

The National Audit Office should not be responsible for the audit of local authorities

George Jones and John Stewart support the government's proposal that local authorities can choose their own auditor as it is consistent with both localism and practice in many organisations.



Elective audit and district audit

The Municipal Corporations Act 1835 prescribed auditors and auditing for the boroughs it was creating as the foundation for elected local government in urban areas. The Act provided for two elective auditors chosen each year by the local-government electorate and one appointed by the mayor from the council members. There was no provision for professional audit or auditors; auditing was to be carried out by laymen.

Professional auditing was introduced at the local level by the Poor Law Acts of 1834 and 1844, which provided for professional auditors to be appointed nationally to audit the accounts of local poor-law authorities. On this foundation district audit gained local government's respect for its expertise and experience.

There was a clear distinction between lay auditors in the municipal boroughs and professional audit for the poor law, and increasingly for other authorities like the separately-elected school boards (1870), county councils (1888), district councils (1894) and metropolitan boroughs (1899). When education became a function of local authorities in 1902, district audit continued to audit the education accounts of the municipal boroughs while lay audit was retained as their main form of audit until 1933, although a number of these boroughs took powers under local acts to replace elective audit with district audit or other professionals. The 1933 Local Government Act gave councils the choice between elective audit, district audit and other professional audit.

Elective audit had been much criticised by professionals, by judges and by academics as inefficient and ineffective but had shown great resilience having remained the main form of local audit in most municipal boroughs for almost one hundred years. It was still used by 21 authorities when finally abolished by the Local Government Act 1972.

While the case for professional audit is now accepted as the basis of audit for financial practice, probity and legality, elective audit recognised there was more to audit than the application of professional standards. It suffered from uncertainty about its role and duties, and from low turnout since its elections were held separately. Elective auditors could have found a role as the voice of the public on the audit committees of local authorities, although that role can be played by elected councillors. The need for recognition of lay judgment in the role of audit is relevant when considering the establishment of the Audit Commission.

The Layfield Report and the Audit Commission

The Local Government Finance Act 1982 set up the Audit Commission. The Layfield committee (of which we were members) recommended a role beyond traditional professional audit. Its report, *Local Government Finance*, recommended:

- the audit service in England and Wales should be made completely independent of both the government and local authorities
- the head of audit should make regular reports on issues of general interest or public concern relating to more than one authority. These reports should be available to the public. They should be concerned

particularly with comparisons between the methods employed by local authorities and the results achieved

In describing other reviews that could be pursued by the Audit Commission in its wider role the Layfield committee said “special staff” might be required recognising the different experiences required beyond professional audit.

The Audit Commission was appointed with a strong role, independent not merely of local government but of central government. It impressed local government with its readiness to criticise central government. Its 1984 report on block grant was headlined by The Times as “Watchdog bites owner” for its devastating critique of government policy on local-government finance.

The Fateful decision

In the 1990s the Audit Commission took a fateful decision to undertake Best Value inspection on behalf of the government. This decision turned the Audit Commission in effect into an agent of central government. In his authorised history of the organisation, *Follow the Money*, Duncan Campbell-Smith described the long discussions among both Commission members and staff. He quotes Helena Shovelton, the future chair, as telling Commission members “Look folks, if we don’t do Best Value [inspection], there won’t be an Audit Commission”, portraying a bleak future as its functions were given to other bodies.

The Commission’s decision to accept the role of Best Value inspection on behalf of central government marked the end of its independence, which was confirmed as further tasks required by central government were placed on the Commission: inspecting local authorities’ performance, judging and scoring them. These inspections became the basis on which central government judged local authorities, relying on the Commission’s improbable assumption of inspectorial infallibility rather than on the judgment of councillors as the elected representatives of voters whose experience ranged far beyond the short time spent by inspectors in the locality. There were no more reports displaying the independence of the report on block grant. In the end the outcome was the government’s proposal to abolish the Commission.

The danger of a Public Accounts Committee intervention in local government

The primary accountability of local authorities must be to their electorate who choose and can remove the councillors who constitute the council as the authority’s governing body. There is a danger of central government and the House of Commons insisting there must be accountability to them for the use of grant by local government.

This approach is shown by the 2011 report, *Accountability: Adapting to decentralisation*, by Sir Bob Kerslake, permanent secretary at the Department for communities and local government. Many in local government thought this report would be concerned with how accountability could be ensured for expenditure by the growing number of community groups, local appointed bodies and contractors in the government of local areas.

Their accountability was far from clear, whereas local authorities have clear accountability to their electorate and well-established procedures for ensuring probity. The Kerslake report took what at first sight seems a sensible and realistic approach that central government and Parliament should ensure there were adequate processes for accountability rather than that all local bodies should be directly accountable to central government. The report proposed that central government departments should prepare accountability system statements setting out procedures to ensure the accountability of such bodies and of local authorities.

The arguments used to support the case for this approach show that what is proposed is far more intrusive than might be thought, opening the door for wide-ranging concern by both central government and Parliament with how local authorities are run. The report sets out what permanent secretaries as accounting officers should be concerned about in reporting to Parliament through the Commons public accounts committee (PAC). “It is not sufficient for there to be a robust system in place to ensure

regularity and propriety and to secure value for money. Accounting Officers must also be able [to] demonstrate to Parliament that it works in practice". Accounting officers would then be reporting to Parliament, presumably through the PAC on the performance of local authorities, which will inevitably involve consideration of their way of working. This approach could lead to the PAC, presumably advised by the National Audit Office, extending its remit to cover the working of local authorities, claiming that accountability to Parliament is essential for the use of national resources given through grants to local government. The result would be to confuse the accountability of local authorities, undermining rather than sustaining their accountability to their local electorate.

Conclusions

The past experience of elective auditors as the main basis of auditing in municipal audit for nearly one hundred years raises the issue of what are the respective roles of professional judgment and lay judgment in the audit of local authorities. While professional audit has a proper role in certifying local authority financial accounts as a true record and in ensuring probity and legality, once auditing extends beyond those tasks to encompass value for money and performance, these issues should be for lay judgment rather than for professional auditors. That judgment is properly exercised by councillors on behalf of the electorate they represent.

Although the past experience of elective auditors reflected the importance of lay judgment, we would not propose their re-introduction. A return to elective auditors would challenge the representative role of councillors, causing confusion as to who represented the electorate. There is, however, a question of whether there should be lay representatives on the audit committees found in an increasing number of authorities but with outside appointments often restricted to professionals or representatives of outside interests. If lay representatives were sought, then how should that be achieved: by election, by ballot as in ancient Athens or by representatives of community groups? It may be an insoluble but also an unnecessary problem. The proper source of lay judgment lies with councillors as elected representatives whose role should be strengthened.

The government proposes that local authorities should choose their own auditors. We support this proposal as consistent with both localism and practice in many organisations. We would oppose any suggestion that the National Audit Office should be responsible for the audit of local authorities. This role would be a constitutional outrage and produce a professional monopoly to which the government is rightly opposed. If there are to be different types of auditors, then councils should be able to choose their own, including district audit. Over the years district audit has developed important experience in practice, which should be maintained as a mutual organisation rather than merged with private-sector firms or national bodies. This approach is all the more desirable because what is likely to emerge from decentralisation to markets will mean the big four or five with only limited commitment to the values of local government.

Special studies drawing on the experience of local authorities should continue to be undertaken, but under the responsibility of local government through its collective bodies. Past experience has shown that the "independence" of the Audit Commission was not sustainable against central-government pressures. There are also dangers for local government in extending the role of the National Audit Office and the PAC into the accountability of local authorities, undermining their primary accountability to their local electorates, which collective local-government responsibility could sustain.

Past experience has lessons for the present and future, even where that past experience is too often forgotten.

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