

REPORT ON RESPONSES RECEIVED TO CONSULTATION ON THE ACCOUNTS AND AUDIT REGULATIONS 2003, AND THE GOVERNMENT'S FINAL DECISIONS ON THE PROPOSALS

Introduction

1. Between September and December 2002 the Office of the Deputy Prime Minister (ODPM) undertook a public consultation on proposed amendments to the Accounts and Audit Regulations 1996, which set out the accounting requirements of local authorities. This paper provides information on the proposals on which this consultation was based and gives an analysis of the responses received, as well as explaining the decisions the Government has taken on each of the detailed proposals as implemented by the 2003 Regulations. Revisions to the Regulations took into account the views of consultees, as well as legal and professional advice received.

2. The Regulations which incorporated the changes referred to in this paper also consolidated earlier amendments to the 1996 Regulations. The revised Regulations were issued on 11 March 2003 and came into effect on 1 April 2003. (Regulations 7 and 9 have effect from the financial year 2002/03 and for subsequent years; all the other Regulations have effect from the financial year 2003/04 and for subsequent years, with a phased implementation for changes to accounts approval and publication deadlines) A circular (ODPM 04/2003) giving guidance to authorities on the operation of the Regulations was also issued on 11 March.

General summary of responses

3. 369 responses were received to the consultation.

Of these responses:

- 237 were from parish councils, councillors or local representative parish council groups;
 - 116 were from county, district or borough councils, locally-based principal authority representative bodies, Fire Authorities, Police Authorities, or Passenger Transport Authorities;
 - 10 were from accountancy/auditing representative bodies or individual accountancy/auditing companies;
 - 4 were from national local authority representative bodies, or staff representative bodies (LGA, NALC, SLCC, and GMB); and
 - 2 were from other public bodies (the Audit Commission and the National Audit Office).
- Detailed comments from consultees on each of the proposed revisions to the Regulations are listed below:

Responses on proposed amendments

Regulation 4 - Responsibility for financial management

Proposed amendment:

4. A new requirement for the relevant body to be explicitly responsible as part of its

corporate responsibility for the financial management and accounting control systems of the body. The relevant body should review at least once a year its internal control systems and make a statement on the adequacy of internal control. The ODPM should issue separate guidance to indicate that the NALC/SLCC guide, *Governance and accountability in local councils in England and Wales. A Practitioners' Guide*, provides for local councils to complete an Annual Return, including a statement of assurance which serves the purpose of the annual statement on internal control.

What the consultees said:

5. 67 respondents agreed with this proposal, with a number of others suggesting ways to strengthen it. 22 respondents disagreed.

6. There was general agreement that reviews of internal control systems would promote more effective management, but concerns were raised about the nature of the 'control systems' which should be reviewed.

7. Seven respondents thought that clarity was needed on whether the proposal referred only to financial management and accounting control systems or instead to the wider system of control. The Audit Commission and CIPFA felt that reference to 'accounting control systems' might mean internal control being interpreted too narrowly.

8. CIPFA, ICAEW and 7 other respondents thought conflict would be caused between 'corporate responsibility' and the statutory roles of the responsible financial officer (RFO) and the Head of Service, and that a threshold should be set below which statements of assurance should not be needed for local councils.

9. Three respondents suggested that corporate responsibility could be promoted by the development of close working relationships between RFOs and council members. Two respondents suggested that a requirement could be made for authorities to adopt a 'local code of corporate governance'. NALC suggested that some explanatory material would be useful to reassure members as to their roles and personal liability.

10. Six respondents stressed the resource implications of implementing the proposal, including the need for any burdens on smaller councils to be limited, and that an annual review of the effectiveness of internal controls was too prescriptive and an unnecessary burden for a small parish council.

Government response:

11. The Government accepts the view expressed by a number of respondents that the originally proposed wording of the Regulation was inappropriately narrow in its reference to financial activity, rather than the operation of a wider system of internal control, as intended. An amendment was therefore made to reflect this wider purpose so as refer to 'a sound system of internal control'.

12. The Government also accepts the view taken by the Audit Commission, that the requirement for a report to be made on the 'adequacy' of internal controls would have

introduced into local government a more onerous requirement than similar requirements already existing in other sectors. The intention of the proposed change to the regulations was to bring local government into line with generally accepted practice in corporate governance rather than exceed generally accepted practice, as would be implied by a requirement to report on the 'adequacy' of internal control. The reference in the Regulation to the 'adequacy' of internal controls was therefore deleted.

13. We decided that minor amendments would be made to the Regulation to clarify the intention that both principal authorities and parish councils are covered by the requirements in the Regulation to provide a statement on internal control. The guidance circular accompanying the Regulations indicates that for local councils the statement on internal control is provided by the statement included in the Annual Return recommended for use by local councils in the NALC/SLCC guidance.

Regulation 5 - Accounting records and control systems

Proposed amendment:

14. A new requirement to clarify that when RFOs make their determinations on accounting records and accounting control systems, they do so on behalf of the relevant body. The aim of this is to emphasise each body's 'ownership' of its own financial management.

What the consultees said:

15. 54 respondents agreed with the proposal, or suggested it should be strengthened, while 11 disagreed.

16. Two respondents suggested that 'ownership' could be further developed by the RFO's recommendations being formally noted in the council minutes, or by the RFO being present at meetings of the authority's senior management team.

17. Four respondents queried the type of risk which needed managing (ie whether it should be restricted to financial risk) One other considered that the proposed wording would mean that 'risk management' referred to in Regulation 5 would be seen as part of the RFO's duties, rather than being a wider authority responsibility. CIPFA and the Audit Commission suggested that 'risk' was an issue which had to be assessed in respect of every council operation, and not merely financial administration.

18. CIPFA also said that reference to the RFO's role should retain mention of 'accounting control systems', since the RFO was not responsible for all internal controls. The heading above the Regulation could be amended to read 'Accounting Records and Accounting Control Systems'. ICAEW and two other respondents suggested there was a need to consider the link between the proposals and the existing statutory role of the RFO.

19. Four respondents said that the proposal did not seem likely to make any practical difference to the 'ownership' of financial management by councils or that the change appeared 'cosmetic' or was not a new concept. Three others said that authorities already

have sufficiently robust accounting systems, and that enough assurance was already obtained by relying on the RFO's professional integrity, and that there was a possible danger of diluting the RFO's existing role if the proposed amendment was made. They felt that 'ownership' was already provided by the council's collective approval of the accounts.

Government response:

20. In view of the general support for this proposal, the Government has implemented the amendment requiring RFOs' determinations to be made on behalf of the relevant body. Concerns from some respondents raised in the context of this Regulation, about the need for 'corporate governance' and the respective roles of members and RFOs, are considered in the Government's response to the proposals included in Regulations 4, and 10.

Regulation 6 - Internal Audit

Proposed amendment:

21. A new requirement for all relevant bodies to follow 'proper practices' when carrying out their internal audit role. To issue separate guidance which will indicate what publications are considered to provide best practice in this context; ie for principal authorities the CIPFA *Code of practice for internal audit in local government in the United Kingdom*, and for local councils the NALC/SLCC guide, *Governance and accountability in local councils in England and Wales. A Practitioners' Guide*.

What the consultees said:

22. 52 respondents agreed with this proposal, while 24 disagreed. Several others commented on points of detail.

23. There was general agreement that 'proper practices' on internal audit ought to be followed, although CIPFA preferred the term 'best practice'.

24. A large number of respondents were concerned that the reference to 'accounting control systems' was not as wide-ranging as the existing wording of the Regulation, and felt that either clarification of the change was needed, or that an amendment should ensure that internal audit was carried out in respect of all control systems and records, and not just financial ones.

25. A large number of parish councils stressed the burdens caused to small councils by the need for 'independent' internal audit and felt that such audits were unnecessary.

26. Two respondents suggested that the internal auditor's authority would be usefully strengthened if there was a specific requirement for information which the internal auditor needs to carry out his role to be provided to 'the body or an auditor acting on behalf of the body'.

Government response:

27. The Government accepts the view expressed by some that best practice in internal

audit would allow for its scope potentially to cover the control of all operational systems, not only those specifically in respect of ‘accounting control systems’, as provided in our original proposal. An amendment has therefore been made to the Regulation to put this into effect, and to refer to the need to maintain an adequate and effective ‘system of internal control’.

28. A guidance circular accompanying the Regulations indicates what codes of practice provided by CIPFA and NALC/SLCC are to be regarded as ‘proper internal audit practices’ for the purposes of this Regulation.

Regulation 7(1) - Statement of accounts

Proposed amendment:

29. To delete the detailed list of items to be included in the statement of accounts set out in the 1996 Regulations and instead merely to require the statement of accounts to be prepared in accordance with proper practices. To indicate in separate guidance what codes of practice constitute in our view proper practice. For principal authorities, proper practice is represented by the CIPFA *Code of practice on local authority accounting in the United Kingdom*.

What the consultees said:

30. 38 respondents agreed with this proposal, while 8 disagreed.

31. The requirement that the preparation of the statement of accounts should follow proper practice was generally welcomed. However, three respondents suggested that proper practice was already being followed, so the amendment was unnecessary. Two respondents suggested that the Regulation should refer directly to the CIPFA Code of Practice and so obviate the need for separate guidance.

Government response:

32. In view of the general support for the proposal that proper practices should be followed, the Government has retained reference to ‘proper practices’ in the Regulation. A guidance circular accompanying the Regulations indicates that the CIPFA code of practice is to be regarded as proper practice for the purposes of this Regulation. We appreciate the view which some respondents took that the Regulation itself should refer to this best practice code. However, legal advice suggested that it would be preferable to refer to best practice in separate guidance material, since if Regulations named any external codes, any changes to such codes would mean that the Regulations would also themselves need to be amended. We decided therefore that it would be more practicable to refer to codes of practice in separate guidance to accompany the Regulations.

33. The Government has also responded to further legal advice which suggested there was a need to link the reference to ‘proper practices’ at Regulation 7(1) more closely to the CIPFA code, so as to provide greater clarity about what is actually meant by ‘proper practices’ in this context. In the light of this, an updated list of items for inclusion in the statement of accounts has been added to this Regulation, to reflect the items currently

considered to be required by good practice under the CIPFA code.

34. To ensure that the benefits of this provision are felt at the earliest opportunity, we have provided for Regulation 7(1) and the other provisions in Regulation 7 to come into effect from the financial year 2002/03 and for subsequent years.

Regulation 7 - Statement of accounts – best value performance plan

Proposed amendment:

35. A new requirement for best value authorities to provide an explanation to accompany the statement of accounts on differences between the financial outturn shown in the statement of accounts and the authority's best value performance plan (BVPP). The purpose of this is to address concerns about inconsistencies between the information given in the accounts and the best value outturn.

What the consultees said:

36. 35 respondents agreed with this proposal, while 25 disagreed.

37. Ten respondents suggested that differences between the accounts and the BVPP should only be noted where any differences were 'significant' or 'material'; the advice of the auditor would help on this. Some also thought it should be made clear that information was only required on the outturn figure, not any other difference between the BVPP and the statement of accounts, and whether information was being required in respect of the current or the previous year's BVPP.

38. Five respondents suggested that the proposal was unnecessary and bureaucratic, and that discrepancies would in any case be apparent by a scrutiny of the balance sheet and supporting notes. It also ran counter to other proposals providing a less prescriptive approach. Six others suggested that the statement of accounts was not an appropriate place for an explanation of the BVPP, since this was not relevant to the statement, and that few people would take an interest in the information provided. It would be preferable for the BVPP itself to refer to any errors occurring in the estimated figures in the previous BVPP, and that in any case other proposals would bring closer together the timing of the statement of accounts and the BVPP, so that any discrepancies would disappear over time.

Government response:

39. The Government recognises the strong views expressed by many respondents that this proposal was unnecessarily bureaucratic. We have therefore decided not to pursue this proposal by way of an amendment to the Regulations themselves. We have instead recommended as good practice in the guidance circular accompanying the Regulations that best value authorities should include with the statement of accounts an explanation of any significant difference between the statement and any summary of financial information included in their BVPP. In addition to this good practice, we consider that the bringing forward of the deadline for the approval of the accounts, referred to at Regulation 10 below, will further reduce the potential for any discrepancies between any

summary financial information in the BVPP and the statement of accounts.

Regulation 7 - Salaries of senior staff

Proposed amendment:

40. A new requirement for principal authorities and parish councils with income or expenditure of £500,000 and over to provide information to accompany the statement of accounts on the salaries and allowances received by named senior staff. The aim is to require the disclosure of salary information along the lines of the provisions operating elsewhere in the public sector. The views of consultees were invited on whether the list of statutory officers and the other provisions in this Regulation would adequately identify those officers who were members of authorities' corporate management teams and/or have senior decision-making roles for the various authority functions.

41. Consultees' views were also invited on whether it would be consistent with the above approach to include remuneration received by elected mayors and other senior elected members in the information to accompany the accounts, eg would accessibility and transparency be improved if information on councillors' allowances, required to be provided under separate Regulations, was made available in the same place as salary information for officers; or should councils instead indicate, when providing staff salary details with the statement of accounts, that information on councillors' allowances is available separately?

What the consultees said:

42. 56 respondents agreed with this proposal, while 81 disagreed.

43. Many respondents felt that the proposal to name individual staff members was unnecessarily bureaucratic, overly prescriptive and would impinge on existing protections relating to the disclosure of personal information.

44. 33 respondents were concerned that the naming of staff might mean that personal, confidential information would need to be revealed, possibly leading to a contravention of section 15 of the Audit Commission Act 1998, the Data Protection Act, Article 8 of the Human Rights Act, or section 11 of the Local Government Act 1989. They suggested that only information in respect of the post and not the name of the post-holder should be provided. Two others suggested that the provision of this information should be left to the discretion of the authority. A few councils said that this information was already in practice provided in their existing statements.

45. CIPFA, ICAEW and another respondent suggested that staff data protection rights should be clarified, including rights to withhold information.

46. Four respondents suggested that only the salaries of the key staff, the Head of Paid Service and the RFO, should be provided, or that instead a definition should be given of what was meant by the 'corporate management team'.

47. NALC and 16 other respondents suggested that less onerous rules should apply for local councils, or they should be exempted from the disclosure requirement. For local councils it was suggested that the proposal could mean, for example, that a large number of staff, including in some cases those receiving only modest salaries, would need to be named. NALC and three others suggested that only staff in receipt of salaries over £40,000 should be included, so as to be consistent with the current banding arrangements in Regulation 7(3). Others suggested that £80,000 could be chosen as the starting point.

48. CIPFA and 23 others suggested that the £40,000 starting point for the salary banding information in Regulation 7(3) should be uprated to reflect inflation since 1996, and possibly reviewed on a regular basis so that only senior managers were included. Most suggested uprating to £50,000, but £45,000 and £60,000 were also suggested.

49. CIPFA and 12 other respondents stressed that information on members' allowances was already available from councils, and that it might be sensible for the statement of accounts merely to indicate where at the council, or in what other publication, electors would be able to find this information. 5 others, however, suggested that for consistency councillors' allowances should be included in the information provided in the statement of accounts.

Government response:

50. The Government recognises the concerns raised by many authorities and their representative bodies. In particular, acting on legal advice, the Government recognises that the general protection provided by section 15 of the Audit Commission Act 1998 prevents making this disclosure requirement through these Regulations. In view of these concerns, the Government has decided not to pursue this proposal, while noting that disclosure requirements similar to those proposed are in place in some other parts of the public sector.

51. We have decided, again in the light of the views of many consultees, to retain and update the existing disclosure requirements in the Regulations providing for information to be provided on numbers of senior staff in various salary bands. In line with the views of many consultees, the starting point for the provision of the salary banding information has been raised from £40,000 to £50,000. To ensure that the benefits of the higher threshold are felt at the earliest opportunity, the raised threshold will apply for the financial year 2002/03, and for subsequent years.

52. To reflect the suggestions made by a number of consultees, we have recommended as good practice in the guidance circular accompanying the Regulations that authorities indicate in a note to the statement of accounts where information on members' allowances can be found. The aim of this is to give assistance to those electors with an interest in senior staff salaries who may also be interested to know that information is already separately available on members' remuneration.

Regulations 7 and 9 - Budgeted income

Proposed amendment:

53. To replace references in the 1996 Regulations to 'budgeted income' with reference instead to gross income or expenditure, whichever is the higher. This is a minor tidying-up measure, aimed at bringing the definition used for determining the accounting requirements for authorities into line with the definition used by the Audit Commission for audit treatment.

What the consultees said:

54. 41 respondents agreed with this proposal, while 5 disagreed.

55. Three respondents suggested that a clear definition of the terms 'gross income' and 'gross expenditure' needed to be given, perhaps in NALC guidance. CIPFA said that the change would mean that thresholds would need to be assessed retrospectively rather than prospectively, as now, and might mean that the need for a different financial regime would only be apparent after the end of the financial year. They therefore suggested a revised wording of: 'gross budgeted expenditure or income'.

56. Of those who disagreed, 2 said that the change was not necessary and might create unnecessary bureaucracy.

Government response:

57. In view of the general welcome for this proposal, the Government has implemented the change to the definition used for determining the accounting threshold. Having carefully considered the views put to us by consultees, we do not feel that any further guidance is needed on what is meant by 'gross income' or 'gross expenditure', as suggested by some, since we feel these terms are already generally understood. Although some thought that clarification was needed on how the definition should operate, we feel that it is already sufficiently clear from the drafting of the Regulation that the income and expenditure test will be in respect of the financial year for which the statement of accounts will be made. The revised definition referred to in Regulations 7 and 9 has effect for the year 2002/03, as well as for subsequent years.

Regulation 9 - Other accounting statements

Proposed amendment:

58. To reduce the accounting burden for smaller local councils by increasing the accounting threshold to allow a larger number of local councils to be subject to the least onerous accounting regime. The existing threshold of £50,000 used in defining the circumstances in which a parish council must prepare an 'income and expenditure' account should be increased to £100,000. Councils with income or expenditure of less than £100,000 will be required to complete a record of receipts and payments. The 'income and expenditure' regime will apply for councils with income or expenditure between £100,000 and £500,000.

59. To clarify and amend the way in which the threshold should operate when it is exceeded by councils. This is a 'tidying up' measure, designed to ensure that the

accounting treatment for a body will be appropriate for the 'most typical' annual budget, even where, exceptionally, the budget is above the threshold for one or both of the last two years. The amendment makes it clear that the 'receipts and payments' regime should apply for all local councils, unless income or expenditure is at or above the £100,000 threshold for at least three years in a row, in which case the more onerous 'income and expenditure' regime should apply.

60. To introduce further flexibility to allow authorities which under the rules would otherwise be subject to the 'receipts and payments' regime, to be allowed instead to prepare an 'income and expenditure' account if they wish to do so. The intention is to respond to suggestions made by a few councils who have indicated that, although the increase in the threshold may bring them within the less onerous 'receipts and payments' regime, they wish to continue their current accounting practices, which they feel are working effectively and so avoid the disruption caused by unnecessary change.

What the consultees said:

61. 62 respondents agreed with the proposal, while 9 disagreed.

62. Most respondents were strongly in favour of the raising of the threshold and felt this would reduce the accounting burden for the smallest councils, as well as allow smaller local councils flexibility in the choice of accounting regime to follow. CIPFA, ICAEW and another respondent suggested that the £100,000 limit could be raised still further, perhaps to £150,000. NALC and another respondent suggested that the threshold figure should be linked to inflation, or reviewed every 5 years. Two other respondents suggested that a further even less onerous accounting regime should apply for smaller parishes, eg those falling below £5,000.

63. Two councils suggested that amendments were needed to clarify the requirements of the Annual Return for parish councils and reflect the fact that the preparation of balance sheets was not required by the Annual Return, but balance sheets were apparently required under the terms of the Regulation.

64. NALC suggested there was a need to review the drafting of the new '3 year' income and expenditure definition to ensure that it would achieve the aim set out in the commentary.

65. NALC, ICAEW and another respondent suggested that the £500,000 threshold for treatment as a principal authority could be increased to £750,000 or £1m, without significantly reducing accountability.

Government response:

66. In view of the general welcome for the proposal to raise the threshold, the Government has implemented the increase of the relevant threshold to £100,000. We will keep in mind suggestions made by some respondents that the £100,000 and £500,000 thresholds could be raised further when considering future amendments to the Regulations. Some minor redrafting has also been made to Regulation 9(3)(a), relating to

the '3 year' income and expenditure definition, to improve clarity.

67. In response to comments made by some consultees, we have amended references to the need for parish councils to prepare 'a balance sheet' in this Regulation and other Regulations, and instead referred to 'a statement of balances', where appropriate. The reason for this is that the Annual Return recommended for use by parishes in the NALC/SLCC Guide includes a requirement for statements of balances to be given, rather than the provision of a full balance sheet.

68. To ensure that the benefits of the higher threshold can be implemented at the earliest opportunity, we have provided for the raised threshold to apply from the financial year 2002/03, and for subsequent years.

Regulation 10 - Signing and approval of statement of accounts

Proposed amendment:

69. A new requirement for statements of accounts for all authorities to be signed and dated by the chair of the council or the chair of the relevant council committee, following the council's approval of the accounts. The purpose of this is to encourage members' 'ownership' of the accounts in line with other proposals aimed at promoting corporate responsibility.

70. To indicate in Regulations 10(2) and (3) the correct order of events for the RFO's signing and the authority's approval of the statement of accounts. In the 1996 Regulations, the council's approval of the accounts was referred to before reference to the requirement of the RFO to sign the accounts. The proposal is to reverse this order.

What the consultees said:

71. 69 respondents agreed with the proposal, while 36 disagreed.

72. Most respondents agreed that the proposal would reinforce the need for members to scrutinise the accounts and would upgrade the importance of the statement. Four respondents said that the practice of signing by the chairman of the council or the committee was already current practice in their authorities.

73. Nine respondents suggested that the proposal represented duplication and unnecessary bureaucracy, and would not improve accountability, since authorities were already required to approve the accounts, and other Regulations already provide for authorities to take responsibility for financial management issues. Eleven others suggested that it was inappropriate for the chair to sign, since the involvement of the chair might undermine the RFO's remit to determine the correctness of the accounts, and raise a question as to whether the member who signs shares the RFO's responsibility. Ten respondents suggested that the Regulation or guidance should indicate that the member should sign on behalf of the authority, or that some clarification be given on the role of the signatory. Two others suggested that it should be made clear that the members' signature would confirm that the committee has properly considered the accounts, not

that the accounts have been properly prepared.

74. Four respondents suggested that the terms of the Regulation should be updated to refer to the 'cabinet' or 'executive board' rather than 'committee', to reflect the current organisation of work at some authorities. Alternatively, clarification could be given that the 'cabinet' has the authority to approve the accounts.

Government response:

75. The Government appreciates the strong views expressed by some authorities that signing by members would not improve the 'ownership' of the accounts, and that the requirement for the chair to sign might cause confusion between the respective remits of the chair and the RFO. We do, nevertheless, feel that signature by the chair would contribute to an increase in the interest taken by members in the accounts. We have therefore implemented the requirement for the statement of accounts to be signed and dated by the person presiding at the committee or meeting at which approval to the accounts was given. The guidance circular accompanying the Regulations indicates that this signature represents the completion of the approval process and does not relate to the RFO's assessment of whether accounts have been properly prepared.

76. We considered the views of some respondents that the Regulation should refer to the 'cabinet' or 'executive board', so as to reflect the current organisation of work in some authorities. The drafting of Regulation 10 reflects legal advice we received that reference to 'committee or meeting' was sufficient to indicate the appropriate decision-making body within the authority.

77. A further minor amendment was made to Regulation 10(3) so as to split the paragraph into two sub-paragraphs, and make clearer what actions are required under the provision and the order of those actions, ie that the statement of accounts must be approved, and that it must then be signed and dated.

Regulation 10 – Deadline for approval of accounts

Proposed amendment:

78. To bring forward in a phased way the deadline for the approval of accounts for all authorities (currently end-September). The proposed new deadlines are: end-August for 2003/04, end-July for 2004/05 and end-June for 2005/06. The aim is to ensure the timely approval of the accounts. This will implement the commitment made in the Local Government White Paper to align the date for the approval of the accounts with the publication of best value performance plans.

What the consultees said:

79. 86 respondents agreed with this proposal, while 83 disagreed.

80. Many councils felt that the proposed earlier approval date was acceptable and achievable, and some mentioned that in their cases the end of June was already used as a target date for the approval of accounts. Many respondents, including CIPFA and

ICAEW, thought the 3-year phasing period would allow time for all authorities to plan for the change. A large number of others, were, however, very concerned about the practicability of an earlier approval date for the smaller local councils, some with part-time clerks with heavy workloads.

81. NALC and 33 other respondents stressed that the earlier date would have resource implications for all councils and particularly for parish councils. Many councils stressed that staff were already subject to considerable time pressures and that further such pressure was not welcome.

82. 11 respondents said that delays would be caused as a result of the summer holiday season and the existing programme of council meetings, which were sometimes 2 months or more apart. Five respondents said that the proposed approval date of end-August for 2003/04 would mean that approval would in practice need to be given by end-July, since members did not meet in August.

83. 21 respondents said that the earlier deadline would mean a loss of accuracy and reliability in the information provided in the accounts, with two respondents suggesting that quality of output was more important than an earlier approval deadline.

84. NALC and 21 other respondents suggested that, although the proposed end-June deadline was unrealistic, end-July or end-August were practicable.

85. Five respondents suggested that non-BV parishes should be exempt from the revised deadline, since in their case synchronising the statement with the BVPP did not apply.

86. Eleven respondents, including CIPFA, said that achieving an earlier deadline meant that action was needed by a number of parties, including the need for earlier grant decisions, or revised timing for the return of revenue information forms to Government Departments.

Government response:

87. The Government appreciates the concerns of many authorities about the administrative consequences of an earlier deadline date for approval. However, introducing the earlier deadline is a commitment of the Local Government White Paper, aimed at ensuring that accounts are approved in a timely way and that approval to the statement of accounts is aligned to the publication of authorities' best value performance plans. We appreciate the point which some respondents made that synchronising the statement with the BVPP is not an issue for most parish councils. To reflect respondents' views, the Government has therefore excluded the smaller parish councils from the earlier deadline for approval. The phased introduction of the earlier deadline will only apply to principal authorities and parishes with income or expenditure of £500,000 and above.

Regulations 11 and 12 – Definition of 'publication'

Proposed amendment:

88. To clarify acceptable publication practice. In our view, the existing requirement to publish the statement of accounts means it should be made as widely available as possible. This should not mean purely the inclusion of the accounts as an agenda item in council committee papers. Revised Regulations 11(1)(a) and 12(1)(a) therefore indicate that the appearance of the accounts among the documents associated with the body's meetings is not sufficient to discharge the authority's duty to publish the statement of accounts. We proposed to issue separate guidance which would indicate what other practice we regard as acceptable when authorities publish their statements of accounts, e.g. publication on library noticeboards or in the form of leaflets or via the internet.

What the consultees said:

89. 63 respondents agreed with this proposal, while 15 disagreed.

90. All respondents accepted that having appropriate publication arrangements in place was necessary to ensure that information was available to electors, but stressed the need for a proportionate approach that took resources and local circumstances into account.

91. CIPFA, ICAEW and three other respondents accepted that inclusion of the accounts in committee papers was not an adequate way of disseminating the information. 21 authorities said that acceptable publication practice would include putting the statement on display on noticeboards, in newsletters or newspapers or on the internet. A number of these took the strong view that, in their circumstances, printing and delivering hard copies to all residents was not a good use of public money.

92. Five other respondents said that any guidance needed to be flexible and not over-prescriptive. Any methods of publication proposed should be cost effective and should take into account the use that would be made of the information by electors and the size of the authority.

93. CIPFA, ICAEW and others wondered whether it was preferable to publish the full accounts or a shorter, more user-friendly summary, which could have more meaning for electors. There would, however, be resource implications of abridging and simplifying the accounts, and an agreed proforma for presenting the information in an accessible way could be helpful.

94. Six respondents said that there was no need for guidance on this issue, since it was a matter best left to authorities themselves to decide, based on local circumstances. Three said that the Freedom of Information Act already in effect required authorities to make accounts available on request, and four suggested that the low level of public interest in the accounts did not justify making the information more widely available than already provided.

Government response:

95. In view of the general support for this proposal, the Government has implemented the amendment to the definition of 'publication', to indicate that 'publication' should not

mean merely the appearance of the accounts in the documents of meetings, committees or sub-committees of the body. Guidance accompanying the Regulations recommends as good practice that the requirement to 'publish' the statement might include putting a copy on a noticeboard, copying it onto a website, publishing it as a separate leaflet, or publication in a newspaper or as part of newsletter. Authorities themselves should consider the appropriateness of the publication arrangements they have in place.

Regulations 11 and 12 – Publication of statements of accounts

Proposed amendment:

96. To bring forward in a phased way the deadline for the publication of the statement of accounts for all authorities, to reflect the earlier approval of accounts, from the current end-December, to end-November for 2003/04, end-October for 2004/05, and end-September for 2005/06. It is logical that if an earlier approval date for the statement of accounts is implemented, then an earlier publication date would also be appropriate. There is a need to retain an adequate gap between approval and publication to allow time for the audit to be carried out and publication arrangements to be put in hand. We invited the views of consultees on whether they felt there was a case for shortening the current maximum period between approval and publication deadlines.

What the consultees said:

97. 66 respondents agreed with this proposal, while 42 disagreed.

98. Most of those who agreed with the proposal to advance the deadline for the approval of the accounts also accepted the logic that the publication deadline should be brought forward in a phased way. Those who did not agree with bringing forward approval similarly did not support an earlier publication date. There was limited support for a reduction in the statutory maximum interval between approval and publication, although most respondents thought that any reduction in the interval would be unrealistic.

99. 41 respondents said that achieving an earlier publication date depended on whether auditors had the resources to carry out their work in time. They felt that auditors would not be able to achieve the earlier date; difficulties would be caused because auditors' work would need to be carried out during the main holiday season, and at the period (June-September) when they were working on the accounts of national health bodies. Extra pressure would also be placed on authorities' own resources, which would particularly be felt by parishes with few staff.

100. Nine respondents said that the earlier date and/or a shorter interval would mean that more accounts would be published unaudited, or with less quality-control, which would not benefit electors. Two others were afraid that a requirement for an earlier deadline might result in higher audit fees.

101. The Audit Commission, SLCC and most other respondents therefore considered there was no case for a reduction in the statutory maximum interval between approval and publication.

102. NALC and four of those who preferred the end of July as the approval deadline suggested that the relevant publication deadline should be the end of October, rather than the end of September. One of these suggested that the new arrangements be phased in over five years rather than the proposed three years. Respondents who had suggested that the smaller parishes should be exempt from the earlier approval date also suggested that they should in addition be exempt from the earlier publication date.

103. Two respondents suggested that flexibility should be allowed so that the deadline could be missed if there was justification, eg ill-health or absence of staff.

104. CIPFA, ICAEW and five others suggested there may be scope to reduce the interval, perhaps to reflect the 6 weeks/2 months equivalent interval operated in Government Departments, although recognising that auditors may find the tighter deadline difficult to achieve.

Government response:

105. In line with the provisions agreed on the earlier deadline for the approval of the statement of accounts, the Government has amended its original proposal so that the phased introduction of the revised deadline for publication will apply only for principal authorities and parishes with income or expenditure of £500,000 or above. For the smaller parish councils, the existing deadline for publication will continue to apply.

106. In view of the strong views expressed by respondents, the Government has concluded that there is no case for shortening the 3 month interval between the deadline for approval and the deadline for publication, and so has decided that the 3-month maximum interval will be preserved under the new arrangements.

Regulation 14 – Public inspection of accounts

Proposed amendment:

107. To increase the accessibility of information to electors by making the accounts and supporting records available for the whole year following the approval of the accounts, rather than merely for 15 working days of the year, as currently specified. Consultees' views were invited on the practicability of requiring accounts and supporting records to be available all year round, in particular any possible administrative impacts on small local councils, or how any extra burdens for smaller councils might be minimised.

What the consultees said:

108. 81 respondents agreed with this proposal, while 113 disagreed.

109. There were mixed views on the desirability of extending the period of access to 12 months, although there was strong support for some limited extension of current access arrangements. Stress was put particularly on the difficulties likely to be encountered by parish councils and the potential for an increase in the number of 'vexatious' or 'frivolous' complaints.

110. NALC, CIPFA, ICAEW and 36 other respondents stressed the amount of time which authorities might need to spend arranging for access, which would divert officers from other duties. Seven respondents said that practical problems would be particularly caused in cases where parish councils did not have offices at which the accounts could be inspected. In these cases, papers would have to be inspected at the home of the clerk, which could raise security and safety concerns for some clerks.

111. NALC and 28 other respondents suggested that all year round access would increase the incidence of vexatious complaints, the consideration of which could have a considerable impact on authorities' and auditors' resources, and might result in higher audit fees. Two respondents suggested that any requests for access or information should go through the auditor rather than the authority, so as to discourage frivolous queries. Three others suggested that a fee, , could be charged for each query raised. Six suggested that guidance should be provided to help with dealing with vexatious complaints, and authorities should be allowed to refuse to consider complaints made if they thought them irrelevant, excessive or repetitious.

112. Two respondents suggested that research was needed on how the proposal might increase the number of requests to view the accounts, how authorities dealt with complaints and the outcome of investigations. Others wondered what evidence there was of any public interest in increasing access.

113. CIPFA, ICAEW and 12 other respondents were concerned about how the longer access period related to the audit process. The increase in the number of challenges might mean a delay in the auditor's closure of the accounts. There was a need to clarify the fact that, if the proposal was implemented, access arrangements would be separated from the provisions on electors' rights to challenge the accounts.

114. 18 respondents suggested that the Freedom of Information Act already required relevant information to be made available all year, and 8 authorities said they were already in practice providing for availability all year round. One respondent suggested that any change should be deferred for two years so as to be able to assess the level of demand arising from new access rights under the Freedom of Information Act, whilst also having regard to other relevant statutory requirements, such as the Data Protection Act.

115. CIPFA and 12 other respondents suggested that an extension of the access period to one month (30 days or 20 working days) would be acceptable. NALC and six others suggested 3 months (ie the audit period). Two others suggested 6 months, possibly with a phased increase towards 12 months after a trial period. Another suggested a 2 month access period, after which requests to view should be made in writing. Three others suggested that access should only be allowed from the date of approval to the date of the conclusion of the audit. Another suggested that year round access should only be applicable 'subject to the availability of the clerk'.

116. NALC and 24 other respondents suggested that advance warning, including written

notice (eg 7, 10 or 14 days notice), should always be required before giving access. Phrases such as 'by appointment', or 'after reasonable notice' should be included in the Regulation. Giving advance warning would allow time to prepare the papers for viewing in a suitable public place.

117. One respondent suggested that the sequence of Regulations should be altered so as better to reflect the sequence of events: so Regulation 10, on signing and approval, would be followed by Regulation 14 on public inspection, then Regulation 15 on alterations, then Regulations 11 and 12 on publication.

Government response:

118. The Government appreciates the strong views expressed by many respondents on the likely administrative effect of all year round availability of accounts. We also recognise concerns expressed about the effect of the increase in the availability of accounts on the arrangements for electors to challenge the accounts. The Government has therefore decided to limit the increase in the period of availability from 15 working days to 20 working days (rather than 12 months as originally proposed).

119. Many respondents, particularly parish councils, gave strong support for some further warning to be given before access is provided. We therefore decided to strengthen the existing provision that, for parishes, access to the accounts only needs to be provided after 'reasonable notice' has been given, by providing in Regulation 16 that the notice of public rights to inspect the accounts should for parishes include details of the manner in which electors should give notice of their intention to inspect the accounts. This provides an opportunity for parish councils to put in place what arrangements are convenient to them to discharge their duty to make the accounts available on reasonable notice.

Regulation 15 – Alteration of accounts

Proposed amendment:

120. A minor tidying-up measure to indicate that the RFO should report any alteration he makes to the accounts, to the relevant body. A requirement on this was included in Regulation 16(5) of the 1996 Regulations, but it more properly belongs as part of new Regulation 15, which refers to the requirement for the consent of the auditor to be obtained before any alteration is made.

What the consultees said:

121. 44 respondents agreed with this proposal, while 8 disagreed.

122. There was general agreement that changes to the accounts should be reported to the authority, but 17 respondents said that only 'material' or 'significant' changes should be reported. It was suggested that the auditor should be able to advise on whether any alteration was material and whether a report to the council was needed.

Government response:

123. Having considered further this proposal, the Government has decided to retain the

separation of the provisions referred to in this proposal in Regulations 15 and 18. On reflection, we believe that our original proposal would combine, in an inappropriate way, two separate provisions from the 1996 Regulations. These are the requirement in Regulation 13 of the 1996 Regulations that the accounts and other documents should not be amended after being made available for inspection except with the consent of the auditor; and the provision in Regulation 16 of the 1996 Regulations that, following the end of the audit, the RFO should report any alteration in the statement of accounts to the relevant body. Since these provisions relate to amendments made to different documents at different stages of the accounting process, we have maintained the separation of these provisions (in new Regulations 15 and 18), reflecting the position in the 1996 Regulations.

124. To clarify the intention that the ‘accounts’ referred to in Regulation 15 should be the accounts and books, deeds, contracts, bills, vouchers and receipts relating to them referred to in Regulation 14, and not the statement of accounts, we have amended the relevant reference at Regulation 15 to refer to ‘accounts and other documents’.

125. To respond to suggestions made by respondents, we have also amended Regulation 18 so that action is required under that Regulation where ‘material’ amendments have been made to the statement of accounts, rather than where ‘any’ amendment is needed, as provided under the 1996 Regulations.

Regulation 18(2)(b) and (c) – Notice of conclusion of audit

Proposed amendment:

126. A minor tidying-up measure to indicate that information on electors' rights to inspect the statement of accounts, and the address and hours at which the statement is available for inspection, should be included in the advertisement announcing that the audit is concluded, and not in the statement of accounts itself, as provided for by the 1996 Regulations.

What the consultees said:

127. 36 respondents agreed with this proposal, while 2 disagreed.

128. Most respondents agreed that the advertisement was the most suitable place for information to be given on rights of inspection and where and when the statement will be made available.

129. Two respondents stressed that the information provided should indicate that the accounts would only be available by appointment. This was important in cases where parish councils did not have offices at which the statement could be put permanently on display. Another respondent suggested that the information on the time and place at which the statement can be viewed should be replaced with a general requirement for the statement to be available at all times.

Government response:

130. Given the general welcome for this proposal, the Government has implemented this amendment, so that, after the conclusion of the audit, the advertisement, rather than the statement of accounts itself, should contain the necessary information on the availability of the statement.

131. A further minor amendment was made to indicate that the requirement for amendments to the statement of accounts to be referred back to the relevant body and other requirements under Regulation 18(3) would apply in respect of changes made 'as a result of the auditor's report', rather than in the case of changes required by the auditor's report, as provided in the 1996 Regulations and the consultation draft. This was to reflect the fact that the role of the auditor is not to 'require' a change to the statement, but that, nevertheless, errors identified by the auditor may make it necessary for the authority to make changes in its statement of accounts.

132. Other minor changes for the sake of clarity were made to Regulation 18 to delete the unnecessary repetition of the phrase 'statement of accounts, income and expenditure account and the balance sheet, or record of receipts and payments, as the case may be'.

Deletions

Proposed amendments:

133. We proposed to take the opportunity to delete a number of provisions which were either obsolete or unnecessary. These deletions were as follows:

Old Regulations 14(4) and 16(4) – Notifications forthwith to auditor

134. These provisions require authorities to notify the auditor that certain notices have been given to electors (eg notices about the availability of the accounts for inspection, or about the conclusion of the audit). It is considered that, in practice, these provisions are no longer of value. For principal authorities, the auditor is in regular contact with the audited body during the year and has no practical need for these formal notifications. For local councils, best practice, incorporated into the Annual Return, includes a statement on compliance with legal requirements for allowing the exercise of electors' rights. This assurance should be sufficient to assure the auditor that the correct practices have been followed.

Old Regulation 15(b)(i) and (ii) – Written notice of objection

135. This deletion reflects the fact that section 90 of the Local Government Act 2000 has removed the auditor's function of certifying a loss or deficiency caused by wilful misconduct by any person. Reference to this power in Regulation 15(b) therefore needs to be deleted.

What the consultees said:

136. 9 respondents agreed that these minor amendments should be made.

137. One other respondent suggested the retention of Regulations 14(4) and 16(4) on the

basis that not all parish clerks would be familiar with the need to issue the various notices to electors. Auditors could be required to remind authorities of the required notices via their annual letters to councils on the audit process.

Government response:

138. Given the general welcome for these proposals, the Government has made the proposed deletions with respect to previous requirements for 'notifications forthwith' to auditors and amended the Regulations to bring them into line with the provisions of the Local Government Act 2000.

OTHER ISSUES ON WHICH CONSULTEES WERE INVITED TO EXPRESS VIEWS

Internal audit for local councils

Issue on which views were sought:

139. We are aware of the concern of many parish councils about the burdens imposed by the need to undertake internal audit. Some local councils have indicated that they were not aware until recently that best practice required internal audit to be independent of councils' decision-making processes. Some commented that the cost of appointing an independent internal auditor in some cases negated the savings councils were likely to make from the 'lighter touch' external audit.

140. Our overall intention is that there should be a proportionate regime with appropriate controls reflecting the financial risks involved for differently sized authorities. It may be consistent with this aim if a reduced internal audit burden could be introduced for the smaller councils. We recognise, however, that if a council does not carry out an internal audit, there will be a corresponding reduction in the level of assurance available on the operation of the authority's internal controls, which might in some cases have an impact on the amount of work which the external auditor may need to carry out.

141. We therefore invited consultees' views on whether councils with income or expenditure below £100,000 per year should be exempted from the need for internal audit, or whether, for these councils, internal audit could be optional rather than mandatory.

What the consultees said:

142. 128 respondents agreed that councils with income or expenditure below a certain level should be exempt from internal audit, or that internal audit should be optional for these councils (for most respondents the level suggested was £100,000, but £50,000, £10,000, or £5,000 were also proposed). 57 other respondents disagreed, with a large number of these feeling that although internal audit should continue to be required, the best practice recommendation for an element of 'independence' in the internal audit should be dropped and internal audit practice made more proportionate to the size of the authority.

Government response:

143. The Government appreciates the view which many parish councils take that internal audit is an unnecessary requirement for smaller councils. However, we have taken the view, shared by many respondents, that internal audit provides an essential assurance that appropriate control arrangements are in place, and that the new 'lighter touch' external audit regime is dependent to a certain extent on the assurance to councils which is provided by internal audit.

144. We have decided therefore that the existing requirement for all authorities, including

parishes, to undertake internal audit should be retained. We also, however, support the development by the relevant bodies (particularly the Audit Commission, NALC and SLCC) of further, updated guidance on internal audit to parish councils aimed at ensuring that parishes are provided with better, more tailored information on how parishes can in practice obtain effective internal audits.

145. With regard to respondents' concern about the need for an element of 'independence' in the internal audit process, best practice suggests that the effectiveness of internal audit, as a source of assurance to councils, is undermined if it is not carried out with sufficient independence from the financial decision making process which is the subject of the review. The recently revised *Guidance and accountability in local councils in England and Wales. A Practitioners' Guide* provides examples of various ways in which councils establish internal audit and stresses the need for councils to tailor the scope and coverage of this to their own needs and circumstances while ensuring it is carried out with sufficient competence and independence. The guide, issued by NALC and SLCC, is kept under review in order to take account of relevant professional developments and good practice in local councils.

'True and fair' view

Issue on which views were sought:

146. The Audit Commission proposed that the revised Regulations should include a new requirement for accounts to present a 'true and fair view'. The intention of this would have been to bring local authority accounts into line with practice in central Government and the private sector. We, however, decided to exclude this suggestion from the original proposals.

147. Our understanding was that local government accounts differ in significant ways from UK generally accepted accounting practices (GAAP), which apply in the private sector. Initiatives are being pursued to explore the implications of a move to align public sector practices with GAAP. We understand that these initiatives will take time to develop, and are not likely to be in place for several years. Until local authority accounts can properly be accepted as presenting a 'true and fair view' in the terms of GAAP, we consider it would be premature for the time being to adopt this form of words into the Accounts and Audit Regulations. However, we recognised that this was an issue for the future, which we will bear in mind when considering further amendments to the Regulations in due course.

148. We nevertheless invited consultees' views on this issue.

What the consultees said:

149. 55 respondents agreed that it was premature for the Regulations to reflect GAAP. Six others said that GAAP was in any case an inappropriate model for local government accounts to follow. Two other respondents, however, suggested that GAAP should be introduced into local government practice more quickly than suggested.

Government response:

150. In view of the comments received, the Government decided for the time being not to amend the Regulations to reflect the 'true and fair view'. We will, however, bear this proposal in mind when considering future amendments to the Regulations.

Separate Regulations

Issue on which views were sought:

151. We invited consultees' views on whether there was a case for improving the clarity of the rules by issuing two sets of Accounts and Audit Regulations, separating out the rules applying to principal and non-principal authorities. Or whether, alternatively, consultees thought there were grounds for retaining the current unified Regulations, but incorporating separate sections 'A' and 'B' making it clearer which rules apply to principal and non-principal authorities.

What the consultees said:

152. 61 respondents agreed that there would be benefits either in publishing separate Regulations, or else indicating more clearly in a unified set of Regulations which Regulations applied to principal and non-principal authorities. 26 respondents disagreed.

Government response:

153. The Government recognises the need for clarity in the drafting of the Regulations, and that there is a need for authorities to be able to identify which Regulations apply to which type of authority. We do not, however, feel that issuing separate Regulations for different types of authorities is a particular priority. We, nevertheless, have borne in mind the need for clarity when drafting the new amendments and have provided guidance accompanying the Regulations to assist authorities in their implementation of the new rules.

Offences for contravening the Regulations

Issue on which views were sought:

154. We invited consultees' views on whether they felt that the consistency of the rules would be improved by requiring that the contravention of any of the Regulations, and not just some, should be an offence. Regulation 22 of the draft Regulations circulated to consultees provided that only the contravention of Regulations 7,9,10,11,12,14,15,16,18 and 21 - and not any of the others - constituted an offence. The aim of this was to carry forward the equivalent provision in the 1996 Regulations identifying particular Regulations the contravention of which by authorities would constitute an offence. We invited views on whether this treatment properly reflected the seriousness of the breaking of these particular Regulations. Alternatively, should the breaking of any of the Accounts and Audit Regulations be an equally serious issue, so that contravention of any of them should be an offence?

What the consultees said:

155. 51 respondents suggested that the current list of Regulations should be retained, or

that the list should be expanded so that the contravention of any Regulation should be an offence. 14 other respondents, including CIPFA, suggested there may be no need for criminal sanctions to apply for contravention of any of the Regulations, since breaches by authorities are adequately dealt with via the range of actions open to auditors, including the issuing of an audit letter or public interest report.

Government response:

156. We appreciate the feelings of most respondents that there is a continuing need to recognise the fact that the breaching of the Regulations is a serious issue, and should continue to be regarded as an offence. In addition, legal advice confirmed our understanding that, for a breach in the Regulations to be regarded as an offence, there was a need for the individual Regulations to be listed at Regulation 22. In view of these concerns, the Government decided to retain the proposed list of Regulations the contravention of which is an offence, incorporating the equivalent Regulations listed in the 1996 Regulations.

157. For the sake of consistency, we also decided to add new Regulations 4 and 19 to the list of Regulations the breaking of which are offences. Regulations 4 and 19 were not included in the list of offences in the 1996 Regulations, since Regulation 19 was added along with other amendments in 2001, and Regulation 4 was added as one of the most recent amendments in 2003.

Accounting for planning purposes

Issue on which views were sought:

158. In his statement on 18 July 2002, 'Sustainable Communities - Delivering through Planning', the Deputy Prime Minister announced a new planning delivery grant to local planning authorities. The Government was concerned that this increase in the resourcing of planning services should be accompanied by effective monitoring of the way resources are being put to use, and an improvement in the transparency of information on the income received and expenditure incurred on authorities' planning services.

159. We did not feel that the Accounts and Audit Regulations provided the most appropriate vehicle to address these concerns. In particular, any improvement in the quality of the information will depend on the methodology by which it is collected via the best value regime. Adding a new requirement for planning authorities to include in their statement of accounts information on planning income and spending would not of itself provide a guarantee that the quality of the data would be improved. We understood that CIPFA and the Planning Officers' Society have pressed authorities to adopt a standard methodology for compiling existing planning accounts. We felt that improvements need to continue to be pursued through consideration of the way the best value accounting code of practice is being implemented by authorities.

160. Although we did not propose amending the Accounts and Audit Regulations on this, we invited comments from consultees on the concerns raised above and the most

appropriate means of addressing them.

What the consultees said:

161. 28 respondents commented on this, and they all suggested that this issue should be dealt with through consideration of how best accounting practice is being implemented and not by an amendment to the Accounts and Audit Regulations.

Government response:

162. In view of the comments received, the Government decided not to amend the Regulations to add a requirement to provide information on planning issues in the statement of accounts.