proper practices for the content of the statement of accounts, rather than a detailed specification of the statements to be included.
7. Salaries of Senior Staff – all ten respondents who commented were in favour of an increase in the threshold above which authorities have to disclose the numbers of officers earning particular levels of salary in the statement of accounts. Four (including the SWT) were of the view that inflationary movements since the 1996 Regulations meant that the threshold should rise from £40,000 to £60,000, rather than the proposed figure of £50,000.
8. Disclosure of Members’ Allowances – the responses supported clear and transparent reporting of members’ allowances in the statement of account, but there was no convincing endorsement of the proposal for a note to the statement that would set out the number of members receiving payments within specified bands.
9. Budgeted Income Thresholds for Community Council Accounting Requirements – sixteen of eighteen respondents commenting on this Regulation supported the raising to £1,000,000 of the threshold above which community councils are required to prepare a full statement of

accounts, so as to align with the best value threshold. The ACiW noted that this would result in differences with England (where the threshold is £500,000) and would not be consistent with the audit regime, which is more onerous for authorities above the £500,000 mark.

10. Other Accounting Statements for Community Councils – twenty five respondents supported an increase from £50,000 of the threshold above which community councils must prepare income and expenditure accounts. Five argued that the threshold should remain as it is, but four preferred an increase to £150,000 and thirteen supported a £200,000 threshold. However, those promoting an increase did not provide convincing arguments as to how the benefits of moving to a higher threshold would outweigh the risks of a less onerous regime.
11. Signing and Approval of the Statement of Accounts – only three of nineteen respondents opposed the proposal to require the presiding member at the Council or Committee meeting that approves the accounts to sign the statement of accounts.
12. Deadline for Approval and Publication of Accounts- the consultation paper proposed a stepped timetable for bringing forward the statutory deadlines for approving and publishing the accounts. Only the ACiW supported an option to roll the deadlines forward by a further twelve months so that an earlier deadline would apply for the first time to the 2004/05 statement of accounts. ICAEW commented that, on the basis of experience from Scotland and England, a three year lead-in would be advisable rather than the proposed two years, but acknowledged that preparatory work was already under way in advance of the proposed statutory requirement.
13. Public Inspection of Accounts – eleven of twenty three respondents considered that the current 15 day inspection period for public access to the accounts and supporting records was adequate, the remaining respondents either supported or noted the proposed increase. However, no sustainable arguments were presented as to why the rights of electors in Wales should be less than those in England (where the proposed 20 days is in force).
14. Notice of Public Rights and Notice of Conclusion of Audit – the ACiW and ICAEW both opposed the proposal to remove the duty of an authority to notify the appointed auditor when public notices have been issued.
15. Publication Issues/Alteration of the Accounts – there was no weight of support for a requirement for altered accounts to be resubmitted to members for approval. One authority provided useful drafting commentary on the cost of issuing copies of documentation to the public.