

# CIPFA response to the Welsh Government on the proposed revocation and remaking of the Accounts and Audit (Wales) Regulations (SI 2005/368) as amended

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10 January 2014

Amanda Whittle  
Local Government Finance and Performance Division  
Local Government Public Service Department  
Welsh Government  
Cardiff

Dear Amanda

**Response to the Welsh Government on the proposed revocation and remaking of the Accounts and Audit (Wales) Regulations (SI 2005/368) as amended**

**1. Introduction**

1.1 CIPFA welcomes the opportunity to respond to the consultation. For ease of reference the following response follows the order of the draft Accounts and Audit (Wales) Regulations. Our response only includes comments on individual regulations where we have identified the need to raise a specific point or issue.

**2. Consolidation and Restructuring of the Regulations**

2.1 CIPFA supports both the consolidation and the restructuring of the Accounts and Audit (Wales) Regulations (the Regulations). We are of the view that it is advantageous to have a clear statement of these important provisions. We consider that this move makes the regulations both easier to read and follow for accounts practitioners in both larger and smaller relevant bodies.

**3. Interpretation (draft regulation 2)**

3.1 CIPFA welcomes the clear specification of the definitions of the larger and smaller relevant bodies as it is vital that with such an important set of regulations that relevant bodies understand which regulations do or do not apply to them.

3.2 However, we also consider that it is important that these relevant bodies are clear which proper practices apply to them and would recommend that the current practice of producing guidance to accompany the regulations clearly stipulating the proper practices is retained or reissued. We would also highlight the issue of the proper practices that apply to Chief Constables. We note that currently SI 2013 No. 2319 The Police Reform and Social Responsibility Act 2011 (Transitional Provision) Order 2013 stipulates that the regulations made under sections 21 and 22 of the Local Government Act 2003, will apply to Chief Constables and the Commissioner as they apply to local authorities. We understand that this is a temporary measure and consider that it will be important for Chief Constables that it is clear which proper practices for accounts apply to them, including any provisions made in the longer term. It may be useful to cover this issue in any guidance that is issued with the new Accounts and Audit (Wales) Regulations.

3.3 CIPFA notes the Welsh Government's intention to retain the threshold of a smaller relevant body of not more than £1million in the year of account. However, we consider that there are advantages of moving to a £6.5million threshold which is consistent with the approach in England and the Companies Act 2006 requirements primarily as it reduces the reporting burden on these relatively

small bodies. We would be happy to discuss the benefits of such an approach with you.

#### **4. Responsibility for internal control and financial management (draft regulation 5)**

4.1 CIPFA welcomes the general approach to the regulations for regulation 5 but would suggest that some further drafting improvements be made to the text which appears to describe financial management as a subset of internal control whereas we consider that internal control is a subset of financial management. We note that the equivalent English Regulations<sup>1</sup> appear to accord with our view. In addition, we would note that the CIPFA/SOLACE supplement to the Delivering Good Governance in Local Government: Framework ('the Framework') sets out the proper practices for this Regulation in England and Wales. As a result, the term "*statement on internal control*" is no longer relevant to authorities in Wales and CIPFA suggests that Regulation 5(3) therefore refers explicitly to "*an annual governance statement prepared in accordance with proper practices on internal control*".

4.2 The draft Regulations stipulate that the statement on internal control should be approved at a meeting of the relevant body or a committee. CIPFA is already concerned that some bodies do not present the annual governance statement to the relevant body or committee until the accounts are submitted i.e. by 30 September. This does not allow enough time for the body/committee to consider all the issues which may be raised in the statement and which may affect subsequent amendments.

4.3 CIPFA therefore suggests that any guidance notes issued to support the amended Regulations state that the annual governance statement must be published at the time the draft annual accounts are signed and dated by the relevant financial officer at the latest. Furthermore, we recommend that the annual governance statement should be presented to the body or committee for review no later than the meeting before that which will approve the annual accounts (with approval at the same meeting as the accounts). The body or committee reviewing the annual governance statement separately to the annual accounts will allow for greater emphasis to be put upon the statement, which CIPFA would welcome.

#### **5. Internal Audit (draft Regulation 7)**

5.1 CIPFA draws to the Welsh Government's attention the Public Sector Internal Audit Standards, which came into force on 1 April 2013 and are applicable to all public sector bodies in the UK. PSIAS include a Definition of Internal Auditing. This says: Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

5.2 The PSIAS go into detail (for example in Standards 2100-2130) on the main areas where internal audit activity must contribute to improvement, including governance, risk management and internal control. CIPFA therefore suggests that the wording in Regulation 7(1) be amended to read as follows: "undertake an adequate and effective internal audit of its accounting records and

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<sup>1</sup> The Accounts and Audit (England) Regulations 2011 SI 2011/817

of its systems of risk management, internal control and governance processes using internal auditing standards in force”.

5.3 With regard to other sections in Regulation 7, we recommend that subsections (3) and (4) should be removed in their entirety from the Regulations as these requirements are covered in PSIAS and the accompanying Local Government Application Note for the PSIAS.

In summary, CIPFA suggests that Regulation 7 be redrafted as follows:

“7. (1) A relevant authority must undertake an adequate and effective internal audit of its accounting records and of its systems of risk management, internal control and governance processes using internal auditing standards in force from time to time.

“(2) Any officer or member of a relevant authority must, if internal audit requires—

“(a) make available such documents and records as appear to internal audit to be necessary for the purposes of the audit; and

“(b) supply internal audit with such information and explanation as internal audit considers necessary for that purpose.”

## **6. Statement of Accounts (draft regulation 8)**

6.1 We note that the draft Regulations contain reference to the Statement of Accounts being prefaced by an Explanatory Foreword. The CIPFA/LASAAC Local Authority Accounting Code Board, the joint board responsible for the development of the *Code of Practice on Local Authority Accounting in the United Kingdom* (the Code) has held the Code’s reporting requirements for the management commentary (which would include the explanatory foreword) under review since the consultation on the 2012/13 Code but has been awaiting developments in legislation across the UK before any significant amendments are made to its provisions.

6.2 The development programme for the 2015/16 Code includes the review of the reporting requirements for a management commentary. We would be interested in the Welsh Government’s views on this issue and would be happy to discuss this. We would suggest, however, that the Welsh Regulations be amended along similar lines to the English Regulations<sup>2</sup> and allow the requirements for a management commentary to be stipulated by proper practices, in this case the (Accounting) Code as the provisions in the Code on the Explanatory Foreword are likely to be updated in the near future.

## **7. Declaration of Remuneration (draft Regulation 9)**

7.1 CIPFA notes the proposals to introduce a new disclosure requirement for relevant bodies to disclose a note of the ratio between the highest paid employee and the median earnings across the organisation as recommended in the Hutton Review<sup>3</sup>. CIPFA and CIPFA/LASAAC are keen to ensure that local authority financial statements avoid clutter wherever possible. CIPFA/LASAAC decided not to include this disclosure as a requirement in the Code as it was of the view that other reporting mechanisms might be better placed to disclose these requirements. CIPFA would be interested in discussing the other mechanisms that might include this disclosure requirement for local authorities in Wales and the opportunities for reducing disclosure requirements in the financial statements with the Welsh Government at its earliest opportunity.

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<sup>2</sup> See footnote 1.

<sup>3</sup> Hutton Review of Fair Pay in the Public Sector: Final Report March 2011

7.2 If the Welsh Government is committed to maintaining the disclosure we would suggest based on the experience of other public sector bodies adopting this disclosure requirement, that appropriate definitions or guidance be included in the regulations or accompanying guidance to ensure consistency of approach across Welsh Authorities, for example:

- i) defining terms such as the median and remuneration eg does remuneration include any agency staff and should remuneration be calculated on an Full Time Equivalent and Annualised Basis;
- ii) the draft regulations define the Chief Executive as the highest ranking officer of the relevant body. We wonder whether the ratio would be as effective in any circumstance if this person is also not the highest paid officer of the authority, we note for example, that the Government's Financial Reporting Manual's (FRM's) requirement is to report the highest paid director whether or not this is the Chief Executive.

7.3 We also note that the Welsh Regulations follows the format of the English Regulations in relation to remuneration and employers pension contributions. This is a difficult area for local authorities and we would like to discuss with you our suggestions for some drafting improvements to regulation 9 paragraphs 3) and 4).

## **8. Signing, approval and publication of statement of accounts etc (draft regulation 10)**

8.1 CIPFA welcomes the streamlining of the provisions in draft regulation 10 as this improves the clarity of the stages in the approval process.

8.2 The CIPFA Statement on the role of the Chief Financial Officer (CFO) in Local Government provides a statement to that effect and sets out that the CFO must ensure:

*"...that the financial statements are prepared on a timely basis, meet the requirements of the law, financial reporting standards and professional standards as reflected in the Code of Practice on Local Authority Accounting in the United Kingdom developed by the CIPFA/LASAAC Joint Committee [Board]." CIPFA, 2010*

8.3 This ensures that 30 June remains a substantial deadline for a comprehensively compiled draft Statement of Accounts that presents a true and fair view.

8.4 However, we consider that in exceptional circumstances the responsible financial officer (RFO) may not be able to certify the accounts as true and fair prior to 30 June in accordance with expected professional standards. We consider that it would be helpful for the Regulations or guidance to include appropriate provisions to accommodate such exceptional circumstances.

8.5 We are therefore supportive of the provisions in the Accounts and Audit (Wales) (Amendment) Regulations 2010 (SI No. 683 (W. 66) which requires that if (in exceptional circumstances) RFO does not comply with his/her certification requirements (to certify the accounts prior to 30 June and prior to Member approval in September) then the local government body must publish immediately a statement setting out reasons for his or her non-compliance and agree to a course of action to ensure compliance as soon as practicable (see the Amendment Regulations 8B (4)). We consider that this approach provides a transparent mechanism for reporting such exceptional circumstances to the public

and to the authority's members. We would be concerned that this regulation be retained in the new regulations and cannot see that it is currently included in the draft.

## **9. Internal drainage boards (draft Regulation 19)**

9.1 Firstly, as a minor point, we would bring to the Welsh Government's attention a drafting or typographical error in draft regulation 19 which repeats the words "an amount equal to".

9.2 We consider that there may need to be more clarification or guidance to explain which of the proper practices in relation to accounts draft Regulation 18 refers.

## **10. Joint Committees**

10.1 The Welsh Government will be aware that the Local Audit and Accountability Bill currently before the UK Parliament does not include joint committees in its schedule of relevant authorities. CIPFA supports this move as under the Bill these committees will be accounted for by their constituent bodies, and these statements of accounts will be subject to audit. The auditor will be able to access all necessary information as the committees will be classed as connected bodies. CIPFA is aware that joint committees are currently included in the draft Regulations as they are included in the listing of local government bodies under Section 12 of the Public Audit Wales Act 2004 and that therefore it is likely that appropriate provision needs to be included in the Accounts and Audit (Wales) Regulations but would suggest that in any future review of the local government bodies that the Welsh Government may wish to consider a similar approach to the Local Audit and Accountability Bill as this streamlines the reporting requirements for local authorities.

I hope you find these comments useful to the finalisation of the Regulations. We have mentioned a number of times in this response that we would discuss the drafting detail and the principles of the regulations with you and would be happy to meet you at your earliest convenience. If you have any queries or questions please contact:

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Our response refers to a number of CIPFA publications. These can be provided on request.

Yours sincerely,

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