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Dear Accounting Officer

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LORD SHARMAN'S REPORT ON AUDIT AND ACCOUNTABILITY: IMPLEMENTING GOVERNMENT COMMITMENTS ON AUDIT AND ACCESS

Summary

This letter is to inform you that on 23 May 2003 two Statutory Instruments concerning the C&AG's statutory powers of audit and access came into effect. These Orders, which were made under the Government Resources and Accounts Act 2000 (GRAA), implement commitments given in the Government's response to Lord Sharman's report on audit and accountability in central government. The two Orders can be viewed on Her Majesty's Stationery Office website (www.legislation.hmsso.gov.uk).

Action

2. Departments are asked to draw this letter to the attention of relevant teams in their department and to the attention of those NDPBs which they sponsor.

Background

The audit Order

3. The audit Order [the Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2003, Statutory Instrument No. 1326] will make the C&AG the statutory auditor of 25 additional NDPBs. Of these NDPBs, five are already audited by the C&AG by agreement. The 25 NDPBs concerned are listed in the schedule to



the Order, together with the financial year from which the C&AG will take over the statutory audit of each NDPB.

4. As part of the arrangements being instituted by the C&AG in connection with the extension of his audit responsibilities for NDPBs he will consult departments and other relevant stakeholders including the NDPB itself on who – the NAO itself or a commercial auditor – should undertake the audit on his behalf, and explain the basis for his eventual decision on these matters.

5. The C&AG will also, subject to prior agreement with the sponsor department and the NDPB, provide sponsor departments on request with additional information and reports on NDPBs' activities. Reports may cover information arising from the audit, or they may be special reports on matters such as financial control systems and use of grants. These arrangements are intended to cover all NDPBs audited by the C&AG, not just those covered by the audit Order. The arrangements are described more fully in Section 3A of the Government's response to Lord Sharman's report.

The access Order

6. For the purpose of his financial audit of Government departments and NDPBs the access Order [the Government Resources and Accounts Act 2000 (Rights of Access of Comptroller and Auditor General) Order 2003, Statutory Instrument No. 1325] will extend the C&AG's statutory right of access to documents held by grant recipients (but excluding documents held by individuals in receipt of social security and similar grants), registered social landlords, train operating companies, contractors and sub-contractors, and by Entrust (the regulatory body for the Landfill Tax Credit Scheme). In large measure statutory access rights will replace non-statutory access.

7. An access Order made under the GRAA 2000 cannot provide the C&AG with statutory access for the purpose of conducting vfm studies of government departments and NDPBs. However, as the Government's response to Lord Sharman's report and subsequent Ministerial statements indicate, the Government's policy is that the C&AG should have access to documents held by the bodies identified above for the purpose of his vfm studies of departments and NDPBs. Departments and NDPBs should continue to provide for such access through grant conditions, contract terms or other appropriate means.

8. As recommended by Lord Sharman, the C&AG agreed to the drawing up of protocols to minimise any additional burdens falling on private sector bodies as a result of his new access rights. To that end, Section 3F of the Government's response to Lord Sharman's report sets out "Notes on the content of access protocols". Section 3 of the Government's response was specifically endorsed by the C&AG.

9. The Notes in Section 3F cover key operational principles in the exercise of access, including reasonable advance notification, clear explanation of purpose and

scope, avoidance of unnecessary burdens, and procedures for resolving any issues arising. The Notes are in effect the components of the general protocol envisaged in the Government's response. However, for the avoidance of any doubt in the future, and in consultation with the National Audit Office, Section 3F has now been edited into a self-standing general protocol, which is attached at Annex A.

NDPBs which are companies

10. In its response to Lord Sharman's report the Government also accepted that NDPBs which are companies, together with the subsidiaries of NDPBs, should be audited by the C&AG, and that the barriers in the UK Companies Act which currently prevent this should be removed, as long as such arrangements are in line with European legislation in this area. These matters are being taken forward by the Department of Trade and Industry in consultation with NAO officials.

Contact point

11. Please direct any enquiries on this letter to Nick Towers, 0207 270 5477 (nick.towers@hm-treasury.gov.uk).

BRIAN GLICKSMAN
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THE COMPTROLLER AND AUDITOR GENERAL'S ACCESS: GENERAL PROTOCOL

Please note that references in this document to the National Audit Office (NAO) should be taken to apply equally to any other auditor appointed by the Comptroller and Auditor General (C&AG).

Statement of purpose of protocol: this general protocol is a code of practice that aims to ensure that statutory access rights, as established by order under the Government Resources and Accounts Act 2000, are exercised in the same way as previous access rights were exercised ie in a professional manner in order to ensure that sufficient information is obtained for the purposes of the examination being undertaken without placing unnecessary burden on those subject to access. While it is anticipated that the bulk of situations will be covered by this single generic protocol, amendments to this “template” may be required to take account of prevailing circumstances at different categories of body.

Who is covered by the protocol: the protocol concerns the relations between the NAO, bodies that are subject to the C&AG’s right of access, and sponsoring public bodies.

Notification: the C&AG shall have a right of access at all reasonable times to all such documents as he may reasonably require, as he does elsewhere under existing statutory provisions. The NAO will normally consult bodies and sponsoring bodies on its intention to exercise statutory access rights. The need for consultation may not apply in exceptional circumstances (see under **Exceptional circumstances** below).

Explanation of work: the NAO will explain the basis of the decision to exercise its right of access, set out the purpose and scope of the intended examination, and consider comments from the accessed body and the sponsoring organisation.

Reporting back: the NAO will inform relevant parties eg accessed bodies, sponsoring departments or regulatory bodies of the results of its work within a reasonable period of completion and take into account comments on factual accuracy and fair presentation.

Access for value for money (vfm) work: the C&AG has statutory powers to report to Parliament on the economy, efficiency and effectiveness with which the bodies he audits use their resources. Vfm studies are selected taking account of factors such as the concerns of the PAC, the likelihood of beneficial impacts both directly and more widely, and relevance to a wide range of stakeholders. The C&AG produces around 50 vfm reports a year.

The Government is committed to ensuring that the C&AG has suitably robust powers of access to obtain the information he considers he needs for vfm examinations. In its

response to Lord Sharman's recommendations the Government indicated its intention to ensure that where the C&AG has access to external bodies under an order made under the GRAA for the purposes of the financial audit of a department or other public body, access will also extend to the same bodies for the purpose of the C&AG's vfm studies of a department or other public body. This has been outlined in a policy statement¹. Departments and NDPBs should provide for this linkage in contracts and grant conditions involving the bodies listed in the statutory order made under the GRAA².

Extent of work: the NAO will make clear that statutory access is needed solely to enable the C&AG to carry out his statutory duties in relation to the audit or vfm study of a department or other public body or to carry out his duties under other statutory power - for example under the Public Interest Disclosure Act; that his access will be limited to papers and records which relate to the public body, not to the business of the accessed body; and that the NAO will not be seeking to conduct a certification audit of the accessed body or to report on its financial affairs; or to conduct a vfm examination of the business of the accessed body itself. Any other information which the C&AG might request on a voluntary basis should be clearly identified as such, allowing the body to decide whether to provide such information or not.

The NAO applies professional auditing standards and professional judgement when determining the level of work necessary to complete an investigation. In doing so, the NAO seeks to use the most efficient techniques to obtain the evidence required and minimise the impact on the body concerned. Where possible, the NAO will place reliance on relevant work completed by other parties – for example, by working with or making use of the work of internal audit, external audit and inspectors/regulators – or will seek to accompany the department on its own inspections, rather than visiting separately.

Aside from any net increase in the number of accounts to be audited, the National Audit Office foresees no increase in the overall volume of its financial audit work. Thus any increase in inspection activity would entail a corresponding reduction in the quantum of accounts certification work, through efficiency savings, and vice versa. The new access and inspection rights will not therefore increase the audit load on publicly funded bodies as a whole. As in the past there are bound to be shifts between bodies as needs and priorities change. Corporately the NAO will aim to balance its work to avoid excessive burdens on any individual body. Any concerns on this score can be raised with the NAO's Director of Corporate Policy.

Facilitation of access: accessed bodies will provide the C&AG with access at all reasonable times to all such documents as he may reasonably require, in line with arrangements under existing statutory provision.

¹ See the final paragraph of the Written Ministerial Statement made on 6 February 2003 by the Financial Secretary to the Treasury (Hansard, cols 17-18WS).

² The Government Resources and Accounts Act 2000 (Rights of Access of Comptroller and Auditor General) Order 2003.

Resolution of issues: audited bodies who wish to raise issues about the audit service should seek to resolve them with the NAO Director responsible for the audit. If this proves unsatisfactory the Principal Finance Officer may wish to raise the issue with the relevant Assistant Auditor General or the Accounting Officer with the C&AG. In addition, where an audited body feels that it needs to raise an issue other than audit judgement with the NAO separately from those responsible for the audit, it can do so with the NAO's Director of Corporate Policy. Where a body subject to access has concerns about the approach taken by an auditor it will similarly be able to discuss such concerns with the NAO or make representations through the audited body.

Exceptional circumstances: there may be exceptional circumstances that will override the commitments given, such as alleged fraud or impropriety. However, before exercising rights of access in such circumstances the C&AG will consult sponsor bodies to check whether investigations are being undertaken by other authorities.