

Local Government and Communities Directorate
Local Government Division

T: 0131-244 -1896
E: hazel.black@scotland.gsi.gov.uk



Local Government Finance Circular 7/2014

Directors of Finance of Scottish Local Authorities
Audit Scotland
COSLA

In 2014 Scotland Welcomes the World



Our ref: A7652027
16 July 2014

Dear Director of Finance,

THE LOCAL AUTHORITY ACCOUNTS (SCOTLAND) REGULATIONS 2014

I write to advise that the Local Authority Accounts (Scotland) Regulations 2014 were laid before the Scottish Parliament on 7 July 2014 and are due to come into force on 10 October 2014. These regulations will apply to the statutory Annual Accounts commencing with the financial year 2014-15. The provision in the regulations for internal audit applies from the 10 October 2014.

The new regulations revoke The Local Authority Accounts (Scotland) Regulations 1985, making the 2013-14 statutory accounts the last ones subject to the 1985 regulations.

This Finance Circular is to provide local authorities with a narrative on the requirements of the new regulations, together with an explanation of the changes from the consultation draft of the regulations published last year. This circular is the result of joint working between the Scottish Government, local authority Directors of Finance and Audit Scotland. I would like to take the opportunity to thank Directors and Audit Scotland for their invaluable help and advice.

Separate guidance on the management commentary requirement is currently being drafted, and will be published at a future date.

Yours faithfully

Hazel Black
Head of Local Authority Accounting

THE LOCAL AUTHORITY ACCOUNTS (SCOTLAND) REGULATIONS 2014

General

1. The consultation included a question as to whether there should be a statutory requirement for a local authority to have an Audit Committee. The regulations do not make this a mandatory requirement. Scottish Ministers do however consider it important that local authorities devote sufficient council/committee resource to enable the audit committee role and other scrutiny functions to be carried out effectively but that councils should be left to put into place their own arrangements for achieving this. Good practice is likely to be a committee which devotes a significant part of its time to audit matters. The regulations therefore refer to the responsibilities of the local authority being considered by the local authority or a committee of the local authority whose remit includes audit or governance functions.

Local Authority Accounts (Scotland) Regulations - PART 1

Proper officer – section 95 of the Local Government (Scotland) Act 1973

2. There were a number of matters raised in consultation responses in relation to the section 95 proper officer.

3. A number of respondents suggested that it would provide clarity and improve transparency if the section 95 officer, being the proper officer of a local authority, was known as either “Chief Financial Officer” or “Director of Finance”.

4. The Scottish Government supports using a more transparent title for the section 95 proper officer. However, the requirement for a proper officer is set out in section 95 of the Local Government (Scotland) Act 1973. Section 105(1) of the same Act provides Scottish Ministers with the legislative powers to make regulations to give full effect to sections 96 to 104 of the 1973 Act (the provision for Accounts and Audit). Any changes to section 95 would therefore require primary legislation and cannot be achieved through regulations (secondary legislation) made under section 105(1).

5. However, it is possible to improve transparency without making a change in legislation. The new regulations provide statutory backing for the Code requirement for a “Statement of Responsibilities”. The Code of Practice on Local Authority Accounting in the UK (the Accounting Code) provides recommended, but not mandatory, wording. Scottish local authorities should take the opportunity to provide transparency by adapting this statement to include statutory references, and identifying the job title of the section 95 officer for their authority. There is no requirement to change the existing job title of the section 95 officer to either “Chief Financial Officer” or “Director of Finance”. The following is illustrative of how the wording of the statement may be adapted.

The Authority's Responsibilities

The authority is required to:

- Make arrangements for the proper administration of its financial affairs and to secure that the proper officer of the authority has responsibility for the administration of those affairs (section 95 of the Local Government (Scotland) Act 1973). In this authority, that officer is the [insert job title of the s95 officer e.g. Director of Finance].
- Manage its affairs to secure economic, efficient and effective use of resources and safeguard its assets.
- Ensure the Annual Accounts are prepared in accordance with legislation (The Local Authority Accounts (Scotland) Regulations 2014), and so far as is compatible with that legislation, in accordance with proper accounting practices (section 12 of the Local Government in Scotland Act 2003).
- Approve the Annual Accounts for signature.

I confirm that these Annual Accounts were approved for signature by the [Council / XX Committee at its meeting on [date].

Signed on behalf of [name of Council]

[signature of Leader of the Council]
Councillor [name of Leader]

The [Chief Financial Officer's]/[Director of Finance's] Responsibilities

The [insert job title of the s95 officer e.g. Director of Finance] is responsible for the preparation of the authority's Annual Accounts in accordance with proper practices as required by legislation and as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom (the Accounting Code).

In preparing the Annual Accounts, the [job title of the s95 officer], has:

- Selected suitable accounting policies and then applied them consistently
- Made judgements and estimates that were reasonable and prudent
- Complied with legislation
- Complied with the local authority Accounting Code (in so far as it is compatible with legislation)

The [job title of the s95 officer] has also:

- Kept adequate accounting records which were up to date
- Taken reasonable steps for the prevention and detection of fraud and other irregularities.

I certify that the financial statements give a true and fair view of the financial position of the local authority [and its group] at the reporting date and the transactions of the local authority [and its group] for the year ended 31 March XX.

[signature of section 95 officer]
[job title of section 95 officer]

6. A number of respondents also considered that there should be a statutory requirement for the section 95 officer to be professionally qualified. For the reasons set out above this is not possible through secondary legislation.

7. However, the new statutory requirement for an annual review of the effectiveness of a local authority's system of internal control, together with the requirement to approve an Annual Governance Statement, should achieve the same desired outcome. The Accounting Code sets out the information to be included in the Annual Governance Statement. This includes a specific statement on whether the authority's financial management arrangements conform with the governance requirements of the CIPFA *Statement on the Role of the Chief Financial Officer in Local Government* (2010) as set out in the Application Note to *Delivering Good Governance in Local Government: Framework*, and where they do not, an explanation of how they deliver the same impact. The CIPFA *Statement on the Role of the Chief Financial Officer in Local Government* (2010) sets out the requirement for the Chief Financial Officer to be professionally qualified and sets out the criteria for qualification.

8. The Regulations provide flexibility for local authorities to appoint another officer (a substitute) to act as the proper officer for the purposes of the Regulations where the normal proper officer is unable to act owing to absence or illness. In making such substitute appointments authorities must still adhere to the best practice requirements set out in paragraph 7 above and in particular the requirements of the CIPFA *Statement on the Role of the Chief Financial Officer in Local Government* (2010).

Local Authority Accounts (Scotland) Regulations - PART 2

Responsibility for financial management

9. The regulations require an annual review of the effectiveness of a local authority's system of internal control. The findings of that review are to be considered at a meeting of elected members, and following that review, members must approve an annual governance statement. There is no requirement to have separate meetings for the consideration of the findings and then the approval of the annual governance statement. Both may be undertaken at the same meeting.

10. Regulation 5 sets out the responsibilities of the local authority for financial management. The regulations require the annual governance statement to be prepared in accordance with proper practices in relation to internal control. Proper practices are those set out in *Delivering good governance in Local Government: Framework* published by CIPFA and SOLACE.

11. Regulation 8 requires the approved Annual Governance Statement to form part of the Annual Accounts.

Accounting records and control systems

12. Regulation 6(2)(b) requires a local authority's accounting records to disclose with reasonable accuracy, at any time, a summary of the financial position of the

local authority. There is no expectation that such a summary would include a full Balance Sheet and level of detail similar to the Annual Accounts. Authorities should however be able to disclose summary information on their:-

- Treasury position (debt, investments, cash-flows and treasury prudential indicators)
- Actual expenditures and incomes and a projected year end position for all of their revenue and capital budgets for all main service areas.

13. This information should be sufficient to allow elected members to determine whether the Council's finances are in line with budgets and what action is being taken to address issues arising. Existing best practice on internal control systems and on the regular reporting of budget monitoring information to elected members would be sufficient to meet the requirement of this regulation.

Internal Audit

14. The regulations require a local authority to operate a professional and objective internal auditing service. This service must be provided in accordance with recognised standards and practices in relation to internal auditing. Recognised standards and practices are those set out in the *Public Sector Internal Audit Standards: Applying the IIA International Standards to the UK Public Sector* (PSIAS). The standards require internal audit to have suitable operational independence from the authority.

15. The regulations require a local authority to "operate a service" which allows for the internal audit service to be provided in-house, by way of a shared service or outsourced.

16. The regulations require a local authority to assess the efficiency and effectiveness of the internal auditing activity from time to time in accordance with recognised standards and practices in relation to internal auditing i.e. PSIAS.

17. The PSIAS includes the requirement to develop and maintain a quality assurance and improvement programme that covers all aspects of the internal audit activity. The results of the quality assurance and improvement programme are to be reported to senior management and elected members (the board).

18. The regulations require the findings of assessments to be considered, as part of the consideration of the system of internal control required by regulation 5 (the regulation setting out the arrangements for an annual review of the effectiveness of internal control and for the findings of the review to be considered by the authority).

Local Authority Accounts (Scotland) Regulations - PART 3

Annual Accounts

19. The consultation draft of the regulations included a requirement for the statutory abstract of accounts to be produced under section 96(3) of the 1973 Act to be known as the "Statement of Accounts". The proposal sought to provide consistency of terminology with the rest of the UK. Consultation responses indicated

that the term “Statement of Accounts” is not used outwith UK local authorities, and a more universally used name should be adopted. Further, the Code of Practice on Local Authority Accounting in the UK (the Accounting Code) restricts the term statement of accounts to cover the financial statements and reflects the term used in English legislation. The regulations therefore adopt the more universal term “Annual Accounts”.

20. Regulation 8 sets out those statements which must be included in the Annual Accounts together with the financial statements. Financial statements are those statements identified in the Accounting Code as being the financial statements. A complete set of financial statements currently comprises:

- (a) Movement in Reserves Statement for the period*
- (b) Comprehensive Income and Expenditure Statement for the period*
- (c) Balance Sheet as at the end of the period*
- (d) Cash flow statement for the period*
- (e) Notes, comprising a summary of significant accounting policies and other explanatory information, and*
- (f) Balance Sheet as at the beginning of the earliest comparative period (i.e. a third Balance Sheet) when an authority applies an accounting policy retrospectively or makes a retrospective restatement of items in its financial statements, or when it reclassifies items in its financial statements.*

Where group accounts are required, authorities are required to produce financial statements for the group.

Comparative (prior year) information is also required.

21. The proper officer is responsible for certifying that the financial statements give a true and fair view of the financial position of the local authority and its group (where relevant) at the reporting date and the transactions of the local authority and its group for the year then ended. The certification includes a statement to this effect as part of the Statement of Responsibilities and by signing the balance sheet. This certification is required before the Annual Accounts are submitted to the appointed auditor. The proper officer re-certifies the audited Annual Accounts after they have been approved for signature by the local authority or a committee of the local authority.

Annual Accounts – Unaudited Accounts - Signatures

22. For clarity the only statements requiring a signature prior to submission of the unaudited accounts to the auditor are the Statement of Responsibilities and Balance Sheets. These require only to be signed by the proper officer. Regulation 10(3) sets out the more detailed sign off requirements on the audited accounts.

Annual Accounts – Management Commentary

23. The Accounting Code requires a local authority to publish an Explanatory Foreword with the financial statements. The Code encourages, but does not mandate, that in preparing the Explanatory Foreword, local authorities should take into consideration the provisions of Central Government’s *Financial Reporting Manual* (FReM).

24. Regulation 8(2)(a) requires the Annual Accounts a local authority to include, in addition to the financial statements, a Management Commentary. This is to be prepared in accordance with proper accounting practices and recognised guidance.

25. Separate guidance is currently being drafted for the local authority Management Commentary which will align to the narrative reporting requirements set out for central government in the FReM.

Annual Accounts – Statement of Responsibilities

26. The regulations require this statement to be produced in accordance with proper accounting practices and recognised guidance. Proper Accounting practices are those set out in the Accounting Code, adapted to reflect the Scottish context as suggested in paragraph 5.

Annual Accounts – Annual Governance Statement

27. The regulations require this statement to be produced in accordance with proper accounting practices and recognised guidance. Recognised guidance is the publication *Delivering Good Governance in Local Government: Framework* issued jointly by CIPFA and SOLACE.

Annual Accounts – Disclosure note on any disposal of land at less than best consideration

28. The consultation draft regulations included a disclosure requirement for disposals of land at less than best consideration. In response to consultation responses the regulations do not include this disclosure requirement.

Annual Accounts – Unaudited accounts to Authority and Appointed Auditor

29. The regulations require the unaudited accounts to be submitted to the appointed auditor no later than 30 June. The regulations require elected members to consider the unaudited accounts at a meeting to be held no later than 31 August.

30. Best practice is for elected members, either as the Authority or a committee of the Authority charged with audit or governance, to have formally considered the unaudited Annual Accounts prior to submitting them to the appointed auditor, and making them available for public inspection. The new regulations provide for a longer timeline reflecting feedback that for some local authorities a statutory requirement for elected members to formally consider the accounts by 30 June would be difficult to accommodate. Authorities should consider moving to a position of best practice.

31. A formal consideration of the unaudited Annual Accounts by the Authority or a committee of the Authority at a meeting is required to address, and to mitigate, the risk of the Authority or a committee of the Authority not agreeing to approve the audited Annual Accounts for signature. Effective communication between officers

and elected members on significant matters arising during the audit will also address this risk.

Notice of public right to inspect and object to accounts.

32. The current arrangement which requires the local authority to gain approval or clearance of the public notice by the controller of audit will no longer apply.

33. The consultation proposed an inspection period common to all local authorities. Responses to the consultation supported this proposal but requested that the inspection period should commence earlier than the date proposed in the draft regulations. Following the consultation further consideration has been given to smaller bodies, including local authority charities, and the needs of the new Integrated Joint Boards created by the Public Bodies (Joint Working) (Scotland) Act 2014. The principle of a common timetable has been kept but rather than a fixed period regulation 9 provides for an inspection period based on latest dates rather than fixed dates. The regulations require the inspection period to commence no later than 1 July, i.e. immediately after the last date for the Annual Accounts to be submitted to the appointed auditor. The timeline is reproduced below:

<i>No later than 17 June (or next working day)</i>	<i>Public notice given in accordance with section 195 of the 1973 Act. Regulation 9(1) and 9(3)(a)</i> <i>Public notice published on a website of the local authority. Regulation 9(3)(b)</i> <i>To remain on the website until the end of the inspection period. Regulation 9(3)(c)</i>
<i>By 30 June</i>	<i>Unaudited Annual Accounts produced and submitted to the appointed auditor. Regulation 8(7)</i> <i>A copy of the Unaudited Annual Accounts published on the local authority website. Regulation 8(8)</i>
<i>Will vary based on the date the inspection period commences but the latest period possible will be 1 July – 21 July (adjusted for non-working days as necessary)</i>	<i>Public inspection period. Regulation 9(4)(a)</i>
<i>21 days after date documents are first available for inspection. The latest date possible will be 22 July (or next working day)</i>	<i>Date by which any objections are to be sent to the auditor. Regulation 9(4)(e)</i>

34. The regulations require public notice to be given in accordance with section 195 (public notices) of the Local Government (Scotland) Act 1973. Section 195 provides:

“Save as otherwise expressly provided, a public notice required to be given by a local authority shall be given—

(a) by displaying the notice conspicuously at or near the principal entrance to the offices of the authority; and .

(b) by posting the notice in some conspicuous place or places within the area of the authority or by inserting a copy of the notice in a newspaper circulating in the area of the authority; and .

(c) in such other manner, if any, as appears to the authority to be desirable for giving publicity to the notice.”

Consideration and signing of audited Annual Accounts

35. The regulations set out the process for the consideration and signing of the Annual Accounts. The process set out in the consultation draft of the regulations has changed in response to consultation responses and further dialogue with stakeholders. The regulations require the local authority, or a committee of the local authority, to meet to consider whether to approve the audited Annual Accounts for signature. When the authority, or a committee of that authority, approves the accounts the statements which form part of the Annual Accounts are then signed.

36. In considering the Annual Accounts the regulations require elected members, either as the local authority, or a committee of that authority whose remit includes audit or governance functions, to have regard to any report made or advice provided on the Annual Accounts by the proper officer or appointed auditor.

37. The International Audit Standard (ISA) (UK and Ireland) 260 deals with communication with those charged with governance in the audit of financial statements. The Standard identifies that the communication process will vary with the circumstances, including the size and governance structure of the entity, how those charged with governance operate, and the auditor’s view of the significance of matters to be communicated. Local authorities should make appropriate arrangements to ensure that any significant issues communicated to officers by the appointed auditor during the audit are communicated to those elected members who will be responsible for approving the Annual Accounts for signature. In addition ISA 450 requires auditors to communicate to those charged with governance any misstatements not corrected by management and request they be corrected.

38. Elected members should consider a report issued by an appointed auditor as a communication to those charged with governance in the audit of financial statements in accordance with ISAs (UK and Ireland) 260 and 450. Specifically this will cover the communication of significant findings from the audit and any uncorrected misstatements.

39. The regulations set out those required to sign the various statements that form part of the Annual Accounts. The majority of the statements listed in the regulations require a signature from both an officer/s and the Leader of the Council, indicating a joint responsibility for the statement. The Statement of Responsibilities sets out, separately, the Authority’s responsibilities and the Proper Officer’s responsibilities. The elected member will sign for the Authority’s responsibilities which will include details of the meeting at which the Annual Accounts were approved for signature. The Proper Officer will sign for the Proper Officer’s

responsibilities and re-certify that the financial statements give a true and fair view. The proper officer also signs and dates the balance sheet to authorise the accounts for issue as required by proper accounting practices. This should use the form of words as set out in the Accounting Code.

40. The regulations require the proper officer to provide a copy of the approved Annual Accounts, together with the signed statements, to the appointed auditor.

41. The regulations require the local authority to aim to approve the Annual Accounts for signature no later than 30 September.

42. The regulations make a further provision in relation to any further reports made on the Annual Accounts by the appointed auditor after the audited accounts have been approved. It requires these reports to be considered formally by the authority or its committee that deals with audit or governance. The appointed auditor's annual report to members on the audit of the local authority's accounts is an example of the type of report the regulations require be formally considered by elected members.

Publication of the audited Annual Accounts

43. The regulations require the local authority to aim to approve the Annual Accounts for signature no later 30 September and to publish them no later than 31 October. The regulations make no provision for the process to be followed in the event elected members fail to approve the accounts for signature. Local authorities should try to resolve this internally but in the event this cannot be achieved by 31 October they should contact the Scottish Government for further advice.

44. The approved Annual Accounts, together with the audit certificate on those accounts, is to be published on the website of the local authority for a period of at least 5 years.

45. To improve transparency and access to information a local authority is also required to publish a copy of the accounts of any its subsidiaries. Publication may be either a copy of the subsidiary's accounts published alongside the Annual Accounts or, if the subsidiary has its own website and publishes its accounts, by providing a link from the local authority website to where the subsidiary body accounts are published.

46. The appointed auditor's annual report to members on the audit of the local authority's accounts is required to be considered by the Authority or a committee of the Authority charged with audit or governance and published by 31 December.

Local Authority Accounts (Scotland) regulations - SCHEDULE

47. Since the remuneration report regulations were introduced in 2011 an additional disclosure has been identified – a disclosure on exit packages. This is currently an Accounting Code requirement and for completeness we have included it as part of the remuneration reporting requirements.

PENSION FUNDS

48. The consultation draft of the regulations proposed a change in the disclosures required for pensions, to include the cash equivalent transfer value of a person's pension right. This change was not supported by those consulted for a number of reasons and the regulations do not include this disclosure requirement.

49. The regulations apply to local government pension funds. These pension funds also have separate statutory reporting requirements as set out in *The Local Government Pension Scheme (Administration) (Scotland) Regulations 2008* (the Administration Regulations).

50. The Administration Regulations include a statutory requirement for a report about the management and financial performance during the year of each of the pension funds maintained by the authority. This report is published as part of the statutory pension fund annual report. The accounting regulations require a management commentary. We recommend that one report is published in the Pension Fund Annual Report and Annual Accounts which satisfies the legislative requirements of both sets of regulations.

51. The Administration Regulations also require the preparation of a governance compliance statement. The accounting regulations require an annual governance statement. We recommend that one report is published in the Pension Fund Annual Report and Annual Accounts which satisfies the legislative requirements of both sets of regulations.

52. Finance circular 1/2011 which sets out statutory guidance for *Accounting for local authority pension funds* will be updated and re-issued to include additional guidance.

SECTION 106 BODIES

53. Section 106 of the Local Government (Scotland) Act 1973 extends the financial provisions set out in sections 93 to 105 to other bodies. As requested by a number of those that responded to the consultation further consideration has been given as to whether the accounts regulations should apply, without amendment, to these bodies.

Section 106 Charities

54. Scottish charities are subject to *The Charities and Trustee Investment (Scotland) Act 2005* and *The Charities Accounts (Scotland) Regulations 2006*. This legislation applies to section 106 registered charities.

55. Section 44 of *The Charities and Trustee Investment (Scotland) Act 2005* requires a charity to keep proper accounting records and to prepare for each financial year a statement of account. *The Charities Accounts (Scotland) Regulations 2006* (the charity regulations) provides for the detailed accounting requirements that a charity must follow. Regulation 4 of the charity regulations sets out the duties of charity trustees in relation to accounting records. Charity

regulations 8 and 9 set out what the statement of account shall consist of and who is to sign the accounts.

56. Recognising that statutory provision for charities already exists the local authority accounting regulations make a different provision for section 106 charities. The local authority accounting regulations for section 106 charities are limited to making provision for those matters which section 106 charities are required to comply under the Local Government (Scotland) Act 1973.

57. Section 101 of the 1973 Act makes provision for the right of an interested person to inspect and object to accounts. This requires the unaudited accounts and papers to be available for inspection. The inspection period and the requirement to advertise the inspection period therefore also applies to section 106 charities. Whilst there is no provision in the charities legislation for publishing the accounts, the publishing requirement has been extended to section 106 charities in recognition that the trustees of these charities are elected members of the local authority.

58. The charities legislation does not require a registered charity to operate an internal audit function. Regulation 7 of the accounting regulations (the internal audit material) is therefore not applied to section 106 registered charities.

Scottish Government
Local Government Division
Communities and Local Government Directorate