



COUNCIL OF MINISTERS

Summary of Responses to the Consultation on the draft Tynwald Auditor General Bill

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1. Introduction

- 1.1 The Tynwald Auditor General Bill was issued for consultation by the Council of Ministers on 6 August 2009 with an extended deadline for responses of 16 October 2009.
- 1.2 The Bill would introduce the Tynwald Auditor General who would conduct audits of public bodies, carry out value-for-money inspections, work with and support the Public Accounts Committee of Tynwald, and examine matters raised by Tynwald or the public. The establishment of an Auditor General was recommended by a Tynwald Select Committee set up following a review by the Public Accounts Committee of its role.
- 1.3 The consultation document stated that a summary of the responses received would be published within 3 months of the closing date for the consultation. Unfortunately this deadline was not met due to the complexities of some of the issues raised. This document indicates the responses received and whether they have been taken into account in the final drafting of the Bill.
- 1.4 The Bill has been amended in some areas based on the responses received.

2. Overall responses

- 2.1 The consultation document was issued to all Government Departments, Statutory Boards, Offices, Local Authorities and other interested parties. 21 responses to the consultation document were received. A list of respondents is included at Appendix C. The Council of Ministers welcomed the responses and considered each comment made in the final drafting of the Bill. On the whole the responses received were supportive of the need for the appointment of an Auditor General, however concern was expressed with regards to the cost of the proposal which is discussed further in section 5 below.
- 2.2 The issues raised are listed below in section 3 and Annex A as amendments made to the Bill; and in section 4 and Annex B as responses that have not resulted in any changes to the Bill. Where an issue was raised by more than one respondent the issue is listed once to cover the related points made. Where there has been an issue raised that pertains to provisions within the Tynwald Auditor General Bill as well as the Tynwald Commissioner for Administration Bill an amendment has been made to both Bills. The points raised and the Council of Ministers consideration of these points have been summarised in this paper.
- 2.3 Typographical amendments and, in some cases, clarification amendments have not been listed.

3. Amendments to the Bill

The table at Annex A shows the responses received that have been taken into account and the Bill amended, together with the consideration of the Council of Ministers where appropriate.

4. Responses that have not resulted in any changes to the Bill

The table at Annex B shows the responses received but which have not resulted in any changes to the Bill, together with the reason why.

5. Cost of establishing the Office

5.1 Concerns about the cost of establishing the Audit Office, a figure of £1,000,000, were raised during consultation by a number of respondents.

5.2 The figures are estimates regarding the Auditor General's operations and are the costs that we believe may emerge. The service could be delivered at a lower cost, but the figures are erring on the side of caution given that the overall costs would depend on the type of activity undertaken and events occurring. £200,000 will be displaced by existing audit fees paid to external auditors.

Area	Est. costs £	Rationale
Existing Audit Fees	200,000	(transfer from Treasury/local authorities)
Additional Audit Fees	200,000	Auditor General is likely to want to increase the scope of the audit that is currently undertaken
VFM and Investigations	200,000	Costs of undertaking detailed reviews
Office Costs	150,000	Accommodation etc.
Staff	150,000	Audit Office will require accounts production, administration staff, probably an in-house audit resource as well for contract monitoring etc.
AG Salary	100,000	*Please see below.
Total	1,000,000	

5.3 *The salary of the Auditor General will be recommended to Tynwald by the Selection Committee established under the Bill and therefore cannot be confirmed at this stage. As a benchmark the Cayman Islands currently invited applications for the position of Auditor General, converting the proposed salary into GBP it is roughly £96k - £112k.

The Cayman Islands has a population of 56,000 and is a major international financial centre and popular offshore centre. Another option for consideration would be that the Auditors pay scale be the same as the Island's Chief Internal Auditor.

- 5.4 Bermuda can be considered as a benchmark example of costs for an Auditor's Office in a small jurisdiction, with a population of 68,500. Their statement of operations of the Office of the Auditor General for the year ended March 31, 2007 was £1,352,595. The cost of the Office of the Auditor will, of course, depend on staff numbers and office accommodation.
- 5.5 However there are also savings that can be made by the appointment of an Audit Office. Promoting value for money will be a major responsibility for the Office. One of the Office's greatest strengths will be that it will work at both local and national levels and across sectors, often looking at services from the perspective of the public who use and pay for them.
- 5.6 There is as yet no realistic published estimate of savings arising from the proposed establishment of the Audit Office. However we can look at examples of cost savings made by other Jurisdictions for guidance. The figures for the savings made must be tempered with the much larger populations and government expenditure of each of the following British Isles referred to.
- 5.7 The Northern Ireland Audit Office (population 1,775,000) estimate that in 2007-08 they achieved cost reductions in the Northern Ireland public sector of over £53 million as a result of their work which for the fourth successive year was over 5 times the total cost of running the Audit Office. The most recent corporate plan of the UK National Audit Office (population 62,041,708) states that savings of £65 million or 9.2 times the office running costs were achieved in 2007.
- 5.8 The Auditor General for Wales (population 3,004,600) estimates that undertaking examinations that assist public sector bodies secure efficiency savings has contributed to financial savings of around £117 million. In addition, the Welsh Audit Office has identified scope for a further £36 million savings, which they continue to track.
- 5.9 Further work is required on the appointment of the Tynwald Auditor and the establishment of their office.

6. Next Steps

The Bill will now be the subject of Parliamentary scrutiny. The legislative process is explained on the Tynwald Website under 'How Bills become Law' on the following site <http://www.tynwald.org.im/process/index.html>.

Amendments to the Bill

Issue Raised	Outcome
1. Public Officers need protection when providing information to the Commissioner on a highly confidential basis.	Provision amended.
2. The Standing Committee on Public Accounts and the Tynwald Management Committee are not statutory bodies and therefore provision should be included to recognise Tynwald's ability to change its Committees structure and name.	Provision amended.
3. The Annual Report should not be laid before the October Tynwald, the Auditor should have discretion as to when to lay it.	The provision has been amended so that the Report is laid before the July Tynwald, it was not through appropriate for the Auditor to have discretion as to when to lay it but it was appreciated that October Tynwald is one of Tynwald busiest months.
4. The Auditor General is given too much discretion as to whether to carry out a Value for Money inspection.	A provision has been inserted to allow the Public Accounts Committee to direct the Auditor to carry out a Value For Money inspection if, after receiving a request to undertake an inspection, the Auditor has decided not to conduct it. The request from the Committee must be reasonable.
5. The Auditor should be responsible for prescribing fees in respect of the auditing of accounts not the Treasury as it is currently.	Provision amended so that the Auditor is responsible for prescribing fees in consultation with the Treasury.

Issue Raised

6. The following amendments have been made to the Appointment Schedule of the Bill -

- to allow the Tynwald Commissioner for Administration and the Tynwald Auditor General to be the same person;
- to allow a member of the Selection Committee to appoint a substitute in their absence;
- the disqualification provisions have been rewritten for clarity;
- the restrictions on the Auditor with regard to entering into any other contract of employment have been strengthened;
- a motion for the removal of the Commissioner to be through the two Presiding Officers with advice from the Clerk of Tynwald;
- to clarify what happens if a motion for the removal of the Auditor is debated in Tynwald within 3 months of it being tabled, but is adjourned without a vote;
- to provide that the expenses of the Auditor must be approved by Treasury;
- to include provisions with regard to delegation and discharge of function of the Auditor;
- to ensure independence, the Tynwald Auditor's accounts will be audited by an external auditor not contracted to carry out work for the Auditor. The external auditor will report to the Public Accounts Committee.

Amendment to other Bills

7. The Auditor will be exempt from Jury Service under Schedule 1 to the Jury Act 1980.

Responses that have not resulted in any changes to the Bill

Issue Raised	Reason for the Bill not being changed
<p>1. The Bill provides that the Functions of the Tynwald Auditor General would cover 'any other body to which the Treasury by order direct that this subsection shall apply' and this broad definition gives too wide a scope of power to the Auditor.</p>	<p>The power is not given to the Auditor but to the Treasury, section 1 Audit Act, to direct further bodies be audited. This is to ensure that Treasury has the scope to ensure that all bodies funded by Government can be audited.</p>
<p>2. It was noted that the Auditors role would potentially duplicate the role of various existing regulatory bodies such as the Financial Supervision Commission and the Insurance and Pensions Authority and would effectively allow Treasury to seek information or details from anybody, public or otherwise.</p>	<p>There is no duplication of roles however the provisions of the Bill are to be amended to insert special rules about the disclosure of confidential information to the Auditor.</p>
<p>3. Value for Money inspections are only part of a toolkit for regulation, governance and compliance and are not in themselves an effective way of securing efficiencies and effective use of resources. More recently in the UK the direction for audit work has once again been that of use of resource assessment, performance measurement using a suite of national performance indicators and risk management. Further information is required about the methodologies for inspection work that will be applied by the Auditor General in order to make an informed decision about the potential effectiveness of this approach.</p>	<p>It is for the Auditor, once established, to make decisions about the tools that they will use to ensure efficiencies and effective use of resources. It is not for the Government to direct the Auditor. The Bill would not preclude these additional tools being used by the Auditor.</p>
<p>4. Special investigations could be called at the request of Tynwald, which could encroach on local authority autonomy as democratically elected bodies. Safeguards should be put in place to help prevent abuse of this role and any audit work undertaken should respect the local needs of local authorities.</p>	<p>It is for the Auditor to determine whether to undertake such an investigation. This is the same for all specified bodies not just for local authorities. This will provide independent assurance that public money is properly managed and spent to good effect and will contribute to improvements in public administration.</p>

Issue Raised	Reason for the Bill not being changed
<p>5. It is unclear how the Auditor will work beside -</p> <p>a) The Government's external auditors.</p> <p>b) The Government's internal auditors.</p>	<p>a) There are currently two external auditors (companies) who are contracted by the Treasury through a tendering process. To ensure independent scrutiny the Bill will provide for the external auditors to work for and report to the Auditor.</p> <p>b) Although internal and external auditors have different and clearly defined roles, they do share the same broad purpose of serving Tynwald and the public by helping to ensure the highest standards of regularity and propriety in the use of public funds and resources.</p> <p>The drive for achieving value for money and effectiveness in public services has never been greater. Both internal and external auditors have distinctive and important contributions to make to this.</p> <p>Internal Audit Over time, the role of internal audit has changed and developed considerably, particularly with the rise in profile of the need for strong corporate governance. Its remit has grown to cover all aspects of operations and it now spends more time looking at non-financial systems and operations than at financial ones.</p> <p>External Audit The external auditors role has also developed. Their primary concern remains that the financial statements of the organisation present a true and fair view of financial activity over an accounting period, thereby ensuring that the accounts reflect the transactions in the period accurately.</p>

Issue Raised	Reason for the Bill not being changed
6. Access to Council of Ministers papers should not be prevented.	<p>Under the Council of Ministers Act 1990 the proceedings of the Council of Ministers shall be confidential, and no member thereof, without the leave of the Chief Minister, shall divulge to any unauthorised person any matter or thing said or done therein.</p> <p>It has been the practice of successive governments not to disclose the details of Council of Ministers proceedings. Similarly in the UK papers or information relating to the proceedings of the Cabinet Office are generally classified as restricted.</p>
7. The Bill makes express provision that Tynwald <i>may</i> ask for a matter to be <i>included</i> in the Auditor report. It is at least as important for the Bill to be clear that Tynwald <i>may not</i> ask for any particular matter to be <i>excluded</i> .	The provision by implication prevents Tynwald from giving directions to exclude a particular matter.
8. Why is the approval of the Treasury required for the Auditor to appoint staff? As the job of the Auditor General includes potentially investigating the Treasury itself, the Treasury would be under a conflict of interest if asked to approve an increase in the Auditor's staff.	There may be a small conflict but it is essential that the Treasury is involved in the process as to the number of staff the Auditor may appoint as the money to pay for the staff will come out of the general revenue of the Island. Treasury will not have any involvement in the appointment of individual staff members.
9. Why is Government not considering buying in this service from existing suppliers as opposed to establishing it themselves? For example the UK Audit Commission inspects the performance of local authorities for Government whilst remaining independent and could carry out this function here.	<p>The process is not just about an annual audit of financial accounts, it's a continuing process providing an independent assessment on whether the services have been managed economically, efficiently and effectively. This will include value-adding suggestions to Tynwald on ways the government, and public sector agencies, can improve resource management, such as reducing waste and eliminating inefficient practices.</p> <p>The Auditor will also be on hand to provide the Public Accounts Committee with expert advice and assistance.</p>

Issue Raised	Reason for the Bill not being changed
<p>10. Many of Government's current Finance Officers have an appropriate qualification in accountancy and we understand that this will be a requirement for all future appointments into that position. These people should therefore be qualified and experienced enough to undertake the duties outlined for the Auditor general.</p>	<p>Members of Tynwald are responsible for overseeing the performance of the Executive Government. To fulfil this role effectively, they need information examined by a suitably qualified, independent person to ensure that it is sound, accurate and complete. Both the Auditor General and their staff will be independent of Government.</p> <p>The Office of the Auditor, together with the Tynwald Commissioner for Administration, will ensure good governance and provide the public with confidence that the Government is concerned about how it deals with members of the public and with public money.</p>
<p>11. The role appears to duplicate roles that already exist within Government including the value-for-money committee, internal audit and other parts of Treasury.</p>	<p>There is currently no <u>independent</u> assessment of whether the Government is managing its services economically, efficiently and effectively and no independent value for money audits.</p> <p>The Value for Money Committee is a subcommittee of Treasury, this Bill will introduce Parliamentary scrutiny.</p>

Annex C

The list of respondents

Isle of Man Government

Department of Tourism and Leisure
Department of Transport
Department of Home Affairs
Treasury, Income Tax
General Registry
Communications Commission

Local Authorities

Arbory Parish Commissioners
Douglas Borough Council
Lonan Parish Commissioners
Marown Parish Commissioners
Maughold Parish Commissioners
Onchan District Commissioners
Ramsey Town Commissioner
Rushen Parish Commissioners

Tynwald Members

Mr R W Henderson MHK

Interested Parties

The Standing Committee on Public Accounts
Comptroller & Auditor General, Jersey
Audit Scotland
Wales Audit Office

Members of the public

W Gilbey
British Republic

The information in this booklet can be provided in
large print on request

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