
REPORT TO:	AUDIT SUB COMMITTEE	AGENDA ITEM: 9
DATE OF MEETING:	24th SEPTEMBER 2014	CATEGORY: RECOMMENDED
REPORT FROM:	DIRECTOR OF FINANCE & CORPORATE SERVICES	OPEN
MEMBERS' CONTACT POINT:	KEVIN STACKHOUSE (01283 595811) Kevin.stackhouse@south-derbys.gov.uk	DOC: u/ks/live files/audit committee/audit and accountability act/audit committee sept 2014
SUBJECT:	LOCAL AUDIT and ACCOUNTABILITY ACT 2014	
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE: AS 04

1.0 Recommendations

- 1.1 That the report is considered and noted.
- 1.2 That updates are provided to the Committee relating to developments on the options for the Council to appoint its external auditor from April 2017.
- 1.3 That any other emerging issues requiring an update are identified and are subject to a future report to the Committee.

2.0 Purpose of the Report

- 2.1 To provide details of the provisions set out in the Local Audit and Accountability Act 2014 (*the Act*) and the effect that this will have on the Council's Audit, Accounting and overall governance arrangements.

3.0 Detail

- 3.1 The Act became law earlier in the year. It has three components. These are:
 - Abolition of the Audit Commission and establishing new arrangements for the auditing of public bodies, including the local appointment of external auditors.
 - Providing the Secretary of State with further legal powers to enforce compliance with the Code of Recommended Practice on Local Authority Publicity.

- Extending the referendum provisions introduced in the Localism Act to include levying bodies when setting the limit by which Council Tax can be raised before a council needs to hold a referendum.

3.2 Many of the provisions in the Act are now enforceable. In addition, under the Act, secondary legislation has also been introduced to amend the existing Account and Audit Regulations.

3.3 These will bring forward the dates for publishing accounts, together with making changes to the procedure to enable the public to inspect accounting records and make representations. These regulations are currently in draft form.

3.4 In addition, the Openness of Local Government Bodies Regulations 2014, which came into force in August 2014, opens up council meetings to digital and social media.

Auditor Appointments in the Future

3.5 The Audit Commission will be abolished on 31st March 2015 and will no longer be the body responsible for appointing external auditors for public authorities. A transitional body will manage existing contracts until their expiry in 2017 or to 2020 if the DCLG opts to extend some or all of the existing contracts.

3.6 Consequently from these dates, local councils will need to appoint their own auditors. They must do this by the 31st December in the year that proceeds the financial year which will be covered by the accounts to be audited.

3.7 The appointment can be for a period of between one and five years. There are two options under which the appointment can be made.

Option 1 Collective Procurement

3.8 A council can opt into a sector led collective procurement exercise. In this case, an appointed body, approved by the Government, will procure and monitor auditors on a regional, national or some other geographical basis on behalf of councils who choose to opt in.

3.9 The Act requires that any decision to opt-in to collective procurement will need to be taken by Full Council. Council's that opt-in will do so for the duration of the "appointing period" (one to five years). The opportunity to opt-in will only occur at the formal invitation point.

3.10 The appointed body will be required to consult on and then set a scale of fees for audit, which opted-in councils will be required to pay.

3.11 The detailed framework for how this option will work in practice will be determined over the coming months.

Option 2 Independent Auditor Panels

- 3.12 A council can establish a local independent auditor panel. This panel would assume the role of an appointed body under Option 1 and be responsible for considering and recommending an external auditor to Full Council. It would also monitor the relationship with the external auditor.
- 3.13 A panel could be the local Audit or Governance Committee if it can be demonstrated that this Committee is independent for this purpose.
- 3.14 The Act specifies that to demonstrate independence, a panel must consist of a majority of independent persons and be chaired by an independent person, i.e. not a council officer, Member or any person connected to them.
- 3.15 If a council uses the collective procurement option, there is no requirement to set up an Audit Panel.
- 3.16 With both options, the Secretary of State has reserve powers to act if a council fails to make an appointment by the required deadline.

Implications for the Council

- 3.17 The Council's current external auditors (Grant Thornton) will finish their current contract term on 31st March 2015. As an interim measure, the Audit Commission have notified the Council that EY (previously known as Ernst and Young) have been appointed to audit the Council's accounts from 2015/16 for two years.
- 3.18 This will be confirmed by 31st December of this year and the appointment will then commence on 1st April 2015.
- 3.19 Therefore, the first year that the Council will need to appoint its own external auditors (using one of the above options) is for 2017/18, subject to any extension granted to EY.
- 3.20 Whatever date, there is likely to be a lead in time to enable the Council to approve the preferred option and to allow for a procurement exercise
- 3.21 Assuming 2017/18 becomes the earliest date, the appointment will start on 1st April 2017. Therefore, the Council will need to appoint by 31st December 2016, to meet the requirements of the Act.
- 3.22 Working back from these dates, an indicative timescale is considered to be:

Keep under review the two options in the Act	By April 2015
Analyse implications of the two options locally and recommend best option for the Council	By June 2015
Decision by Council on preferred option	By September 2015
Council undertakes due process using preferred option to recommend auditor to Full Council	By September 2016
Council appoints auditor	By December 2016
Auditor commences	April 2017

Subject to extension with EY, in which case the timetable would be put back accordingly.

3.23 As it currently stands, over the remainder of this financial year 2014/15, it is proposed that the two options are kept under review as issues are considered and agreed nationally. Organisations such as the LGA and CIPFA are expected to take a leading role in developing a framework and advising councils.

3.24 A decision on the preferred option may be required as early as September 2015. If the decision is to appoint an independent panel, sufficient time will need to be allowed to set up a panel, make appointments and undertake a procurement exercise.

Local Government Publicity Code

3.25 The Act allows the Secretary of State to give directions and make orders requiring local councils to comply with the provisions in the Code of Recommended Practice on Local Authority Publicity. The Code was specified in the Local Government Act 1986 and has existed for many years.

3.26 The principles of the Code are not expected to change. The provisions in this Act will allow the Government to intervene if they feel that any council is not complying with the Code. The principles contained in the Code set out that publicity by local authorities should:

- Be lawful
- Be cost effective
- Be objective
- Be even-handed
- Be appropriate

- Have regard to equality and diversity
- Be issued with care during periods of heightened sensitivity

Public Meetings

3.27 Under the Act, “the *Openness of Local Government Bodies Regulations*” which are now operative, require local councils to allow filming and the use of social media at council meetings. Effectively, it will allow any person to attend a public meeting for the purposes of reporting.

3.28 Reporting is defined in the regulations as:

- Filming, photographing or audio recording proceedings.
- Using any other means for enabling persons not present to see or hear proceedings of a meeting as it takes place or later.
- Reporting or providing commentary on proceedings of a meeting, orally or in writing.

3.29 The regulations will allow any person, with the aim of reporting, to use any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities during or after the meeting.

3.30 The regulations will not apply to exempt parts of a meeting, only business conducted in open session. They apply to all council and committee meetings, including sub and joint committees.

3.31 The regulations will also require a written record to be published regarding certain decisions delegated to officers where the decision:

- Grants permissions or licenses
- Affects the rights of individuals
- Awards contracts
- Materially affects the body’s financial position

3.32 It will be a criminal offence for non-compliance against the person who has custody of such decisions and who refuses to disclose or unintentionally obstructs the disclosure of appropriate documents.

Implications for the Council

3.33 The Council will now need to review its procedures to ensure that compliance with the Regulations is achieved.

Referendum Provisions

- 3.34 Any charge imposed by a levying body such as the Environment Agency, a local Drainage or Transport Board, is added to the relevant authority's Council Tax Bill and is effectively a further precept on local Council Tax Payers.
- 3.35 Currently, any increase in a levy from one year to the next, is not included in the calculation that determines whether a local referendum should be held if Council Tax increases by over 2%.
- 3.36 This Act now requires that a levy is included. However, currently it will only affect a very small number of shire districts as the main levying bodies exist in metropolitan areas and Greater London.
- 3.37 In principle however, the Environment Agency for example, could elect to place a levy on South Derbyshire residents; this could impact and affect any overall increase in Council Tax that the Council may wish to impose in the future.

Accounts and Audit Regulations

- 3.38 The current 2011 regulations set out requirements on financial management, internal control, internal audit, the content of published accounts, together with procedures affecting the accounts and public rights to inspect the accounts.
- 3.39 New regulations under the Act will not change the principle of these requirements but will:
- Set an earlier timetable for the preparation and publication of the statement of accounts.
 - Streamline the procedures relating to the public's rights to inspect the accounting records and to put objections and questions to the auditor.
- 3.40 In addition, central government has acknowledged concerns from finance professionals regarding the growing complexity and length of local authority accounts. Consequently, they have committed to working with CIPFA to simplify the accounts and make them easier to understand.

Earlier Closure and Publication of the Accounts

- 3.41 The proposal contained in the regulations is to bring forward the existing dates of 30th June (draft accounts submitted for audit) and 30th September (final publication) to 31st May and 31st July respectively. This will apply from the accounts for 2017/18.
- 3.42 This "period of notice" is intended to give councils time to make the necessary changes in their processes and external auditor's time to adjust their arrangements accordingly.

3.43 Given this, it is proposed that the Council uses the years 2014/15 and 2015/16 to implement the changes required to adhere to the new timetable and to go live with the revised deadlines from the accounts for 2016/17, a year earlier than the regulations.

3.44 However, this can only apply to the first deadline of 31st May (draft accounts stage) as the second deadline is dependent on the ability of the external auditor to complete their work in time. Therefore, officers will work with the auditors to achieve an earlier closedown ahead of 2017/18.

4.0 Financial Implications

4.1 None

5.0 Corporate Implications

5.1 Council procedures will need to be reviewed with some awareness raised regarding the recording of public meetings and publishing of delegated decisions.

6.0 Community Implications

6.1 The main objective of the Act and secondary legislation is greater transparency and openness. The Act is designed to allow local residents more flexibility to report on public meetings and for greater involvement in the accounts process, etc.

7.0 Background Papers

7.1 The Audit and Accountability Act 2014

<http://www.legislation.gov.uk/ukpga/2014/2/contents/enacted/data.htm>

7.2 The Local Audit Regulations (draft)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324239/Local_Audit_Consultation3.pdf

7.3 Openness of Local Government Bodies Regulations

<http://www.legislation.gov.uk/ukdsi/2014/9780111113554>