Directorate for Local Government and Communities
Local Government Division

The Scottish Government

CONSULTATION: LOCAL AUTHORITY ACCOUNTS REGULATIONS

The consultation closed **4 October 2013**

Responses received: 27

CONSULTATION QUESTIONS AND RESPONSES

The Local Government Accounts (Scotland) Regulations 2013		
PART 1: Introductory		
Regulation 1: Citation and Commencement 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	Responses
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: 24 No: 0 No Comment: 2
	Summary of responses and comments : There was agreement that the definition addresses the issue of absence or illness. A few respondents sought clarity on: (i) Whether the nomination can / should be made in advance. (ii) Whether the council / a committee has to formally agree a nomination. (iii) Whether the alternative officer need to be prescribed in standing orders or equivalent. A respondent noted that as the wording stands it appears that only a person under the line management control of the 'proper officer' could act 'in lieu'.	
2	Other comments: There are occasions that the proper officer retires or otherwise leaves a council in the period after signing the unaudited accounts but before the audited accounts can be signed. It would be helpful to clarify that the requirements in the regulations apply to whoever is in post at the time the accounts require to be re-signed.	

	A number of respondents suggested that there should be a statutory requirement for the 'Proper Officer' to be a suitably qualified person. In the CIPFA statement on 'The Role of the Chief Financial Officer in Local Government" CIPFA states the Chief Financial Officer " must be professionally qualified …". Principle 5 of the CIPFA statement indicates that the criteria for qualification could be "…a member of an accountancy body recognised by the International Federation of Accountants (IFAC), qualified through examination, and subject to oversight by a professional body that upholds professional standards and exercises disciplinary powers" The term 'proper officer' is specialist to a local authority and therefore unlikely to be immediately understood by a wider audience. Our preference is to update this to a more universally known terminology to remove unnecessary specialism as this reduces transparency. We would suggest the term 'Director of Finance' or 'Chief Financial Officer' as the most senior Finance Officer. Updating and revising the terminology does not mean that we disagree with the responsibilities which legislation may attribute to the 'proper officer'. To improve clarity it might be helpful if the term chief financial officer rather than proper officer or section 95 officer became standard in regulations and guidance. Councils would need to designate which officer was the chief financial officer. This might also align better with professional standards such as the CIPFA guidance on the role of the chief financial officer. It is not suggested that councils need to adopt this term as a standard job title. There are also 32 s95 officers (Section 95 of the Local Government (Scotland) Act 1973) across the 32 Councils yet there are 19 different job titles employed by Councils for this role. A requirement in section 3 (a) for the "proper officer" to be referred to as "the Chief Financial Officer" would assist both members of the public to identify the person with the statutory responsibility for the Council finances and remove some of the confusion that currently exists where S95 officers responsibilities are tagged on to another role. The S95 duties should take precedence and this should be clear and unambiguous from the legislation and in the job title. The position is much clearer for the statutory role of Chief Social Work Officer where the Social Work (Scotland) Act 1968 at Section 3 states that "a local authority shall appoint an officer to be known as the chief social work officer." This is also the case for the Monitoring Officer role where The Local Government and Housing Act 1989 at Section 5 states that it is the "duty of every relevant authority to designate one of their officers (to be known as the "monitoring officer")" I believe that a change to have "proper officer" in terms of S95 of the Local Government (Scotland) Act 1973) called "Chief Financial Officer" would bring some clarity. Our understanding is that in practice, the proper officer is not necessarily a member of the Executive Team. We suggest that evidence needs to be gathered on how many local authorities have a proper officer who is not a member of the Executive Team and then to assess to what extent this may impact on the ability of the proper officer to discharge their responsibilities effectively and meet good practice corporate governance objectives. The definition of 'local authority subsidiary body' in Regulation 3 could have 'under proper accounting practices' added to the end to avoid confusion with other meanings of the word 'control'. This term is also defined in the schedule to the regulations and this duplication can presumably be removed.

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	Responses
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: 27 (3 yes to annual review but no to inclusion in accounts) No: 0 No Comment: 0
	Comments received: The majority of respondents supported the requirement for an annual review with the report (the annual governance statement) forming part of the annual statutory accounts. There was recognition that this was already considered to be best practice. Three respondents supported the requirement for an annual review but did not consider that a report on the review should form part of the annual statutory accounts. One respondent considered that the annual governance statement should pick up on any significant issues that have been found and not addressed. One respondent indicated that if this is to be a statutory requirement, it would be useful to have guidance as to how this process should be undertaken. **Comment:** As indicated in the consultation document the guidance will be *Delivering Good Governance in Local Government* published by CIPFA and SOLACE.	
4	Do you agree that the requirement for an annual review and annual report should apply from the financial year 2013-14?	Yes: 23 No: 4 No Comment: 0
	Comments received: A number of respondents indicated that whilst an increasing number of local authorities prepare an Annual Governance Statement (AGS) overall it is still a mixed landscape. It would therefore be preferable to commence from 01/04/14 to provide an adequate lead in time, for those organisations who do not currently prepare an AGS. Further, it was noted that this would effectively be 'retrospective' for those authorities not currently undertaking reviews since it would cover internal controls from 1 April 2013. Consequently transition arrangements for the 2013/14 financial year would be regarded as appropriate.	

5	Do you agree that this requirement should apply to all Scottish local authorities irrespective of size? If not please provide reasons.	Yes: 24 No: 2 No Comment: 1
	Comments received: Most respondents considered the requirement should apply to all bodies irrespective of size. However, a number of respondents advised that under section 106 of the Local Government (Scotland) Act 1973, the regulations will apply to a number of very small local authority bodies as well as charities where an authority is the sole trustee. They indicated that further consideration should be given to the merit of applying these requirements to charities and the smallest bodies. One respondent suggested that it should apply to wider section 106 bodies, a level of flexibility in how this is applied for the smallest bodies may be needed to avoid a disproportionate 'one size fits all' approach. To reflect the principle of proportionate regulation, they suggested including a threshold below which the smallest entities have some exemptions (perhaps £1m spend).	
6	Any others comments? Can the requirements of paragraphs 3 & 4 be done together by asking the relevant committee to both consider the findings and approve the AGS at the same meeting? The Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 require the preparation of a governance compliance statement which measures a pension fund's governance arrangements against the standards set out in guidance from the Scottish Ministers. The interaction between an administering authority's annual governance statement and its pension fund's governance compliance statement is unclear. See our comments in response to question 17 which further amplify this point. CIPFA's "Role of the Chief Financial Officer in Local Government" states that "The governance requirements in the Statement are that the CFO should be professionally qualified, report directly to the Chief Executive and be a member of the Leadership Team, with a status at least equivalent to other members." We therefore consider that the role of the CFO ('proper officer') in corporate governance should be explicitly stated and required in the regulations.	

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	Responses
7	Do you agree that the Companies Act provisions have been suitably adapted for local government?	Yes: 23 No: 2 No Comment: 2

	Comments received: A number of respondents sought clarification on what would be necessary for a local authority and its s95 Officer to properly discharge their responsibilities under Regulation 6: Requirement to disclose financial position 'at any time': CIPFA's 'FM Model' indicates that good practice is that "the balance sheet is a sound and current platform for management action". On this basis we broadly welcome the requirement in section 6(2)(b). Scottish local authorities have well established arrangements for periodic budgetary monitoring and have a good track record of budgetary control. This embraces two broad aspects of day-to-day public services (revenue expenditure) and capital investment (capital expenditure). There is not however a periodic reporting of a balance sheet position which would provide a regular snapshot of the assets and liabilities of the local authority in accounting terms. This is done annually as part of the annual accounts process. A shift to the production of balance sheet reporting, say on a quarterly basis, would have significant resourcing implications. One respondent raised a concern with Regulations 6(6)-(7). The duty to keep accounting records rests with the company which is effectively the board of directors as the principle of a unitary board is applied in the private sector. (See also our response to question 16). The equivalent would be that the local authority is responsible and may delegate this to a proper officer (or chief financial officer). By making the proper officer responsible there is the anomaly that not all proper officers are a member of the executive team (as per our response to question 2). One respondent raised the question as to whether there should be an explicit need to "prepare the accounts on a going concern basis" in the Statement of Responsibilities similar to the Statement of Directors' Responsibilities? A couple of respondents questioned whether the Companies Act requirement in relation to stocks was relevant to local authorities. One respondent noted a potential conflict regarding professional judgement: Paragraph 6(6) allows the proper officer's judgement to be abrogated, through the "subject to" clause, by the authority. This may pose some conflict with the statement in paragraph 6(7) that "the proper officer must ensure that the accounting control systems are observed"
8	Any other comments: One respondent indicated that they agreed that overall responsibility for determining the form of and maintaining the authority's accounting control systems and accounting records should lie with the proper officer. However, as the authority also controls a number of charities (which have their own compliance regime and regulations), consideration would need to be given to which regulations take precedence.

Regulation 7: Internal Audit This is a new requirement for a local authority to undertake an adequate and effective internal audit function.		
	Question	Responses
9	Do you agree there should be a statutory requirement for internal audit?	Yes: 27 No: 0 No Comment: 0
	All respondents supported making internal audit a statutory requirement. A number of respondents advised that the new Public Sector Internal Audit Standards (PSIAS) formally widens the remit of internal audit whereby internal audit must evaluate and improve the effectiveness of risk management, control and governance processes. Respondents considered the regulations should recognise PSIAS. Specific changes to incorporate / recognise PSIAS were suggested: (i) Paragraph 7(1) – the requirement should be for the local authority to ensure that there are effective internal audit arrangements over the governance, risk management and internal control arrangements (which inherently includes internal financial controls). (ii) In addition, at 7(1) “recognised practices in internal control” should be replaced with the Public Sector Internal Audit Standards (PSIAS) which standards are mandatory across the public sector for internal audit. The PSIAS should be cited as a “recognised, published code” in the same manner as the Code of Practice on Local Authority Accounting in the UK. (iii) The PSIAS contains a clear and concise definition of internal auditing, requirements for internal and external assessment, access to records, information and key stakeholders. The current wording of 7 (1) with its focus on an ‘internal audit of accounting records’ should be replaced with the definition of Internal Auditing included in Section 3 of the PSIAS. (iv) At 7(2)(a) we think that ‘for the purpose of the audit’ should be replaced with ‘for the purpose of Internal Audit’s review of arrangements for risk management, governance, and control.’ (v) The review of effectiveness required at 7(3) should be linked with the requirement in the PSIAS for internal audit to have a Quality Assurance and Improvement Programme which includes periodic internal review and, at least every 5 years, an external review. The PSIAS requirement to include the results of the reviews in the Chief Audit Executives (CAE) annual report should also be included in terms of reporting the results. (vi) Regulation 7(4) should require that the CAE’s annual report be considered in the same manner as 5(2) at the meeting 5(3). (vii) Part 1 paragraph 3: Definitions: – This should include definitions in line with recognised professional practice of ‘internal controls’ and ‘internal auditing’ as detailed in the PSIAS.	
10	Do you agree that the requirement for internal audit should apply from the financial year 2013-14?	Yes: 16 No: 9 No Comment: 1
	Comments received: Many respondents suggested that if there were not already an internal audit function in	

	place it would not be practical nor was it right in principle to apply this retrospectively from 1 April 2013. Respondents suggested that transition arrangements should be considered / the new statutory requirement to apply from the date the regulations come into effect / from 1 April 2014. A number of respondents identified that the new Public Sector Internal Audit Standards (PSIAS,) which are mandatory for internal audit service providers in the public sector only became effective 1 April 2013 and the implications are currently being assessed by individual organisations to ensure that they are compliant with the various requirements. Given this consideration should be given to deferring the application date to the start of the 2014/15 financial year. A number of respondents considered Regulations should have a requirement for a senior officer of the Authority to be responsible for ensuring the provision (whether directly or by other means) of a professional internal audit service in accordance with the PSIAS, and that officer be a Statutory Officer of the Authority. The Statutory requirement for an Internal Audit function goes hand in hand with the need to have a Statutory post of Chief Auditor (or similar post name) as does the Section 95 Officer and Monitoring Officer in similar statutory roles. There is clearly a need to set out the appointment of a suitable officer recognising the statutory role of the internal audit function. Such parity reflects the importance of the function and supports the ethos/principles of the new Public Sector Internal Audit Standards (PSIAS). If there is to be a statutory requirement for internal audit within a local authority, then should this also result in the Chief Internal Auditor becoming a statutory role in the same way as: • Head of Paid Service (Chief Executive) • Section 95 Officer • Chief Social Work Officer • Monitoring Officer	
11	Do you agree that this requirement should apply to all Scottish local authorities irrespective of size? If not please provide reasons.	Yes: 23 No: 1 No Comment: 1
	Comments received: The majority of respondents agreed that this requirement should apply to all local authorities. One respondent noted that the new Public Sector Internal Audit Standards came into effect from 2013/14 and are applicable to all of the public sector, irrespective of size. Therefore, statutory status should likewise apply to all local authorities. A few respondents advised that further consideration should be given as to whether this requirement should apply to all section 106 bodies.	
12	Any other comments?	

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	Responses
13	Do you agree that the annual statutory accounts should be known as the Statement of Accounts?	Yes: 23 No: 2 No Comment: 2
	Comments received: Most respondents agreed with this proposal as its objective is to promote consistency of terminology as used in other territories and to facilitate on-line searches by stakeholders. However, the following points were raised: (i) There is an inconsistency in the range of the content of the statement of accounts required by the regulations compared with the Code of Practice on Local Authority Accounting. Regulation 8(2) states that the statement of accounts must include, as well as financial statements, a management commentary, statement of responsibilities, annual governance statement, and remuneration report. The Code restricts the term statement of accounts to cover the financial statements (and accounting policies and notes). For example, it requires a local authority to provide a statement of responsibilities in respect of the statement of accounts (rather than to be included as part of the statement of accounts). Using the same term to mean two related but different things could cause confusion. We therefore suggest that statement of accounts be used in the regulations consistently with the Code. (ii) The Code of Practice on Local Authority Accounting 13/14 states (para 1.6.4): "The financial statements, summary of significant accounting policies and notes to the accounts should form the relevant Statement of Accounts for the purpose of the	

	auditor's certificate and opinion." The term financial statements is defined in the Code 13/14 in para 3.4.2.17. (iii) The definition of Statement of Accounts as suggested in the consultation proposals differs from that used in England (SI 2011/817 Part 3 para 7). This may make consistent use of the term 'Statement of Accounts' in the Code of Practice more problematic in future. (iv) Some amendments may be required regarding other specific 'abstracts of accounts' (e.g. section 106 local authority charities and LGPS funds) where these require specific, and separate, referencing in the final regulations. Two respondents did not agree with this change. One respondent provided the following reason: We firmly believe that there should be alignment and consistency between the public and private sectors unless there is a clearly justified reason of a particular material public sector issue that is not addressed. The term Statement of Accounts used in the CIPFA/LASAAC Code of Practice on Local Authority Accounting is not a term that is commonly used out-with UK local authorities. It is also inconsistent with the Audit Scotland Code of Audit Practice which uses 'financial statements'. 'Financial Statements' or 'Annual Accounts' are more universally known and recognisable. Unnecessarily different terminology introduces specialism and this reduces transparency for a wider audience. We suggest that using universal terminology would also assist web searches. Our preference would be to replace the term 'Statement of Accounts' with 'Financial Statements'.	
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: 19 No: 5 No Comment: 2
	Comments received: The majority of responses were in favour of moving to a management commentary. All responses are included here. A management commentary will provide more corporate emphasis and therefore be more meaningful to the authority. The Foreword by the Director of Finance should be easily adapted to a Management Commentary as required by the FReM and would give consistency across the whole of government. We firmly believe that the statement of accounts should include an interpretation and commentary to assist readers. We would appreciate clarification of the intention of the proposals, with the suggestion that the regulations should include an explanation or definition of the term 'management commentary' within the 'interpretations section. We suggest that any such definition should refer to the Code of Practice requirements; which would ensure that a number of stakeholders, including the Scottish Government and Audit Scotland, can influence the practical detailed requirements. This would also allow the detailed requirements to be adjusted for developments in 'best practice' without a need for frequent amendments to the regulations. There are concerns about how onerous this would be for completion of the draft accounts especially if introduced for 2013/14. No, I'm concerned that the accounts are becoming more like a policy document. Council's should be free to include what they see as appropriate in the Foreword	

This is consistent with placing responsibility on the local authority as a corporate body, however, perhaps this should be encouraged as good practice rather than making it a statutory requirement, allowing authorities sufficient time to develop their approach. The current Code guidance provides additional support to authorities wishing to prepare their Explanatory Foreword taking into consideration the Government's FReM.

This is useful for consistency across the public sector, however it is not clear why this particular statement should be a statutory requirement if other accounting statements that form part of the accounts are not statutory per se.

We strongly believe that a management commentary is necessary to support understanding, transparency and accountability. We welcome the Scottish Government's proposal. Although local authorities may be subject to various reporting requirements, there is a lack of an overarching high level corporate performance review for each authority and therefore a deficit in accountability to the tax payer. This inhibits transparency and is a barrier to better understanding the organisation, its use of resources and progress in achieving its objectives.
We agree that the management commentary should be mandatory and form part of the financial statements as not all local authorities produce an annual report. Some local authorities may provide a review of corporate performance on a voluntary basis, but this is not consistent across all authorities and the level of quality and content varies. There is also a wide variety of performance information which local authorities can produce. The sheer volume of information available can make it more difficult to hold a local authority to account. In addition, local authority financial statements are particularly complex to understand. A narrative report is essential to better explain how resources have been used to meet objectives and interpret the accounts for a wider user group. The existing explanatory foreword is not sufficiently strategic and is significantly behind existing and developing reporting practice across the rest of the public and private sectors in the UK. This development would bring much-needed alignment with good practice. Indeed, the bar is being raised higher in the private sector with the new Strategic Report replacing the Business Review[1] and the international developments in integrated reporting for a holistic report of the organisation. If local authorities do not start to provide a more meaningful strategic narrative they risk being ever further behind and the step change needed becoming much greater. To avoid contributing to longer financial statements, the introduction of a management commentary should be accompanied by the removal of the explanatory foreword. We suggest that supplementary non-statutory guidance would help to set the standard and ensure the narrative is suitably strategic, fair, balanced and understandable. In our view the IFRS Management Commentary Practice Statement is a good starting point. A management commentary could also be used as a simplification tool, for example signposting readers to more detailed information which can be drilled down to, as required. Our views on bolstering the front end narrative reporting and simplifying the technical second half which contains the accounts is raised in our response to LASAAC on simplification of accounts. The public interest need for such a report is pre-eminent.

A management commentary is not necessarily the same as the existing explanatory foreword. We believe that CIPFA/ LASAAC are in favour of such a development [although not minded to make this a CODE requirement]. A move to a management commentary would be entirely consistent with the more corporate approach of other changes e.g. certifications.

Explanatory Foreword as it stands is relevant to the financial statements. To change this to a Management Commentary appears to take the focus off of the financial statements and looks at other areas of the organisation. The Council produce

	Corporate Plans, Service Plans, Annual Performance Reports etc which contain the information to be considered from the FReM. These documents are publicly available. To include such information in the Financial Statements would not add any additional value to what is already an overcrowded document. If this were to be adopted, the task of preparing the report would need to be built into the annual accounts process which is already tight. A statutory requirement for a management commentary as part of a Council Annual Report would be perfectly acceptable. The production of a statement of accounts by 30 June is already an onerous task for a small hard pressed team in this authority. Adding a further coordinating responsibility to the accounts team would not be welcome while the information to be included in a management commentary could readily be provided in another format outwith the statement of accounts.As a S95 Officer I have a real concern that the addition of such a requirement could be the cause of a failure to submit a complete statement of accounts to the Controller of Audit by 30 June, or be the reason for a late submission. It would be perfectly reasonable to require the Council to prepare a separate Annual Report incorporating the Annual Governance Statement; the Remuneration Report; a Management Commentary and an annual performance report. The proposed management commentary is in line with other moves towards a corporate approach to financial reporting. The requirements of the UK Government FReM in terms of a management commentary are already met in our foreword, such as: explanations of variances between estimate and outturn; financing implications of significant changes in objectives and activities; investment strategy and long term liabilities; and information on environmental matters and social and community issues, where relevant. Regulation would need to outline which parts of the FReM are applicable to local government, for example the level of reporting required on sustainability and estates management. We would support a move to enhance the Explanatory Foreword. Over the last few years we have worked to improve the content of the Explanatory Foreword to take into consideration the FReM. The Explanatory Foreword aims to assist the reader of the accounts to better understand the financial position of the authority as well as explaining the financial statements. It highlights main events which have influenced the financial position during the year and this focus should be maintained in any new management summary. It would be appropriate for the proper officer to continue to sign this summary. Councils already include an Explanatory Foreword which follows the Code and FReM. The management commentary is of vital importance to the average reader as it should give a non-technical overview of the financial performance of the authority, and contextual information of the environment which the authority is operating in. Given the complexities of local authority statutory accounts, there is a need for a narrative report to assist readers to interpret the financial position, performance and cash flows of the local authority. As is noted all accounts currently have a Foreword from S95 Officer. Would need to fully understand what is required for a Management Commentary compared with a Foreword. May be not overly onerous given the tight timescale in closing the draft accounts and if so would support this move, however if a significant set of additional work then would be concerned of impact and possible risk of this resulting in late

	submission of draft accounts. With a Management Commentary, the users of financial statements should be able to assess the risks and prospects of the entity and the effectiveness of its strategies. Although the timetable for completion of such a commentary would be extremely tight given the 30 June deadline for submission of the Statement of Accounts.	
15	Do you agree the requirement to disclosure details of any land disposed at less than best consideration is suitably drafted?	Yes: 11 No: 13 No Comment: 3
	Comments received: Most respondents did not support this proposal. The reasons most put forward can be summarised by the following comments: The inclusion of this seems out of context with the wider aims of the Regulations – it is a matter of detail on a small part of the Council's business. It is unclear what added value this proposal in the Regulations would achieve. We consider that there is already sufficient transparency in other disclosures local authorities provide for disposals at less than best consideration. Local authorities are required, for example, to obtain Committee approval prior to disposal and must include full details in the report to elected members to permit an open public discussion and a fully informed decision. Commentary on material transactions could be included in the explanatory foreword.	
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: 23 No: 2 No Comment: 2
	Comments received: The majority of respondents agreed with this proposal. The following comments need to be considered further: 1) It is the financial statements that are intended to give a true and fair view of the local authority's (and group's) financial position and transactions. We agree with the principle that this should be a statutory requirement and, if our suggestion at question 13 is accepted and the term 'statement of accounts' equates to financial statements, then we agree with the wording at Regulation 8(5)(b). Otherwise, we suggest that 'statement of accounts gives' in Regulation 8(5)(b) be replaced with 'financial statements give'. 2) The wording in Regulation 8(5)(b) could be more precise. We suggest that 'at the reporting date' be inserted after 'position' and 'for the year then ended' be added to the end of the sentence. A reference to the group is also required in respect of financial position. Assuming the term 'statement of accounts' means the financial statements, this would make it 'the statement of accounts give a true and fair view of the financial position of the authority <u>and its group</u> at the reporting date and the transactions of the authority and its group for the year then ended'. We agree there should be a statutory responsibility to ensure the statement of accounts gives a true and fair view. We do not consider it appropriate for that statutory responsibility to rest solely with the proper officer. This would also be inconsistent with private sector practice where the duty to prepare and approve accounts which give a 'true and fair' view rests with the Board (directors) in the Companies Act 2006 (s393,394) and the Finance Director would sign off as a representative of the Board,	

	being the most senior level. This reflects the principle of a unitary board which we believe underpins strong corporate governance in the UK as it provides the opportunity for wider Board challenge. The local authority/ council being an elected body, is the direct representative of the tax payer and the most senior level. This should be where the overarching responsibility should sit to ensure top-level accountability and provide the opportunity for escalation by the delegated officer. If the proper officer were responsible this would be inconsistent with the responsibility levels stated in regulations 5, 6, 7, 8 & 10 which identifies that responsibility rests with the local authority. It is not clear why this exception would be needed i.e. the council would be responsible for everything underpinning the accounts but not the true & fair view. There is also the anomaly of the proper officer not necessarily being a member of the Executive Team (see our response to question 2). Our preference is that the Regulations state the local authority has ultimate responsibility and the proper officer signs off after Council have approved the draft accounts. There is a Companies Act statutory requirement on the directors of a limited company to ensure that the accounts of the company give a true and fair view. The equivalent level of management in local government would be the elected Members. Should the elected Members therefore be responsible for ensuring that the accounts give a true and fair view? Two respondents disagreed with the proposal on the following grounds: (i) The proper officer should ensure that the statement of accounts gives a true and fair view of the local authority's position. In respect of the Group, the proper officer should provide reasonable assurance that the group statement of accounts gives a true and fair view. (ii)The true and fair view of the single entity - yes. Not the group as we have insufficient information or control to allow us to make that decision.
17	Any other comments on Regulation 8? Paragraph 8 (7) requires the unaudited accounts to be published on the council's website from the day it is forwarded to the auditors. Was consideration given to the requirement to publish on the website being in line with the public inspection dates? Clarification is sought in terms of the signing requirement for the unaudited accounts with regard to whether electronic signatures are acceptable? Regulation 8(6) should perhaps include a the requirement to forward the statement of accounts to the Controller of Audit and to the authority's elected members? It would be useful to define 'statement of responsibilities' in Reg 3. Pension Fund accounts (separate extract) The inclusion of financial statements within the pension fund annual report is considered by the statutory guidance for pension funds (issued with finance circular 1/2011) to be an additional abstract of accounts required by section 96(3) of the 1973 Act. Authorities are therefore required to apply all the provisions of the 1973 Act and the regulations to the pension fund financial statements (as an abstract). This means the regulations currently have the effect of requiring a pension fund abstract of accounts to have a management commentary, statement of responsibilities, annual governance statement, and remuneration report. We consider that there should be a requirement for the first two statements but not the latter two as • The inclusion of an annual governance statement in the pension fund abstract

of accounts, along with the current requirement for a governance compliance statement, would mean having two governance statements in the same document.

- It would not be appropriate for the pension fund to have a remuneration report as it does not have its own staff.

Section 106 Bodies:
We note that, as drafted, the regulations could potentially apply to each individual section 106 body (e.g. each Scottish local authority charity) separately. This is particularly highlighted as currently individual audit certificates are expected to be required for 2013/14 Scottish local authority charity statements. We therefore suggest that the proposals be amended to clarify the treatment of section 106 bodies in respect of each of the sub-headings in the regulations. In particular it is suggested that section 106 body accounts should be permitted, or required, to be included summary or aggregate basis within the local authority's own statements. Failure to do so is may lead to an excessive legislative burden in respect of such bodies.

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	Responses
18	Do you agree that the date for the public notice, the period of inspection and the latest date for objections should be fixed? If not why not? What alternative would you suggest?	Yes: 23 No: 2 No Comment: 2

Comments received:

The majority of respondents were supportive of the change to fixed dates. However, most respondents commented that the inspection period should be earlier.

Suggested changes proposed by respondents:
(i) Inspection period to run from 1 July (or next working day). Earlier advertisement by public notice would be required.
(ii) Draft Regulation 9(3)(b) requires the notice to be on the website for 14 days. We consider it would be better for the notice to remain on the website until the end of the inspection period so as to clearly signpost the possibility of inspection during the inspection period.
Scottish Government Comment: If the inspection period is to run from 1 July the revised dates for the regulations would be:
3(a) 17 June (public notice)
4(a) 1 July (inspection period commences)
4(d) 21 July (date by which any objections are to be sent to auditor)

There were 2 respondents who disagreed with the proposal. One respondent provided the following reason for not supporting the proposal:
If Council's have completed accounts significantly earlier than the statutory deadline then it should be within their right to advertise quicker.

A few respondents sought confirmation that there is no requirement for approval or clearance of the public notice (for instance from Audit Scotland or the Controller of

	Audit) prior to placement of the public notice. **Scottish Government Comment:** Paragraph 5 of the 1985 Regulations which sets out the arrangements for public inspection are to be repealed. There is no requirement in the proposed regulations for Audit Scotland/the Controller of Audit or the appointed auditor to approve or clear the public notice. One respondent suggested it would be helpful to have more guidance on how the notice could be made e.g. on a news website/ newspaper, public notice board. **Scottish Government Comment:** Draft regulation 9(3)(a) provides that the notice be given in accordance with section 195 of the 1973 Act. This provides: "195. Public notices. 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". It is not therefore considered that further guidance is necessary.
19	Any other comments? Most other comments received related to the requirement to make available the accounts and documents referred to in section 101(1) of the 1973 Act given the Freedom of Information Act **Scottish Government Comment:** the requirement is set out in the primary legislation. Regulations cannot be used to set aside these requirements. Two respondents asked if the regulations could make provision for the authority to charge fees for access to the information on a consistent basis with the FOI Act. One respondent raised a query as to whether the inspection process applied to Section 106 charities where an authority is the sole trustee. Registered charities are required to produce their own separate accounts under the charities legislation, as well as a summary being included in the authority's accounts. We assume that the inclusion of a summary of charities' accounts in the local authority accounts is sufficient to satisfy this regulation, and there is no requirement or expectation that the charities' separate accounts should be subject to this inspection process? One respondent raised the following concern: With regard to paragraph 9 (4) (a) & (b) we have concern about the inclusion of "other documents" as it would be impossible to list all the places documents may be held or to hold all such documents in one place. If only one address is provided, these sentences may give someone the impression they can expect to see all documents there and then, when in reality they will only see the accounts and will have to request the documents they want, which will then be sourced and provided for inspection at a later date.

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.

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 to re-certify the statement of responsibilities and the balance sheet(s) of the statement of accounts.

	Question	Response
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: 12 No: 11 No Comment: 4
	Comments received: Whilst we agree with the requirement for a relevant committee to consider the accounts by 30 September there are concerns about the implications of the use of the word approval particularly if the committee were not to approve them and request changes which the proper officer doesn't agree with. There would seem to be the potential for conflict when it is for the proper officer to certify that the accounts give a true and fair view rather than elected members. The process for signing the accounts seems to be over complicated and in relation to paragraph 10 (5) is this a separate statement of responsibilities from that already signed by the proper officer and if so what would be included in this statement. It would seem logical for such a statement to be signed by the Leader of the Council in line with other statements rather than a nominated member. The current regulations do not require committee approval of the audited statement of accounts, The new regulations introduce this requirement and extend the current certification process. It is agreed that if committee approval is to take place then this requires to take place prior to the audit certificate being signed and consequently at some point in advance of 30 September. However, the change has significant practical issues associated with it. Firstly, the proper officer is required to sign the audited accounts in advance of these being approved by committee and will thus create a gap between this date and external audit sign off of the audit certificate. Secondly, we are concerned that audit adjustments could be requested post approval of the audited accounts by committee (particularly in light of the reduced time for audit scrutiny of the draft accounts) given the audit certificate is not yet issued and what further approval may then be required. Thirdly, the scheduling of committee meetings and the need to issue covering reports and audited statements in advance of these will inevitably significantly reduce the timescale for external audit review of the draft statements with this being concentrated into July / August. Local authority staff annual leave is very high during this period due to this being curtailed during the preparation of the draft accounts and school holidays and this creates practical issues with external auditors seeking to resolve queries. Fourthly, it is unclear how the external auditors ISA260 and Report to Members will be accommodated in the curtailed timeframe. We are concerned that the issues noted above could create significant tensions between local authority staff and external auditors.	

It is questioned whether it is appropriate for members to approve the audited annual accounts given their highly technical nature and alternatively considered that the requirement should rather be to scrutinise their content and question the proper officer. An alternate timeline would be for issuing of the audit certificate by 30 September and scrutiny by committee by 31 October. If this is not accepted then it is considered impracticable for this requirement to be introduced for 2013/14 given the resource planning that will be required by both local authorities and external auditors to meet the curtailed timeframe. We provide a suggested alternative timeline for Accounts preparation and sign off which addresses the practical issues raised above.

The areas where the timetable below diverges from that within the draft regulations are highlighted in **bold**.

Step	Activity	Timeframe
1	Proper officer signs draft accounting statements	By 30 June
2	Proper officer submits draft accounting statements to Controller of Audit and appointed auditor	By 30 June
3	Public notice	By 7 July
4	Accounts available for inspection	From 14 July for 15 working days
5	Deadline for objections to appointed auditor	6 August
6	**Submission of draft accounts to local authority committee for scrutiny**	**Some point prior to stage 7**
7	Submission of ISA 260 to local authority committee	Some point prior to stage 8
8	**Signing and dating of audited accounts**	**By 30 September**
9	Issue of audit certificate by appointed auditor	By 30 September
10	**Submission of audited accounts to local authority committee for scrutiny together with appointed auditors report to members and the Controller of Audit**	**Prior to 31 October**
11	Publication of audited accounts	By 31 October

The Unaudited Accounts go to a full Council meeting prior to submission by 30th June. The Audit Committee consider External Audit's ISA 260 report which would flag up to members any issues with the audit. A further requirement to have the financial statements approved by Council prior to 30 September is not necessary.

Depending on the date the proposed Regulations are approved councils may have already set their timetable for 2014 and which may not work well for the first year of change if it creates rushed or compressed processes.

Whilst we support moves which ensure timely reporting we are concerned about the practical delivery of the proposals in the regulations and in particular reporting to a governance/audit committee by 30 September. This curtails the period for audit and may create scheduling difficulties for authority committee cycles. The process for sign off gives cause for concern in terms of re-certifying the accounts and there then being a gap period before the audit certificate is signed. Requiring elected member approval for a matter which is highly technical and for which the chief financial officer must sign is potentially problematic. What happens if members want to change the accounts on a basis which the S95 officer disagrees and therefore cannot sign off as giving a true and fair view? The sign off process proposed appears somewhat cumbersome and restrictive and is not in keeping with a need across the public sector to simplify and streamline. We would welcome direct engagement with the Scottish Government on

	the timescale and sign off aspects of the proposals so that we can find a suitable way forward. This matter should be subject to further discussions with key stakeholders with a view to simplifying the process. This is very dependent on the External Audit Team producing their ISA 260 report timeously and could prove to be quite tight to fit this in to the committee timetable. 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? However, these requirements can only be met if external auditors can comply with the timescales within Council's standing orders to allow for committee approval. It should be noted that whatever governance process is adopted there will normally be a notice period in advance of the meeting and potentially a pre agenda process for senior members of the committee. This will further restrict the time available for completion of the audit and preparation of appropriate papers. There is also a potential governance conflict if a committee did not accept the content of the accounts or the audit opinion and therefore did not "approve" the accounts. Consideration should be given to a transitional period, as the proposals will require a significant change in the audit process and timescale. However, this will depend on when the Regulations come into force. Some flexibility may be required. We would recommend that the existing two-stage approval process continues. The first stage is for the council to approve the draft accounts prior to submission. At this stage, the council can formally approve a number of transactions such as debt write-offs and transfers to and from reserve funds. At the second stage in September, the council approves the audited accounts but by this point there is very limited scope to make changes or to take decisions in respect of the accounts. The new regulations (as proposed) considerably extend the current certification practice of most local authorities (including our own). We seek clarification on what assurances will be included in the Statement of Responsibilities that is to be certified by s95 Officer and by the Leader of the Council. The current Statement of Responsibilities may be broadly sufficient for the s95 Officer's assurances, but we wish to have clarified whether the Leader (on behalf of all elected members) will require to sign an additional set of assurances (in addition to the current assurances) similar to the "Statement of Directors' Responsibilities" under the Companies Act e.g. ▪ Keep proper accounting records that disclose with reasonable accuracy at any time the financial position of the local authority and to enable them to ensure that the financial accounts comply with the CODE etc. ▪ Prepare the accounts on a going concern basis If this is the case, we would not support the certification of this Statement of Responsibilities by the Leader of the Council. It is unreasonable in our view to expect an elected representative of his or her local community to have a knowledge and understanding of technical local authority financial matters sufficient for them to be able to provide a robust assurance. If the Leader is expected to sign this Statement, we would expect the certification be done jointly by the Leader and the Chief Financial Officer.

	We welcome the 30 September date for consideration of the audited accounts by committee. We note that there will be practical implementation issues for 2013/14 and suggests that transition arrangements be applied for 2013/14 statements. This would ensure a timely reporting process. Requiring a committee of elected Members who may have limited knowledge or experience of local government accounts to approve those accounts may on occasion prove to be problematic. This requirement seems to be at odds with the requirement for the Proper Officer to certify that the accounts give a true and fair view. If the proper officer is certifying that the accounts give a true and fair view the arrangement of having the accounts laid before a Committee for scrutiny purposes should be retained. The requirement for the authority to approve the statement of accounts by the 30th of September will prove problematic. Current reporting cycles, in part due to the summer recess, would not allow for approval of the accounts by the proposed date. The ISA260 report is generally considered by an audit committee prior to the approval of the Statement of Accounts and the timescales involved are such that it would be very difficult to schedule both audit committee and subsequent full council meetings in order to allow appropriate scrutiny. There would also be difficulties relating to joint boards and committees. Arranging approval for all accounts by the 30th of September would prove problematic due to the timing of meetings (quarterly in many cases), the majority of which have already been scheduled for 2014. Currently we take the draft final accounts to Audit Committee at the end of September and to Council by the end of October. To comply with a deadline of 30 September would require the audit process to be completed and the relevant reports made available by the end of August. We suggest that rather than specifying an approval date no later than 30th September that the audited accounts should be approved and published by 31st October, this would allow sufficient time include audit adjustments and report to Council. Currently at this Council the Chair of the Audit Committee is the Leader of the Opposition and therefore would not have responsibility for the administration of the Council and it would not be appropriate for the chair to sign the Council's accounts. Under Section 56 of the Local Government (S) Act 1973 it is not therefore possible to delegate this function to an individual Councillor. (56.— Arrangements for discharge of functions by local authorities. (1) Subject to any express provision contained in this Act or any Act passed after this Act, a local authority may arrange for the discharge of any of their functions by a committee of the authority, a sub-committee, an officer of the authority or by any other local authority in Scotland) We do not agree that following approval of the statement of accounts, the statement of responsibilities must be signed by a member; the proper officer should continue to sign the audited statement of responsibilities. This may result in late amendments to the Statement of Accounts and amendments which could result in a qualified audit opinion. Accountability for delivering statement of accounts with an unqualified audit opinion, could no longer sit with the proper officer. Significant management and Elected Member time would be required to ensure the Elected Members understand the accounts to a sufficient degree to approve them. There would be a significant risk of failure to meet the deadline. Will date for receipt of the audit opinion be set to ensure that internal Committee deadlines can be planned.

	There will be a significant impact on the timetable for completion of the accounts if there is a requirement for approval of the accounts by a committee of elected members prior to 30 September. In addition, Audit Scotland will have to give their opinion and issue their Governance / Audit Reporting on a more compressed timescale to allow authorities to complete the Statement of Accounts within the new timeframe.
21	Any other comments? In terms of certification of assurances by the Leader clarification is sought as to whether this requires an additional statement of responsibilities and what will be included. If the assurances are to be similar to that of the “Proper Officer” in our view it is unreasonable to expect an elected member to have technical accounting knowledge and understanding to enable them to provide robust assurance on the financial matters of the Council. If this is to be a requirement then a joint signing approach by the Leader and the Proper Officer should be adopted. 1) We do not believe it is necessary or appropriate for the accounts to be signed/dated as required by Regulations 10(2) and (3) **before** approval by the local authority required by Regulation 10(1). This would create an unacceptable time lag between the proper officer signing the accounts and auditors signing the audit certificate [which under auditing standards could not be before the signature of the member required by Regulation 10(5)]. The multiple dates in the document would also create confusion as to what date the accounts were authorised for issue (which is an important date in terms of accounting standards). The appropriate sequence of events should be for the members (acting in the role of board of directors) to firstly consider the accounts (probably along with a covering paper from the proper officer or chief executive). Following approval, the accounts would be signed and dated at the meeting by the various parties set out in the regulations. This includes the signature of a member required by Regulation 10(5). This would make it clear which date the accounts have been authorised for issue. The auditors would then sign their audit certificates as soon as possible thereafter and before 30 September. An illustrative revised wording for Regulation 10 is included on a continuation sheet. 2) The wording of Regulation 10(3) should be consistent with Regulation 8(5)(b) and refer to the group and transactions. We suggest it be amended to ‘the proper officer must re-certify the statement of responsibilities and the balance sheets of the local authority that the statement of accounts give a true and fair view of the financial position of the authority and its group at the reporting date and the transactions of the authority and its group for the year then ended’. Response to question 21 – illustrative revised wording for Regulation 10 **Signing and consideration of audited accounts** **10.**—(1) A local authority, or a committee of that authority whose remit includes audit or governance functions must, no later than 30 September immediately following the end of the financial year to which the accounts relate, meet to consider approval of the annual report and accounts. (2) Immediately following approval by the authority or committee, the statements which form part of the annual report and accounts are to be signed and dated as follows— (a) the statement of responsibilities by a member of a local authority nominated for that purpose as having been approved (b) the management commentary by the proper officer, the Chief Executive and the Leader of the Council;

(c) the annual governance statement by the Chief Executive and the Leader of the Council; and

(d) the remuneration report by the Chief Executive and the Leader of the Council.
(e) the statement of responsibilities and the balance sheets of the local authority by the proper officer to recertify that the statement of accounts give a true and fair view of the financial position of the authority and its group at the reporting date and the transactions of the authority and its group for the year then ended.

(3) Where a local authority does not have a Chief Executive, the statements referred to in paragraph (2)(a) to (c) are to be signed by such person as it nominates for that purpose, and where it does not have a Leader of the Council, those statements are to be signed by such person, being a member of a local authority, as it nominates for that purpose.

Are the signing requirements in sections 8(6) and 10(2) sufficiently clear in terms of what the proper officer needs to sign and what the Chief Executive and Leader need to sign for both unaudited and audited accounts?

Appointed auditors' reporting responsibilities under ISA260 also need to be recognised.

Section 8 and 10 are felt to be inconsistent in terms of different requirements for signatures within the unaudited and audited versions of the statement of accounts. Section 8(6) requires only the signature of the proper officer for the Statement of Responsibilities and the Balance Sheets within the unaudited version, whereas section 10 requires, in addition to that, the signatures of the Chief Executive and the Leader of the Council on other commentaries/reports contained within the abstract.

10(2)(c) It is unclear why the leader of the Council should be expected to sign the Remuneration Report. Why is the Chief Executive and Director of Finance insufficient?
10(5) Further clarity is required around who the "member" is responsible for the signing the statement of responsibilities and what the purpose of this particular regulation is?

The regulations place obligations on Local Authorities without corresponding obligations on External Audit. Timescales for the completion of the Audit will have to be brought forward to meet the obligation to approve by the new deadlines. The regulations make mention of the audit certificate but there is no reference, at this stage, to the Audit Report to Members (International Standard of Auditing 260) which is an important scrutiny tool for members. This report is normally presented to members in advance of the formal sign-off of the audit as part of the audit process.

See our response to question 16 with our objection to the level of responsibility which is relevant for regulation 10.3. If the 'proper officer' signs off the statements, it should be as a delegated authority and representative of the local authority. For 10.2(a) it should suffice for only the Chief Executive and perhaps also the Leader to sign off the management commentary. We suggest that the following wording "sign the…on behalf of…" would be more reflective of the action, rather than "recertify".

We recommend that a statement about the dates of signing needs to be included where statements are resigned or on different dates [e.g. Balance Sheet or Statement of Responsibilities].

We welcome the 30 September date for consideration of the audited accounts by committee. We note that there will be practical implementation issues for 2013/14 and suggests that transition arrangements be applied for 2013/14 statements.

Clarification of Approval Process: We request clarification of the anticipated committee

	approval process, including the timing of the signing of the audit certificate. Clarification of Escalation / Resolution Process: We assume that if the council committee does not approve the statement of accounts, for instance if the committee disagrees with the professional judgement of the proper officer, that the existing escalation and resolution procedures apply. This is considered to mean a report by the Controller of Audit to the Accounts Commission under section 102 of the Local Government (Scotland) Act 1973. If this is not the case clarification of the escalation or resolution process would be appreciated. If the proper officer has to certify that the statement of accounts gives a true and fair view 8.(6) then the proper officer should also be required to sign off the statements at 10 (2) (a)(b) and (c). The absence of the proper officer's signature from these statements could give the impression that these statements have been prepared to a different standard from those to which the proper officer has appended a signature. At 10 (5) it would be administratively more straightforward to require the Statement of Responsibilities to be signed by the Leader of the Council rather than by a member of a local authority nominated for that purpose. In the majority of cases it would be the Leader of the Council that would be nominated in any case but there would be no requirement to have nominations if the legislation made that clear. Also if this is considered to be an important document then that should be reflected in the responsibility of the postholder required to sign. With regards to which statements should be signed by whom, clarification would be required over who would be considered to be the Leader of a joint board/committee. There would also be the practical difficulties in getting signatures from Conveners/chief officers who in many cases are not members of the lead authority which is actually producing the Statement of Accounts. The 30 September deadline is entirely dependent on External Auditors having completed their audit. What happens if the accounts are still in the process of being audited up to and including 30 September? It would make sense for Section 10 (5) to refer to the Leader of the Council for the statement of responsibilities rather than 'a member of a local authority nominated for that purpose'. It take away any possibility of ambiguity arising from the term 'nomination' and ensure consistency with specific signatories in (2) (a)–(c) & (3).

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.

<table>
<tr><td></td><td>Question</td><td>Responses</td></tr>
<tr><td>22</td><td>Do you agree with the revised publication requirements? If not please provide reasons.</td><td>Yes: 22
No: 2
No Comment: 3</td></tr>
<tr><td></td><td colspan="2">Comments received:

The majority of respondents agreed with the revised publication requirements, many recognising that this is cost effective and will provide greater accessibility.

One of the respondents who did not agree with the proposal provided the following comment:
This proposal seems excessive when there is a wealth of other legislation which requires accounts and financial documents to be kept and made available, e.g. FOI, retention schedules, Public Records Management etc.

Whilst the majority of respondents agreed with the revised publication requirements many asked for clarification of the requirement contained in regulation 11(1)(c) which requires the publication of any related report.

Respondents asked for the following to be taken into consideration:
(i) As drafted (and depending on committee meeting dates) the Regulations could mean the auditor’s report to members being published prior to it being formally considered by the Council’s elected members. The annual audit reports are not always available by 31 October.
(ii) Regulation 11 could be amended to state that reports directly related to the accounts, if not available by 31 October, should be published as soon as practicable thereafter, and that other statutory reports should be published within say 14 days of receipt. They should remain on the website in line with Regulation 11(2).
(iii) consideration given to the auditors reports being formally considered by the elected members of the authority.
Scottish Government Comment: the intention of Draft regulation 11(3) was to require the publication of reports that relate to the accounts. The regulation should only reference section 102(2)(a) and (b) as (c) relates to best value. A correction is required.</td></tr>
<tr><td>23</td><td colspan="2">Any other comments?

One respondent considered that a local authority that publishes group accounts should also make available the accounts of its group members:
Various local authorities publish group accounts and use other bodies to deliver public services. Group entity accounts are not consistently available on a local authority’s website. We have concerns that the same standards and level of scrutiny is not applied to all public services when different business structures or group models are applied. The scope of this regulation should include access to the annual report and accounts of all group bodies plus any related reports. These should be linked on the parent local authority’s website and cross-referenced/ linked in the parent’s accounts.</td></tr>
<tr><td colspan="3">SCHEDULE Content of Remuneration Report</td></tr>
<tr><td colspan="3">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</td></tr>
</table>

<table>
<tr><td colspan="3">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.</td></tr>
<tr><td></td><td>Question</td><td>Responses</td></tr>
<tr><td>25</td><td>Do you agree that the cash equivalent transfer value of a person’s pension should be disclosed?</td><td>Yes: 7
No: 15
No Comment: 3</td></tr>
<tr><td></td><td colspan="2">Comments received:

The majority of respondents did not support this revised disclosure. The following is not a full extract of responses but is representative.

It is unclear why transfer values are considered to be of importance of public scrutiny given that accrued pension and lump sums are already disclosed. There is a concern that separate disclosure of this will draw attention to it and there is a risk that the information will be misunderstood, misreported and misused.

This adds little value to information already published in relation to pension entitlements and does not recognise the specific funding arrangements of the Local Government Pension Scheme.

It would make sense for members of unfunded public sector arrangements to have their cash equivalent transfer value (CETVs) disclosed as they are 'pay as you go' schemes and movements between schemes of senior employees could potentially affect the cash flow of the Scottish Government if transfer values between schemes had to be paid. However, it is questionable that a CETV would be of similar use for a funded arrangement, such as the LGPS. This is because firstly the scheme is funded and secondly the transfer value is not solely an actuarial value of the liability of the member's benefits as CETVs are adjusted to allow for future growth, wage inflation etc in the receiving scheme. For example, the simple demonstration is that if we were to pay a CETV from the LGPS (Scotland) and then accept the same CETV back in on the same day on non-club terms, the service purchased would be significantly less than the service transferred out. Similarly a CETV is not necessarily what you would need to pay if you wished to buyout the liability with an annuity provider.

The authority is supportive of disclosing information consistently with central government and the private sector, however, it should be recognised that this is likely to result in an additional resource requirement. As administering authority for XX Pension Fund, this information will require to be provided for all admitted bodies, together with a prior year comparator. It is worth noting that the XX Pension Fund Office provided information on accrued pension benefits in respect of 650 officers and members for the 2012/13 remuneration note disclosures. Currently, information on accrued pension benefits is calculated in bulk per admitted body, however, it is not clear at this stage whether CETV values will require to be calculated on an individual basis. CETV calculations are more complex and detailed systems testing will require to be undertaken in this respect. In order to meet required timescales for the completion of the 2013/14 statement of accounts, admitted bodies will require to</td></tr>
</table>

	provide lists of officers and members to be included in the remuneration report immediately following the year end. It may be appropriate for draft lists to be submitted by the end of February, with final lists thereafter. Disclosure of the accrued pension value to date for the local government pension scheme (LGPS) is easily determined by a formula described on the LGPS website, although such a formula may not exist for other pension schemes and CETV may be a required alternative. We suggest that the term accrued benefit is used as an overall term for different types of defined benefit pension schemes (if LGPS or otherwise). CETV may be an appropriate disclosure for some non-LGPS schemes. If a defined contribution scheme is used then accrued benefit would not be applicable as only the contributions are payable and known. In terms of pension value the risk is borne by the individual, not the employer so it is not possible to guarantee the level of benefit. If the latter is applicable, it would be helpful if the Remuneration Report could explain this in a note. It may not be useful to disclose CETVs for active pension scheme members. This could be misleading as there are a number of factors that alter the CETV. If there is a requirement to disclose CETVs, it would be most meaningful at the point when a senior officer or senior member ceases employment and requests their pension benefits to be transferred out of the Pension Fund.	
26	Do you agree that the cash equivalent transfer value of both officers and council members should be disclosed?	Yes: 10 No: 12 No Comment: 3
	Comments received: Most respondents did not support this proposal but indicated that if CETV values were to be disclosed then these should be for both officers and members.	
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	
	Comments received: We would wish to see some flexibility introduced around the text and tables in the Remuneration Report, specifically with a view to reducing the accounting clutter. The report is full of detail, and we believe, this does not encourage it being read more extensively. Flexibility around the format of the tables would be welcomed. Finance circular 8/2011 recommends that exit packages be included in the remuneration report. We suggest that the regulations be amended to reflect this recommendation and make it a requirement. The term ‘local authority subsidiary body’ is defined in the schedule but is also now defined in Regulation 3. I do not agree with the publication of remuneration of the Council’s Subsidiaries. I feel that this is too much detail and the information can be obtained by the reader from the subsidiaries accounts. The current Schedule, Content of Remuneration Report section 11(1)(b) requires the difference between the value of accrued pension benefits as at 31 March and the	

	equivalent value as at the previous 31 March to be disclosed. This is inconsistent with the presentation of prior year information throughout the statement of accounts, where prior year figures are stated rather than the difference between the prior year and the current year and may cause confusion for the reader. It is suggested that section 11(1)(b) of the regulations is amended to 'the equivalent value (so rounded) as at the previous 31 March'. It is noted that there is inconsistency in where the Remuneration Report is positioned in the accounts, with some showing this upfront in the Accounts as a statement, others at the end (as if it were a note, rather than the statement to the accounts which it is). This is one example of inconsistent positioning, another being the audit report. The pay band disclosure threshold in paragraph 4 is too low at £50,000 and risks bringing in increasing amounts of middle-ranking staff. Our understanding is that the initial purpose of the note was to focus on the higher paid. This threshold needs to be increased periodically or it should commence at a higher level, say £60k. We would wish the Regulations to clarify that the Remuneration Report is a position statement on persons who were senior councillors or senior employees during the financial year under review. Senior councillors or senior employees who left before the commencement of the financial year need not be reported. There should be a clear requirement to make disclosures in respect of both the Monitoring Officer and the Solicitor to the Council/Chief Legal Officer Consideration of whether information provided on officers and elected members accrued LGPS pension benefits is meaningful for the user, or whether "In-Year Employer Pension Contributions", (including both Pension Employer Costs and any Pension Strain Costs associated with the granting of early retirement), would be sufficient. The definition of a "senior officer" could be more clear – it is not clear to an ordinary person who this may cover in an organisation.

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	Responses
28	Do you agree that there should 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.	Yes: 13 (1 only for councils) No: 9 No Comment: 3
	Comments received: **Scottish Government comment**: The question was poorly worded. It has been restated for this report to provide clarity.	

There should be a statutory requirement for an audit committee or a committee which covers that role in combination with Scrutiny

The expected roles and responsibilities of an Audit Committee are set out in various publications and will generally include scrutiny of the accounts and oversight of the Internal Audit plan.

Whilst we do not believe that there should be a statutory requirement for an audit committee we consider that any accompanying circular or guidance should make it clear that bodies are expected to have a committee whose role includes audit and that they devote sufficient resources to carry out the role effectively, including resources for internal audit.

A statutory requirement for a committee which performs such functions would be in line with best practice but any regulations or guidance here should provide flexibility on how such functions are discharged given different political governance models exist across Scotland.

No, but not necessarily to approve the Annual Governance Statement.
Roles and Responsibilities:

1. to promote & review internal controls
2. to develop an anti fraud culture
3. to promote good financial practice
4. to receive internal audit reports
5. to review all external audit recommendations
6. to review financial performance (at year end)

The authority is supportive of a statutory requirement for ‘a’ committee of the council having responsibility for audit matters but it does not support prescribing the authority have an Audit Committee. The committee structure and responsibilities should be determined locally.

We think that Audit Committees should be a statutory requirement to deal with the Audited Accounts, Audit Certificate, Report to Members and other external and internal audit reports.

Having an Audit Committee should be an implicit part of the management arrangements to deliver these regulations. It forms an important strand of robust corporate governance by providing the opportunity to challenge financial management arrangements and the accounts. If there is evidence that local authorities do not have an Audit Committee then this is a significant control weakness; if local authorities are not responding to recommendations to align with good practice and construct an appropriate high level control framework then we would support strengthening existing arrangements through regulation.

Our preference is for a non-statutory approach based on complying with proper practices and explaining the reasons for any non-compliance. The need to have an Audit Committee should be firmly worded in proper practices and for any non-compliance to be explained within the Annual Governance Statement. This ‘comply or explain’ approach as an alternative to regulation is one which we strongly support. It is also used by the FRC for the UK Corporate Governance Code and is being adopted by the European Commission to harmonise different approaches across member states regarding non-financial reporting. (The FRC are planning to publish future guidance on what constitutes an acceptable explanation to reduce the risk of boilerplate explanations).

A local authority has a duty to observe 'proper accounting practices' in section 12 of the Local Government in Scotland Act 2003 and the status of the Code is recognised good practice, this is usually sufficient to encourage compliance for accounting matters. If the same type of requirement exists for 'proper practices' and this includes the CIPFA/SOLACE guidance then this should be sufficient without needing to bring in a separate regulatory requirement. If the CIPFA/SOLACE guidance (2007) will be the hook, then a regular update process is needed to ensure it reflects the latest best practice. (As an example the FRC UK Corporate Governance Code and Guidance for Audit Committees was revised in 2012).

Although our council is very much in favour of Audit Committees, we do not believe that there needs to be prescription. Local authorities are best placed to assess local circumstances and how to respond to these.
We suggest that an Audit Committees' main roles and responsibilities should include:
- Monitoring the integrity of the financial statements;
- Monitoring specific exercises relating to financial performance and best value;
- Reviewing internal financial controls and reviewing the local authority's internal control and risk management systems;
- Monitoring and reviewing the effectiveness of the internal audit function;
- Considering reports and recommendations from the external auditor;
- Developing and implementing the non-audit services policy

There should be a statutory requirement for an Audit Committee.
Responsibility for overseeing Internal Audit, External Audit and Risk Management functions.

There should not be a statutory requirement for an Audit Committee. However Council's should ensure that appropriate governance arrangements are in place and that resources are devoted to ensure that members have an oversight of audit issues and the annual accounts. Mandating the requirement of an audit committee would not be sufficient. Further guidance would be required on their specific remit including membership, role and operation.

The expected roles and responsibilities of an Audit Committee are set out in various publications and will generally include scrutiny of the accounts and oversight of the Internal Audit plan. The Institute of Chartered Secretaries & Administrators (ICSA) Guidance:- The Terms of Reference - Audit Committee while written for company situations provides a useful reference point with most of the audit committee duties set out being applicable to both a company setting and a local authority setting.

There should be a statutory requirement for each *council* to have a committee which undertakes an audit and scrutiny role, with the detail of how this role is undertaken being left to individual councils to design as appropriate for their circumstances.
Again, clarification should be provided as to whether joint boards/committees would be included under this regulation. If so, it would need to be considered whether establishing an audit committee for each body would be appropriate and represent best value.

We agree that there should be a statutory requirement for a local authority to have an Audit Committee. We have an Audit Committee in line with Best Practice CIPFA in Scotland's guidance note 'Audit Committee Principles in Local Authorities in Scotland' and Smith Report 'Audit Committees Combined Code Guidance'; this committee's

	membership includes two lay members who are independent of the Council. Attached is an extract from SBC Scheme of Administration which provides further details. An annual self evaluation of effectiveness of the Audit Committee is carried out and reported to the Council. There should be a statutory requirement for an audit committee or a committee which covers that role in combination with Scrutiny, provided that the nature, remit and powers of this 'Committee' are not enshrined in statute but are instead left to individual Authorities to develop within their local context. In addition, if the requirement to have an adequate and effective internal audit function is not made statutory, it would follow that the requirement to have an Audit 'Committee' should also not be made statutory There should be a statutory requirement for an Audit Committee provided that the nature, remit and powers of this 'Committee' are not enshrined in statute but are instead left to individual councils to develop within their local context. It follow on that if there is a statutory requirement for internal audit then the requirement for an Audit Committee should also be statutory. Depends on the size of the authority. There may be other committees that can fulfil the role, but are not specifically called audit committees. Suggest that a Statutory requirement for an Audit Committee is not required, just that each Council requires to identify where that responsibility lies. I agree that there should be a statutory Audit Committee for core audit functions, with the other administrative arrangements left to the discretion of each local authority.
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.
	Comments received: Clarification would be helpful on the Social Work/NHS integration. There are a number of issues over the final accounts timelines and how the NHS present their accounts. *Group structures* Local authorities are increasingly using arms-length organisations to deliver services which is reducing entity level size and services but correspondingly increasing the group. This shift means that it may be more difficult for citizens to get the same level of information as group bodies may follow different accounting frameworks and are subject to less scrutiny and regulation. As a matter of public interest, it is important that tax payers are able to access sufficient information to understand how wider services are delivered, the risks (e.g. financial guarantees, commitments and audit report qualifications) and for the local authority to demonstrate why this alternative approach delivers better outcomes and better value. In other words, the public interest, accountability and demonstration of sound stewardship of public funds are paramount whatever the delivery model. Audit Certificate Date: We suggest that the Scottish Government may wish to consider whether there is a potential conflict between section 101(4) of the Local Government (Scotland) Act 1973 and the final requirements of the new regulations. In particular it is assumed that an audit certificate is expected to be signed by 30 September.