

ORDERS TO BE MADE IN SUPPORT OF THE TRANSFER OF AUDIT RESPONSIBILITY FOR THE SPECIAL HEALTH AUTHORITIES FROM THE AUDIT COMMISSION TO THE COMPTROLLER AND AUDITOR GENERAL

REGULATORY IMPACT ASSESSMENT

The Orders

1. The intention is to make the Orders under sections 25(6), 25(7) and 25(10) and section 14 of the Government Resources and Accounts Act 2000.
2. The Orders will provide for the Comptroller and Auditor General (C&AG) to be appointed as statutory auditor for existing Special Health Authorities (SHAs).
There are currently 19 SHAs performing a range of functions for the Department of Health and the NHS. SHAs were established under the NHS Act 1977. The Dental Practices Board existed prior to this time, but its functions and audit arrangements were consolidated into this Act, and for the purposes of this paper it is included within the generic term “SHA”. The 19 individual bodies are listed in the annex.
3. The Orders will also provide for the individual audited accounts of the SHAs to be laid before Parliament together with the C&AG's report on the accounts. The Orders will end the requirement for the Department of Health to prepare Summarised Accounts for nearly all SHAs.
4. The Orders will largely supersede the accounting and audit arrangements for SHAs that are currently set out in Section 98 of the NHS Act 1977. They will also amend the Audit Commission Act 1998 to remove these organisations from the list of audits falling within the audit responsibility of the Audit Commission.

Current audit arrangements

5. Section 98(2) of the NHS Act 1977 requires each SHA to prepare annual accounts. These accounts are audited by auditors appointed by the Audit Commission, who report to the SHAs themselves.

6. These accounts are then submitted to the Department of Health, who produce Summarised Accounts¹ for each SHA, based on these underlying accounts. The Department makes changes to ensure consistency of presentation across all NHS organisations, and also to reflect events which come to light affecting the accounts after the underlying accounts have been completed.

7. Section 98(4) of the NHS Act 1977 requires the C&AG to examine and certify these Summarised Accounts, and lay copies of them, together with his report on them, before the Houses of Parliament. Since these Summarised Accounts largely reproduce the underlying accounts, the SHAs' activities are effectively subject to two separate audits.

Objectives of the Orders

8. The intention is to reduce the audit burden while maintaining Parliamentary accountability for SHAs as follows:

a) the C&AG will be appointed as statutory auditor for each of the SHAs for 2003-2004 and subsequent financial years;

b) the audited accounts of each SHA will be laid before Parliament annually, together with the C&AG's report on those accounts;

¹ Summarised Accounts is the term applied to the accounts prepared by the Department in accordance with S98(4) of the NHS Act 1977.

c) there will no longer be a requirement for the Department of Health to prepare Summarised Accounts for SHAs, with the exception of the National Blood Authority and the NHS Logistics Authority.

Scale of the issue

9. This is a relatively small modification of current arrangements designed to tidy up an obvious area of audit duplication.

Identification of who is affected and any issues of equity

10. The bodies affected are the SHAs themselves, the Audit Commission, the auditors currently appointed by the Commission to undertake the audits, the Comptroller and Auditor General and the National Audit Office. There are no equity issues involved.

Risks, costs and benefits

11. Some SHAs have expressed concern about a potential loss of continuity of audit experience.

12. However, the C&AG currently undertakes the audit of the Summarised Accounts of SHAs and has conducted selective VFM work on SHAs, and therefore has experience of the sector. He is also auditor of the Department of Health. In addition, the C&AG is required to perform all audits in accordance with the statements of auditing standards as set out in *Practice Note 10(Revised): Audit of Financial Statements of Public Sector Entities in the United Kingdom*. The quality of the SHA audits will therefore be maintained. In addition, the C&AG will ensure that all audits are carried out by auditors with appropriate experience,

and that any issues of concern to an individual SHA are addressed in a timely and effective manner.

13. In addition, on issues that cut across the NHS the C&AG will continue to liaise with other auditors and inspectors in the NHS and seek to rely on their work in accordance with the statement of auditing standards as set out in Practice Note 10. Moreover, he already has extensive experience of liaising with the auditors of SHAs and other health bodies for the purposes of his examination of the NHS Summarised Accounts (paragraph 21 below) and the departmental Resource Accounts.

14. Another potential modest risk could arise from the termination of the statutory requirement² for the auditors to satisfy themselves that each audited body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

15. However, the C&AG will be continuing under his existing statutory powers to undertake for Parliament value for money studies in the NHS, including the SHAs, at his own initiative and at no cost to the SHAs themselves. In addition, the C&AG has indicated that his intention is to provide the same level of service to the SHAs after the transfer of audit responsibility as they currently receive. Non-audit work will be undertaken where requested and will be a matter for agreement between the individual SHAs and the C&AG.

16. Some SHAs have expressed concern about a potential increase in audit costs for themselves. However, there will be no increase in the aggregate audit burden on SHAs and thus the transfer of responsibility will not adversely affect the aggregate level of audit fees expected to be charged to the SHAs. Moreover, the C&AG has indicated that he has no intention of increasing fees to individual

² S5(1)(e) Audit Commission Act 1988

SHAs, other than for inflationary pressures, unless the scale and complexity of activities increase.

17. The main benefit of the change will be a reduction in the overall audit burden, as the Department of Health will no longer be required to prepare Summarised Accounts for all but two SHAs.

Changes in audit arrangements

18. The Audit Commission currently appoint the auditors of the SHAs, of which two are currently contracted out to the private sector and the rest undertaken by District Audit. The C&AG will be responsible for providing the audit opinion on each SHA. In order to do this, he intends to contract out the majority of SHA audits to the private sector, with a small number being undertaken by the NAO. In each case he will retain control over the conduct of the work, including fee levels and the quality of the audit. Interim arrangements will apply to allow the Operational Directorate of the Audit Commission to adequately prepare for the loss of this work, and to allow proper hand-over of the assignments to the new auditors. The C&AG has agreed a timetable with the Operational Directorate of the Audit Commission for this hand-over, and during this period they will undertake this work on his behalf. PricewaterhouseCoopers currently perform the audits of Dental Practice Board and the Dental Vocational Training Authority, and, subject to negotiation, the intention is that they will continue in place for the remaining length of their existing contract.

Other issues

19. **Effect on internal audit arrangements and VFM access:** These Orders are concerned only with the external financial audit arrangements for the SHAs. The revised arrangements will have no impact on the internal audit services

currently received by the SHAs, and will not affect the existing access rights afforded to the C&AG for value for money or other investigations.

20. Consistency of presentation: The Department of Health currently ensure consistency of presentation of the accounts by preparing the Summarised Accounts. Although this element of direct control will no longer be retained, the C&AG will ensure compliance with the Resource Accounting Manual and Accounting Standards, as appropriate, and thereby maintain consistency across all SHA accounts.

21. Cross-cutting NHS issues: Although there will no longer be a requirement for the Department of Health to prepare Summarised Accounts for nearly all SHAs, the Department will continue to prepare Summarised Accounts for the Strategic Health Authorities, Primary Care Trusts and the NHS Trusts; and the C&AG will continue to publish a report with these NHS Summarised Accounts, and his reports will continue to comment on issues cutting across the NHS and may, as now, include reference to individual SHAs.

The competition filter

22. The results of the “competition filter” (part of the Office of Fair Trading’s ***Guidelines for Competition Assessment***) are intended to indicate the extent to which the potential effects of a proposed regulation on the competitive process may give cause for concern.

23. The competition filter carried out on these proposals indicates that a majority – six of the nine questions in the filter – are answered in the negative, thus indicating that overall the proposals do not give rise to significant competition issues.

24. The three affirmative answers are an acknowledgement that the position of the C&AG with regard to the audit of the SHAs will be monopolistic – as that of the Audit Commission is currently. For this reason the Government attaches great importance to the commitment by the C&AG to provide the same level of service to the SHAs after the transfer of audit responsibility as they currently receive.

Conclusion

25. In the Government's view, the impacts outlined above will result in clear and continuing net benefits to the stakeholders in terms of a simplified auditing framework, reduced audit burdens and the maintenance of full accountability to Parliament.

H M TREASURY

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ANNEX TO REGULATORY IMPACT ASSESSMENT

List of Special Health Authorities

Counter Fraud and Security Management Service
Dental Practice Board
Dental Vocational Training Authority
Family Health Services Appeal Authority
Health Development Agency
Health Protection Agency
Mental Health Act Commission
* National Blood Authority
National Clinical Assessment Authority
National Institute for Clinical Excellence
National Patient Safety Agency
National Treatment Agency
NHS Appointments Commission
NHS Information Authority
NHS Litigation Authority
* NHS Logistics Authority
Prescription Pricing Authority
Retained Organs Commission
UK Transplant

* Summarised accounts will continue to be prepared for these SHAs.