

18 August 2006

## GUIDANCE ON THE ACCOUNTS AND AUDIT REGULATIONS 2003<sup>1</sup>

### **FOREWORD**

1. This Circular supersedes ODPM Circular 04/2003. The purpose of this guidance is to assist relevant bodies and smaller relevant bodies<sup>2</sup> in their operation of the accounting regime under the Accounts and Audit Regulations 2003 (“the 2003 Regulations”).
2. The interpretation of the 2003 Regulations or any other legislation is, of course, ultimately a matter for the courts. Where matters of statutory interpretation arise relevant bodies should obtain their own legal advice as necessary. This circular seeks to provide guidance on the issue of proper accounting practices and details of where generally recognised published codes setting out proper accounting practices may be found. It also seeks to provide guidance on new requirements introduced by the amendments to the 2003 Regulations.

### **INTRODUCTION**

3. Significant amendments were made to the 2003 Regulations in 2006. One of the main purposes of the amendments made in 2006 to the 2003 Regulations is to simplify and streamline the 2003 Regulations by providing simpler categories of bodies to whom the 2003 Regulations apply.
4. Another intention of those amendments is to strengthen governance and accountability through a new requirement:
  - i. to consider the findings of the review of systems of internal control in Regulation 4(3) of the 2003 Regulations;
  - ii. to carry out and consider the findings of a review of the effectiveness of internal audit in Regulations 6(3) and 6(4) of the 2003 Regulations.

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<sup>1</sup> As amended by S.I. 2004/556, S.I. 2004/3168 and S.I. 2006/564.

<sup>2</sup> See paragraph 5 for definition.

## CATEGORIES OF BODIES

5. Prior to the amendments made in 2006 the 2003 Regulations applied different provisions to different types of bodies (eg parish councils / meetings and other bodies). The problem with this was that it assumed that all bodies of a particular type had broadly similar turnover. However, there are a number of smaller bodies, such as internal drainage boards, which did not benefit from the provisions aimed at the smaller types of bodies. In order to apply the provisions more fairly across audited bodies we have introduced new broader definitions of relevant bodies and smaller relevant bodies:

*A **relevant body** means a body whose accounts are to be audited in accordance with Section 2 of the Audit Commission Act 1998, other than a body specified in section 98(1)<sup>4</sup> of the National Health Service Act 1977 or a local probation board*

*A **smaller relevant body** means a relevant body, other than parish councils subject to any of the duties under Part 1 of the Local Government Act 1999 (best value authorities), whose gross income or expenditure (whichever is the higher) for the year concerned is, or for either of the two immediately preceding years was, less than £1 million.*

## “PROPER PRACTICES”

6. The 2006 amendments rationalise the use of the term “proper practices” in the 2003 Regulations by identifying whether the reference is to:
- Proper practices in relation to internal control, or
  - Proper practices in relation to accounts.
7. Proper practices in relation to internal control are referred to in Regulations 4 and 6. There is no statutory definition of such practices. In these circumstances it is for relevant bodies to identify the appropriate professional guidance containing proper practices. In our view, the relevant guidance would include:
- *Statement on Internal Control in Local Government: meeting the requirements of the Accounts and Audit Regulations 2003*, published by CIPFA in 2004;
  - *Corporate Governance in Local Government: A Keystone for Community Governance (Framework and Guidance Note)*, produced by CIPFA/SOLACE in 2001 (currently under review<sup>3</sup>);
  - *Code of Practice for Internal Audit in the United Kingdom*, published by CIPFA in 2003 (currently under review);
  - *Governance and Accountability in Local Councils in England and Wales, A Practitioners Guide 2003*, published jointly by the National Association of Local Clerks (NALC) and the Society of Local Council Clerks (SLCC); and

<sup>3</sup> A revised version of the CIPFA/SOLACE framework, entitled *Good Governance in Local Government: A Framework*, is currently out to consultation.

<sup>4</sup> The reference to 198(1) of the National Health Service Act 1977 will be amended to paragraph 1 of Schedule 12(B) of the 1977 Act when section 56 of the Health Act 2006 comes into force later this year.

- *Governance and Accountability in Internal Drainage Boards in England, A Practitioners Guide 2006*, published by the Association of Drainage Authorities.

Even where one of these documents is not directly applicable to it, a body may find it a helpful source of guidance on the practices that should be adopted. The documents will be updated from time to time and the listing should be read as including any amendments and new editions.

8. Proper practices in relation to accounts are referred to in Regulations 7, 8 and 9. For some relevant bodies a statutory definition of these proper practices is provided by section 21(2) and (3) of the Local Government Act 2003. The bodies to which this definition applies are identified in sections 23 and 21(6) of the 2003 Act and Regulation 32 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (SI 2003 No. 3146). Authorities not covered by this definition will need to identify for themselves the appropriate sources of guidance. The Appendix to this Circular identifies, as at August 2006, which relevant bodies are covered by the statutory definition and, for bodies where the statutory definition is not applicable, suggests documents that the bodies may wish to rely on as a source of proper practices.

The definition of proper practices in relation to accounts in section 21 of the 2003 Act runs as follows:

- (2) *In any enactment to which this subsection applies, reference to proper practices, in relation to accounts of a local authority, is to those accounting practices:
 
  - a) which the authority is required to follow by virtue of any enactment, or
  - b) which are contained in a code of practice or other document which is identified for the purposes of this provision by regulations made by the Secretary of State.*
- (3) *In the event of conflict between practices falling within paragraph (a) of subsection (2) and practices falling within paragraph (b) of that subsection, only those falling within paragraph (a) are to be regarded as proper practices.*

The documents referred to in Section 21(2)(b) are identified in Regulation 31 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003. Three documents are identified:

- *Code of Practice on Local Authority Accounting in the United Kingdom: a Statement of Recommended Practice*, published by CIPFA;
- *Best Value Accounting Code of Practice*, published by CIPFA;
- In relation to parish councils, *Governance and Accountability in Local Councils in England and Wales*, jointly published by NALC and the SLCC; and

In each case the identified documents automatically include amendments, replacements and new editions of the documents as they are issued.

## **REGULATION 4 – REVIEW OF SYSTEMS OF INTERNAL CONTROL**

9. Regulation 4 of the 2003 Regulations was amended in 2006 to require the findings of the review of the effectiveness of the system of internal control (referred to in Regulation 4(2)) to be considered by a committee of the relevant body, or by the members of the body meeting as a whole. Whilst Regulation 4 does not require the establishment of an audit committee, such a committee would provide an appropriate means through which to consider the findings of the review.

## **REGULATION 6 – REVIEW OF INTERNAL AUDIT**

10. Regulation 6 of the 2003 Regulations was amended in 2006 to require relevant bodies to conduct an annual review of the effectiveness of its system of internal audit and for a committee of the body to consider the findings. This process is also part of the wider annual review of the effectiveness of the system of internal control. As with regulation 4 above, this does not require the establishment of an audit committee, although such a committee would provide an appropriate means through which to carry out the review of internal audit as it has a role in monitoring internal audit but is independent from it. If an audit committee does not exist the body will need to consider what other equivalent arrangements it needs to put in place to carry out the review.
11. Proper practices in relation to internal audit for relevant bodies may be found in the *Code of Practice for internal audit in local government in the United Kingdom*, issued by CIPFA. Smaller relevant bodies should refer to *Governance and Accountability in local councils in England and Wales. A practitioner's guide*, issued by NALC and the SLCC. Internal Drainage Boards should refer to *Governance and Accountability in Internal Drainage Boards in England, A Practitioners Guide 2006*, published by the Association of Drainage Authorities.

## **REGULATION 7 – STATEMENT OF ACCOUNTS**

12. Regulation 7 of the 2003 Regulations was amended in 2006 to remove a number of references to accounting statements as the documents referred to in paragraphs 6 & 7 above already specify the accounting statements required. The aim is to rely as much as possible on these documents, where appropriate.
13. It was necessary to include certain references to accounting statements, for example, the new references to the Firefighters' Pension Fund (FFPF) and the Dedicated Schools Grant (DSG), as these statements are not required by generally accepted accounting practices but are requirements of the finance regimes which specifically set up, for example, the FFPF and DSG.

### **7(1)(c) Firefighters' Pension Fund**

14. The new arrangements for financing firefighters' pensions were introduced on the 1st April 2006. Guidance on these new arrangements can be found on the Department for Communities and Local Government website. The link is as follows <http://www.communities.gov.uk/index.asp?id=1165001>

## **7(1)(d) Dedicated Schools Grant**

15. The Department for Education and Skills has produced guidance on the requirement to include a statement certified by the Chief Financial Officer of an authority that the DSG is being deployed in support of the Schools Budget. A copy of the guidance has been sent to all Chief Financial Officers and can also be found at <http://www.teachernet.gov.uk> under Management, School Funding.

## **REGULATION 7A – PASSENGER TRANSPORT EXECUTIVES**

16. The opportunity has been taken to extend the coverage of the regulations to PTEs, and revoke the outdated 1983 regulations that previously applied to them. For the most part the regulations apply to PTEs without alteration, but two special provisions are included in regulation 7A. Regulation 7A(1) preserves the provision in the 1983 regulations requiring a PTE's statement of accounts to be no less informative than if the disclosure requirements of the Companies Acts were, so far as appropriate, applicable to the Executive.
17. Regulation 7A(2) requires the charge to an Executive's revenue account for retirement benefits and contributions to pension funds to be the amount payable in accordance with the relevant pensions regulations. This has the effect of preventing any other amount calculated in accordance with accounting standards (e.g. FRS17 – Retirement Benefits) from being chargeable to the revenue account.

## **REGULATION 9 – SMALLER RELEVANT BODIES**

18. The threshold at which a relevant body may be defined as a smaller relevant body and thus eligible to complete the Annual Return instead of full statements of accounts has been increased from £500,000 to £1m (for Best Value parishes see para 5 above). This will further reduce the regulatory burden upon these bodies affected.
19. The threshold at which smaller relevant bodies have the option of keeping accounts on either an income-expenditure or receipts and payments basis has been increased from £100,000 to £200,000.

## **REGULATION 10 – SIGNING AND APPROVAL OF ACCOUNTS**

20. Regulation 10 of the 2003 Regulations was amended in 2006 to bring forward the deadline for the signing and approval of accounts in smaller relevant bodies from 30th September to 30th June. This is to bring smaller relevant bodies in line with other relevant bodies. There will be a transitional period for each year until 2008, with the deadline remaining 30th September in 2006, then 31st August in 2007, 31st July in 2008 and 30th June thereafter.
21. Also a new provision has been included at Regulation 10(6) to outline the procedure if a relevant body does not approve its accounts by the deadline. It may be the case that a relevant body cannot approve the accounts, for example, if there is a discrepancy that cannot be resolved in time. In this case, the relevant body must hold a meeting within 20 days of the deadline. If this meeting fails to reach agreement the relevant body must publish a statement explaining the reasons why.

## **REGULATION 11 AND 12 – PUBLICATION**

22. Regulations 11 and 12 of the 2003 Regulations provide that, when a relevant body arranges for the publication of its statement of accounts, or its income and expenditure account, as the case may be, the term “publication” should not mean merely the appearance of the accounts in the documents of meetings, committees or sub-committees of the body. In addition to this, we recommend as good practice that the requirement to “publish” the statement or the income and expenditure account should not mean merely providing copies to enquirers on demand. Good practice might include: putting a copy on a notice board, copying onto a website, publishing as a separate leaflet, or publication in a newspaper or as part of a newsletter.
23. Authorities will themselves wish to consider the appropriateness of the publication arrangements they have in place, bearing in mind the need to make information as widely available as practicable, but also taking into account local circumstances, including the size of the authority, the resources available, the number of electors and the existence of any local information networks.

## **REGULATION 18 – NOTICE OF CONCLUSION OF AUDIT**

24. Regulation 18(4) of the 2003 Regulations refers to the requirement to report to the relevant body or committee of the relevant body that approved the accounts material amendments to the statement of accounts or record of receipts and payments which have occurred since their original approval. The Regulation previously referred only to amendments made as a result of an auditor’s report but in 2006 this was amended so that **any** material amendments, however occasioned, must be reported to the relevant body or committee that approved the accounts. This change seeks to reinforce the point that it is the body which is responsible for the accuracy and completeness of its accounts.

<b>SUGGESTED SOURCES OF PROPER PRACTICES as at August 2006</b>			
<i>Audit Commission Act 1998 Sch 2</i>	<i>Type of audited body</i>	<i>Statutory definition of proper practices</i>	<i>Suggested source of proper practices<sup>1</sup>:</i>
1(a)	<b>A local authority:</b>		
1(a)	London Borough	Y	
1(a)	Metropolitan Borough Council	Y	
1(a)	Unitary authority (excluding Scilly)	Y	
1(a)	County Council	Y	
1(a)	District/Borough Council	Y	
1(a)	Parish Council	Y	
1(b)	A joint authority	Y	
1(bb)	Greater London Authority	Y	
1(bc)	A functional body	Y	
1(bd)	London Pensions Fund Authority	Y	
1(c)	A parish meeting of a parish not having a separate parish council	N	NALC/SLCC guide <sup>2</sup>
1(d)	Committee of a local authority, including a joint committee of two or more such authorities	N	NALC/SLCC guide or SORP <sup>3</sup>
1(e)	Council of the Isles of Scilly	Y	
1(f)	Any charter trustees constituted under section 246 of the 1972 Act	Y	
1(h)	Port health authority (if a joint board)	N	If joint board, SORP
1(i)	Broads authority	Y	
1(j)	National Park authority	Y	
1(ji)	Conservation board established by order under section 86 of the Countryside and Rights of Way Act 2000	N	SORP
1(k)	Police authority established under section 3 of the Police Act 1996	Y	
1(m)	Fire and Rescue Authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies	Y	
1(o)	Internal Drainage Board	N	ADA guidance <sup>4</sup>
2(a)	The accounts of the collection fund of the Common Council and the accounts of the City fund	Y	
2(b)	The accounts relating to the superannuation fund maintained and administered by the Common Council under Local Government Pension Scheme Regulations 1995	Y	
4	Passenger Transport Executive	N	See paragraph 15 of this Circular
	Lee Valley Regional Park Authority	Y	

<sup>1</sup> Where marked Y, see paragraph 7 of the Circular for list of sources

<sup>2</sup> Governance and Accountability in Local Councils in England and Wales – A Practitioners' Guide 2003, jointly published by the National Association of Local Councils (NALC) and the Society of Local Council Clerks (SLCC)

<sup>3</sup> Code of Practice on Local Authority Accounting in the United Kingdom: a Statement of Recommended Practice, published by CIPFA

<sup>4</sup> Governance and Accountability in Internal Drainage Boards in England – A Practitioners' Guide 2006 published by the Association of Drainage Authorities

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