



CONSULTATION: LOCAL AUTHORITY ACCOUNTS REGULATIONS

RESPONSE SHEET

If you ask for your response not to be published we will regard it as confidential and we will treat it accordingly. You should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Unless confidentiality is requested the Scottish Government may also publish responses on the Scottish Government website. Please note that if you wish to provide additional commentary on separate sheets it would be helpful if you set out clearly the questions and/ or parts of the draft regulations to which your comments relate.

This response sheet provides some commentary on the proposed regulations. Please also refer to the consultation draft of the regulations which has been provided as part of the consultation documents.

The consultation closes **4 October 2013**

CONSULTATION QUESTIONS

The Local Government Accounts (Scotland) Regulations 2013			
PART 1: Introductory			
<i>Regulation 1: Citation and Commencement</i> We propose the regulations will come into force in the current financial year. This means the new regulations will apply to the 2013-14 financial year and the 2013-14 annual statutory accounts, and subsequent years. Regulation 3 provides an interpretation of words or phrases used in the regulations. The definition of proper officer has been extended to cover any absence or illness of the proper officer. Regulation 4 revokes The Local Authority Accounts (Scotland) Regulations 1985 (and amending regulations).			
	Question	Response	Comments / Feedback
1	Do you agree that the definition of proper officer addresses the issue of absence or illness of the proper officer? If not please provide reasons and any suggested alternative	Yes	
2	Any other comments?	No	

PART 2: Financial management and internal control***Regulation 5: Responsibility for financial management***

This regulation introduces a new requirement. There is currently no statutory requirement for Scottish local authorities to undertake an annual review of their system of internal control or to report this in an Annual Governance Statement. The regulation requires the statement to be prepared in accordance with proper practices. The Scottish Government intends to issue non-statutory guidance which will identify proper practices as being *Delivering Good Governance in Local Government* published by CIPFA and SOLACE. The proposal is for the requirement to commence with the financial year 2013-14.

The CIPFA/LASAAC Code of Practice (the Code) on Local Authority Accounting requires Scottish local authorities to include a Statement of Internal Financial Control as part of the statutory accounts. The Code permits Scottish authorities to voluntarily adopt an annual review and the preparation of an Annual Governance Statement which is a statutory requirement in England and Wales.

	Question	Response	Comments / Feedback
3	Do you agree with the requirement for an annual review of internal control with a report on the review forming part of the annual statutory accounts?	Yes	
4	Do you agree that the requirement for an annual review and annual report should apply from the financial year 2013-14?	Yes	
5	Do you agree that this requirement should apply to all Scottish local authorities irrespective of size? If not please provide reasons.	Yes	
6	Any others comments?	No	

Regulation 6: Accounting records and control systems

Regulation 6(6) and 6(7) replace Regulation 3 of the Local Authority Accounts (Scotland) Regulations 1985. This places a responsibility on the proper officer (section 95 of the Local Government (Scotland) Act 1973) for the accounting control systems and records.

Regulation 6(1) to 6(5) place a new duty on the local authority as a corporate body to keep adequate accounting records. This requirement is reflective of the provisions contained in the Companies Act 2006 (section 386).

	Question	Response	Comments / Feedback
7	Do you agree that the Companies Act provisions have been suitably adapted for local government?	Yes	
8	Any other comments?	No	

Regulation 7: Internal Audit

This is a new requirement for a local authority to undertake an adequate and effective internal audit function.

	Question	Response	Comments / Feedback
9	Do you agree there should be a statutory requirement for internal audit?	Yes	
10	Do you agree that the requirement for internal audit should apply from the financial	Yes	

	year 2013-14?		
11	Do you agree that this requirement should apply to all Scottish local authorities irrespective of size? If not please provide reasons.	Yes	
12	Any other comments?	Yes	<ul style="list-style-type: none"> • The Internal Audit service should be provided in compliance with the Public Sector Internal Audit Standards (replacing '<i>....recognised practices in relation to internal control</i>' at 7(1)). • The references to '<i>system of internal control</i>' should be replaced with '<i>arrangements for risk management, governance, and control.</i>' • At 7(2)(a) '<i>for the purpose of the audit</i>' should be replaced with '<i>for the purpose of Internal Audit's review of arrangements for risk management, governance, and control.</i>' • At 7(3), there needs to be a clearer link to the internal and external quality review requirements of PSIAS. In particular, it needs to be clearer whether the annual review referred to would be covered by Internal Audit's own 'Internal Assessment (PSIAS 1311), comprising ongoing monitoring and periodic self assessment by another person within the organisation with sufficient knowledge of internal audit practices. It is not clear how the PSIAS Internal Assessment and the annual review by external audit fit with the requirement at 7(3).

PART 3: Published Accounts and Audit

Regulation 8: Statement of Accounts

The adoption of the phrase 'Statement of Accounts' (see regulation 3 for Interpretation) in the regulations is to mirror the usage of this phase by the CIPFA/LASAAC Code of Practice on Local Authority Accounting.

Regulation 8(2) sets out the statements which must be included in the Statement of Accounts. This includes a Management Commentary. The CIPFA/LASAAC Code Board considered whether the Explanatory Foreword in the statutory accounts should be replaced with a Management Commentary in line with the UK Government's Financial Reporting Manual (FReM). The position taken by the Code Board is to encourage local authorities to prepare a report taking into consideration the FReM but not making it a requirement. The Code Board has indicated it is looking to the UK Government and the Devolved Administrations to provide direction. Including the requirement for a Management Commentary in the consultation draft of the regulations seeks to resolve this situation by providing Scottish local authorities with the opportunity to express their views.

Regulation 8(3)(e) introduces a new requirement to disclose details of any land disposed of at less than best consideration. This reflects a similar requirement for central government.

Regulation 8(5) and 8(6) sets out the proper officer's responsibilities to produce the statement of accounts by 30 June each year and to send these for audit. The regulations introduce a new requirement that the statement of accounts gives a true and fair view of the authority's (or group) financial position. These provisions replace regulation 4 of The Local Authority Accounts (Scotland) Regulations 1985.

Regulation 8(7) introduces a new requirement to publish the unaudited statement of accounts on the website of the authority.

	Question	Response	Comments / Feedback
13	Do you agree that the annual statutory accounts should be known as the Statement of Accounts?	Yes	The definition of Statement of Accounts is clearer.
14	Do you agree there should be a statutory requirement for a management commentary? If not why not? What alternative/s would you suggest?	Yes	
15	Do you agree the requirement to disclosure details of any land disposed at less than best consideration is suitably drafted?	Yes	
16	Do you agree that there should be a statutory requirement for the proper officer to ensure the statement of accounts gives a true and fair view of the local authority's (or group) financial position?	Yes	
17	Any other comments?	No	

Regulation 9: Notice of public right to inspect and object to accounts

This regulation replaces regulation 5 of The Local Authority Accounts (Scotland) Regulations 1985.

A key change made is to fix the date when the public notice is to be given, the date the inspection period commences, and the date until which objections may be made. The inspection period remains set at 15 working days.

	Question	Response	Comments / Feedback
18	Do you agree that the date for the public notice, the period of inspection and the latest date for	Yes	Seems reasonable and probably a sensible idea to have uniformity in that all local authority accounts

	objections should be fixed? If not why not? What alternative would you suggest?		available for the same time period.
19	Any other comments?	Yes	No account has been taken of the interaction with the Freedom of Information legislation, which also gives the public the opportunity to access the records of Councils.
<p>Regulation 10: Signing and consideration of audited accounts This new regulation replaces regulation 6(1) of The Local Authority Accounts (Scotland) Regulations 1985, which requires the audited accounts to be laid before a meeting of the local authority held not later than two months after receipt of the audit certificate.</p> <p>Regulation 10 of the new regulations requires the local authority, or a committee of the authority whose remit includes audit or governance, to formally meet to consider approval of the statement of accounts. This must be by 30 September. The stakeholder working group considered whether this should be an approval process or if the authority should be required to accept the statement of accounts for governance purposes. The regulations require approval as this has a natural meaning and is unambiguous. The regulation sets out which statements must be signed and dated and by whom. The proper officer is re-certify the statement of responsibilities and the balance sheet(s) of the statement of accounts.</p>			
	Question	Response	Comments / Feedback
20	Do you agree that the new requirement for the accounts to be approved should apply from the financial year 2013-14? If not please provide reasons.	Yes	
21	Any other comments?	Yes	Although we agree with the new regulations, it will mean that in practice the audit process will require to be concluded by the end of August to allow sufficient time for the ISA 260 report to be prepared, accounts to be printed and allowance made for internal deadlines for receipt of committee reports. Is this practical?
<p>Regulation 11: Publication of the audited statement of accounts This regulation replaces regulations 6(2) and 7 of The Local Authority Accounts (Scotland) Regulations 1985. The new regulation fixes the date – 31 October – by which the audited accounts must be published. There is a requirement to publish the statement of accounts, the audit certificate and also a copy of any related report. This should include the Annual Audit Report of the appointed auditor. A copy of the audited statement of accounts is to be made available on the website of the local authority for a minimum period of 5 years. Copies must be available for purchase for the same period. It is not intended that published copies need to be held for purchase just that the authority has the ability to produce a copy if requested. It is anticipated that holding an electronic PDF would satisfy this requirement.</p>			
22	Do you agree with the revised publication requirements? If not please provide reasons.	Yes	
23	Any other comments?	No	

SCHEDULE Content of Remuneration Report

References to police and fire have been removed from the regulations. The consultation draft regulations do not make any further changes to the requirement for a Remuneration Report as currently set out in the 1985 Regulations.

The consultation undertaken in 2010 included a proposal for the remuneration report to disclose the value of the cash equivalent transfer value of a person's pension right. In light of consultation responses at that time, in particular feedback that imminent tax changes should be considered, Scottish Ministers did not make this disclosure a requirement in the amending regulations laid before the Scottish Parliament.

The disclosure of cash equivalent transfer values continues to be a requirement for both central government and the private sector. This has not changed in light of tax changes to pensions. We therefore propose to make it a requirement that local authorities should make this additional disclosure.

	Question	Response	Comments / Feedback
25	Do you agree that the cash equivalent transfer value of a person's pension should be disclosed?	Yes	Wouldn't cause any potential disclosure issues considering what is already disclosed in the Report.
26	Do you agree that the cash equivalent transfer value of both officers and council members should be disclosed?	Yes	
27	Are there any other changes which need to be made to the remuneration report requirements? If yes please provide details of the changes you would propose	No	

OTHER QUESTIONS – Items not in the regulations

The new regulations require the approval of the annual governance statement and the statutory accounts themselves by either the local authority or a committee whose remit includes audit or governance functions. The stakeholder group convened to review the 1985 Regulations agreed that an audit committee represented best practice and wished to seek, through a consultation, whether this should be made a statutory requirement. This section provides the opportunity to comment on this proposal and more generally on the Accounts and Audit provisions in the on Local Government (Scotland) Act 1973 (sections 96-104), and the Regulations (made under section 105 of the 1973 Act).

	Question	Response	Comments / Feedback
28	Do you agree that there should not be a statutory requirement for a local authority to have an Audit Committee? If yes please provide details of what roles and responsibilities you believe this committee should have.	No	
29	Any other changes to either the primary or secondary legislation you consider should be made? Please provide details of any changes, including reasons why you consider that change is required.	No	