



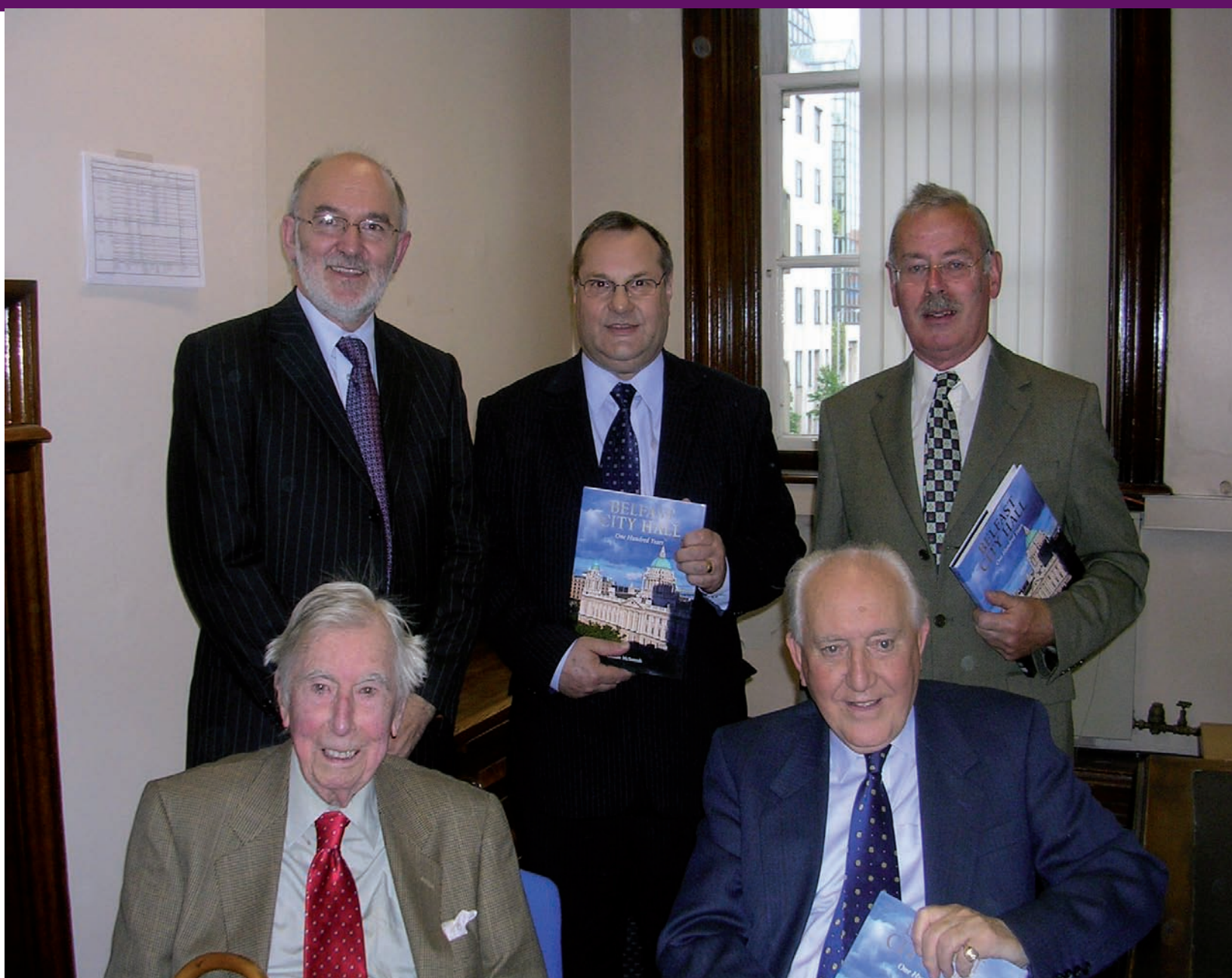
Northern Ireland Audit Office

The Exercise by Local Government Auditors of their Functions

In the year to 31 March 2007

Report by the Chief Local Government Auditor

June 2007



This report has been prepared under Article 4 of the Local Government (Northern Ireland) Order 2005.

Chief Local Government Auditor

June 2007

The Department of the Environment may, with the consent of the Comptroller and Auditor General for Northern Ireland, designate members of Northern Ireland Audit Office staff as local government auditors. The Department may also, with the consent of the Comptroller and Auditor General for Northern Ireland, designate a local government auditor as chief local government auditor.

The chief local government auditor has statutory authority to undertake comparative and other studies designed to enable him to make recommendations for improving economy, efficiency and effectiveness in the provision of services by local government bodies and to publish his results and recommendations.

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Introduction

1. The Audit and Accountability (Northern Ireland) Order 2003 established arrangements for the transfer of local government audit staff from the Department of the Environment (DoE) to the Northern Ireland Audit Office (NIAO).

In July 2005 the DoE made the Local Government (Northern Ireland) Order 2005 which brought a number of changes to 'the principal Act' the Local Government Act (Northern Ireland) 1972.

2. The above provisions include the following:

- The DoE, may, with the consent of the Comptroller and Auditor General for Northern Ireland, designate persons who are members of the staff of the Northern Ireland Audit Office as local government auditors (Article 4(1))
 - The DOE may also designate a local government auditor as chief local government auditor (Article 4(3))
3. The chief local government auditor is empowered to:
- Prepare, annually, a report as to the exercise by local government auditors of their functions (Article 4(4))
 - Prepare and keep under review, a code of audit practice prescribing the way in which auditors are to carry out their functions (Article 5)
 - Make arrangement for certifying claims and returns in respect of grants or subsidies made or paid by any Northern Ireland department or public authority (Article 25)
 - Commission comparative and other studies designed to enable a local government auditor to make recommendations for improving economy, efficiency and effectiveness in the provision of services by local government bodies (Article 26)

4. Accordingly this report is prepared under Article 4(4) of the Local Government (Northern Ireland) Order 2005.

5. The accounts under audit during the past year were mainly the financial statements for the year to 31 March 2006.

Summary

6. The main aim of this report is to provide the key messages from audits performed during the past year.

7. Elected members and officers should review this report and identify how their council is dealing with the points raised and consider where more action may be required.

Local Government in Northern Ireland

8. Local Government in Northern Ireland is made up of 26 district councils and together with the Local Government Staff Commission, the Northern Ireland Local Government Offices' Superannuation Committee and ARC21 are the bodies that are audited by local government auditors.

9. Councils vary widely in size, with populations ranging from about 18,000 in Moyle to over 280,000 in Belfast and employ over 9,000 full-time equivalent staff. Council services fall under the two broad headings of Culture/Leisure and Environment. Councils also undertake regulatory activities such as Building Control and Environmental Health.

10. Councils are independent of central government and are accountable to their local electorate and ratepayers. In making decisions they consider local circumstances as they try to make decisions which they believe will be in the best interests of the communities they serve. All councils have the same basic legislative powers, although each council has some discretion to place a different emphasis on the services delivered.

11. The Best Value (Northern Ireland) Act 2002 placed a duty on councils to make arrangements for continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

12. Following the Review of Public Administration, direct rule Ministers announced a reduction in the number of councils from 26 to 7 and a transfer of functions to councils. The Northern Ireland Executive, under the devolved administration, has announced its intention to revisit these decisions. Consequently there are likely to be significant challenges ahead for councils over the next few years.

Management of Resources

13. The 26 district councils had net revenue expenditure of £390m in the year to 31 March 2006 and an increase of £8m in District Fund reserves which were financed as follows:

	£m
General Grant from DoE	47
Rates	351
Total	398

14. At 31 March 2006 the collective District Fund balance (reserves) was £52.6m

15. The net spending equates to £229 per head of population in Northern Ireland.

16. In preparing their estimates councils planned net revenue expenditure as follows:

Year to:	31 March 2005	£363.8m	+7.5%
	31 March 2006	£390.3m	+7.3%
	31 March 2007	£427.6m	+9.5%
	31 March 2008	£458.0m	+7.1%

17. At 31 March 2006 councils had collective long term assets totalling £1,524m. At the end of the financial year councils had long term loans outstanding of £332m, current assets of £182m, and current liabilities of £97m. They also had cash-backed reserves, mostly Capital and Renewal & Repair Funds totalling £57m.

18. The revenue and capital expenditure in the year to 31 March 2006 formed the basis of the financial statements prepared by councils and audited by local government auditors.

Financial Statements

19. Councils are required to prepare their accounts in a form defined by the DoE under an Accounts Direction. In preparing the Direction the Department consults with local government practitioners and audit. Central to the Accounts Direction is a requirement for councils to comply with the Code of Practice on Local Authority Accounting in the United Kingdom - the Local Government Statement of Recommended Practice (SORP) issued by CIPFA/LASAAC for all councils and the Best Value Accounting Code of Practice.

20. Subject to complying with the directed layout for the accounts, councils are free to expand the supporting notes by way of explaining the detail for the benefit of interested electors and ratepayers.

Code of Audit Practice

21. The Local Government (Northern Ireland) Order 2005 introduced a requirement for the chief local government auditor to prepare and review a Code of Audit Practice (the Code). The Code is to embody best professional practice with respect to the standards, procedures and techniques to be adopted by auditors. In developing the Code the chief local government auditor must consult interested parties before the Code is laid before the Assembly.

22. The first Code was subject to an extensive process of consultation which began in November 2005. The draft Code was derived from a similar document prepared by the Audit Commission in England, and adapted to reflect local government in Northern Ireland. The Code was laid in the Assembly on 28 March 2006 (NIA 290/03) and is available on the NIAO website ([www.niauditoffice.gov.uk/publs/corporate/Documents/Code of Audit Practice](http://www.niauditoffice.gov.uk/publs/corporate/Documents/Code%20of%20Audit%20Practice)).

23. The Code must be approved by the Assembly at least every five years. In the intervening period the chief local government auditor may update the Code where this is thought to be necessary. To date no such updates have been made to the Code.

Financial Management Arrangements

24. Following similar legislation in England, the Local Government (Northern Ireland) Order 2005 established specific duties for local government auditors in examining accounts. In addition to ensuring that accounts have been properly prepared and reflect all statutory requirements, the local government auditor must ensure that the local government body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. We refer to this as a Financial Management Arrangements review.

25. In preparation for the Financial Management Arrangements review, to form part of the statutory audit of the 2006-07 accounts we began developing our approach in 2004-05. This has involved the completion of an annual questionnaire by local government bodies. The questionnaire was developed by local government audit staff to cover the key issues of financial management within local government. Responses to

the questionnaire have been used by local government auditors to raise issues of concern when finalizing the audit of accounts.

26. For 2006-07 the questionnaire has been extended to include sections on corporate performance to reflect the increasing importance attached to formal corporate governance arrangements throughout the public sector. The 2006-07 Financial Management Arrangements review is currently underway and will be available to local government auditors as they commence the audit of the 2006-07 accounts of the body. It is my intention to bring forward this review during 2007-08 in order that summary findings will be available for my 2007-08 annual report.

Corporate Governance

27. In the Local Government (Accounts and Audit) (Amendment) the Regulations (Northern Ireland) 2006, the DoE made provisions which place additional corporate governance responsibilities on local government bodies from April 2007. These include formal requirements for local government bodies to:

- Ensure they have a sound system of internal control which facilitates the effective exercise of functions including arrangements for the management of risk. The system of internal control is to be reviewed at least annually, the review is to be considered by the local government body or by a committee, and this review will include approving a Statement of Internal Control for their 2007/08 accounts. Local government bodies prepare a more limited Statement on the System of Internal Financial Control in their 2006/07 accounts which is not subject to formal review by the council.
- Maintain an adequate and effective system of internal audit which covers both the accounting records and the systems of internal control. The effectiveness of internal audit is to be considered at least annually by the local government body as part of its review of the system of internal control. Currently there is no requirement for local government bodies to have a system of internal audit. As at 31 December 2006 one council had no form of internal audit. In the other 25 councils the absence of an annual review means that the effectiveness of internal audit varies considerably between councils.

28. The annual audit by the local government auditor does not extend to the system of internal control. The local government auditor will however

review the Statement on Internal Control to ensure it is consistent with his findings. From 2007-08 the local government auditor's annual letter to a local government body may include significant examples of internal control weaknesses.

29. The Independent Commission on Good Governance on Public Services found that good corporate governance lends to good management, good performance, good stewardship of public money, good public engagement and, ultimately, good outcomes. To ensure these benefits are derived from the additional corporate governance responsibilities to be placed on local government bodies, we have been outlining the experiences of audited bodies and auditors from elsewhere in the public sector through a series of briefings.

30. Our talks have covered the pitfalls which have occurred as other public sector bodies introduced systems of internal control. In addition we have indicated what local government bodies can expect from the local government auditor's review of the systems of internal control. There are opportunities for local government auditors to reduce detailed testing of systems and transactions where a local government body can demonstrate effective corporate governance arrangements.

31. It is our view that an Audit Committee provides an audited body with a focus to consider corporate governance issues. Although there is no requirement for local government bodies to introduce Audit Committees, as at 31 December 2006 14 had established such a committee. It is our understanding that six other local government bodies intend to follow this lead by March 2008. We would encourage the remaining local government bodies to consider an Audit Committee as an effective means of drawing together the consideration of its corporate governance responsibilities.

Studies for Improving Economy, Efficiency and Effectiveness

32. Article 26 of the Local Government (Northern Ireland) Order 2005 made provision for the chief local government auditor to undertake studies designed to enable a local government auditor to make recommendations for improving economy, efficiency and effectiveness on the provision of services by local government bodies. Such studies should be published by the chief local government auditor.

33. During the year one study was completed in March 2007 - Absenteeism in Northern Ireland Councils 2005-06. The report and accompanying press release was sent to the national media and 44 local newspapers. The report is available from the Stationery Office, (ISBN 978-0-337-08876-6) or from the NIAO website www.niauditoffice.gov.uk.

Absenteeism in Northern Ireland Councils 2005-06

34. The report published on 30 March 2007 examined the relative position of absenteeism within Northern Ireland councils and considers absenteeism for the sector as a whole when compared with other employment sectors.

35. The comparative analysis between councils was three-yearly based and an average annual absenteeism rate derived for the period. This countered the impact of annual fluctuations in absenteeism which could have distorted the findings, particularly within the smaller Northern Ireland councils. When considering Northern Ireland councils as a whole, analysis reflected the annual position. The larger scale involved means that the resulting absenteeism data was much less susceptible to year-on-year fluctuations.

36. Main Findings and Recommendations

- When viewed as lost productivity, absenteeism in Northern Ireland councils cost £14m in 2005-06. For 2005-06, Northern Ireland councils as a whole had an average absenteeism rate of 13.73 days. This rate has improved by slightly less than one day when compared to the 2004-05 rate. The absenteeism rate for Northern Ireland councils, when taken together, is now lower than at anytime since 2001-02.
- Variations in absenteeism rates between councils appear to have no discernible pattern. One factor which does vary between councils is the management of absenteeism. We recommended that councils with high and rising absenteeism rates should review their own management practices and benchmark these against those councils with low and falling absenteeism rates.
- Had all councils matched the lowest average annual absenteeism rate of 8.37 days, a total of £5.6 million a year could have been gained in productivity.

- A comparison of the councils' 2005-06 absenteeism rate with some other employment sectors shows that Northern Ireland councils as a sector continue to have the highest absenteeism rate.
- When compared to the latest figures available for local authorities in England and Wales, the 2005-06 absenteeism rate in Northern Ireland councils is more than two days higher. Different causes of absences would not appear to explain this difference as staff appear to be absent for similar reasons. In Northern Ireland councils, however, these same causes of absence lead to longer or more frequent periods of absence and consequently higher absence costs. Had the Northern Ireland absenteeism rate been similar to that of England and Wales, the gain in productivity would have been £2.3 million, or a gain of 90 staff in post throughout the year at no additional cost.
- *Stress, depression, mental health and fatigue* causes one fifth of days lost due to absenteeism in Northern Ireland councils and represents £2.8 million in lost productivity. More than half of Northern Ireland councils told us they had taken action to reduce stress-related absenteeism. It is our view that all councils should be proactive in their management of stress-related absence.

Use of statutory audit powers

37. During the year to 31 March 2006 appeals against two decisions by local government auditors to hold individuals responsible for losses due to 'wilful misconduct' reached the High Court.

Fermanagh District Council

38. In June 2006 an appeal against the decision by a local government auditor to hold nine councillors in Fermanagh District Council responsible for a loss of £38,178 was heard in the High Court. The background to the case was that two unsuccessful applicants for the post of Chief Executive claimed the Council discriminated against them on grounds of political opinion and/or religious belief and made applications to the Fair Employment Tribunal. Neither application proceeded to a hearing as the Council, acting on legal advice, settled the claims by making a payment to both claimants.

39. Section 82 of the Local Government Act (Northern Ireland) 1972 provides, so far as material, that:

“Where it appears to a local government auditor at any audit held by him

- (a)
- (b) that a loss has been incurred or deficiency caused by the wilful misconduct of any person, he shall certify that the sum, or as the case may be, the amount of the loss or the deficiency is due from that person and, subject to subsections 3 and 5, both he and the council concerned may recover that sum or amount for the benefit of that council; and if the auditor certifies under this section that any sum or amount is due from two or more persons, they shall be jointly and severally liable for that sum or amount.”

40. The local government auditor, concluded that the members voting for the successful candidate were guilty of wilful misconduct and that a loss had been incurred, or a deficiency caused in respect of the above sum. At the date of this report the decision of the High Court has not been handed down.

(Section 82 of the 1972 Act has since been replaced by Articles 19 and 20 of the Local Government (NI) Order 2005.)

Strabane District Council

41. In the second case the local government auditor had certified the sum of £11,852.17 to be a loss to Strabane District Council. That sum represented the payment of expenses to a former councillor. The local government auditor concluded that the former councillor was guilty of wilful misconduct and that a loss had been incurred, or a deficiency caused by him in respect of this sum.

42. The background to the case was that as part of the annual audit of the accounts the local government auditor concluded that expenses claimed by the former councillor were not actually incurred and/or not entitled to be claimed from the Council.

43. The former councillor exercised his right of appeal to the High Court. Immediately before the hearing was due to commence the former councillor offered to settle the case for the sum of £8,000.

44. As the councillor had the benefit of legal aid, which meant that any legal costs on the part of the local government auditor could not be recovered from the councillor, it was decided to accept this offer rather than pursue the hearing at considerable costs to the public purse. The £8,000 recovered was forwarded to the Council for the benefit of its funds.

Newry & Mourne District Council

45. During the course of the audit of the Council's accounts for the year to 31 March 2004 the local government auditor received an objection to certain expenditure incurred by the council. In October 2005 the local government auditor upheld the objection and issued a certificate of loss or deficiency against 17 members of the Council in the sum of £10,809.40.

46. The local government audit has been notified of an appeal to the High Court against the decision. A date for the hearing has been set by the High Court for October 2007.

Review of Public Administration (RPA)

47. On 22 November 2005 the government (then under direct rule) announced its intention to reduce the number of councils from 26 to 7 and made legislation to give effect to this arrangement. New councils, in shadow form, were announced to commence during 2008 with the current councils ceasing to exist in March 2009.

48. Since then the Northern Ireland Assembly has returned to power. It has been suggested that a short review will be considered and it is anticipated that RPA will be subject to a fresh debate by local Ministers.

49. During the past year I was asked for an audit view with regard to capital expenditure in the period before the current councils cease to exist. I obtained legal advice in relation to a specific case and have adapted it to a more general setting in the paragraphs below. This is provided to assist councils in taking forward capital expenditure decisions.

“A Council may, subject to any statutory restriction, exercise its powers up to the date that it ceases to exist by reason of amalgamation or otherwise. However, expenditure must be authorised by statute and the decision to incur expenditure must not be taken for an improper purpose or having regard to an irrelevant consideration and must not be irrational. I am advised that under this heading the principle of proportionality is now accepted as relevant to consideration of the question of the rationality of a decision taken by a local authority. In this context proportionality requires a decision to be both appropriate and necessary but not more than is strictly required to achieve a legitimate aim.

If a council takes a decision to construct new municipal offices, it will need to show that those offices are necessary for the purpose of transacting the business

of the Council (see s95 Local Government Act (NI) 1972). If, for example, a council were to construct administrative offices with a debating Chamber larger than it needs to transact its business this may be an indication that those municipal offices are, at least in part, not being built for the purpose of transacting the business of the Council.

In any event a decision must not be taken for an improper purpose or having regard to an irrelevant consideration. If the decision to construct new municipal offices were to be influenced by a wish to provide a building which will be suitable offices for the new enlarged authority, that decision would be unlawful (as having been taken having regard to an improper purpose and irrelevant consideration) and lead to an item of account being considered contrary to law.

Local authorities are empowered to incur expenditure for capital purposes, funded by borrowing, on the understanding that the expenditure is met by future ratepayers for whose benefit the expenditure will enure. It could therefore be irrational and disproportionate to incur substantial capital expenditure on municipal offices which by the time they are built, will have a very limited life and to burden future ratepayers with the cost of providing those offices.

Accordingly a council project, for which long term borrowing is required, could face difficulty in obtaining the necessary loan sanction under Section 61 of the 1972 Act.

Any decision as to the location and nature of the municipal offices for the new (combined) authority is for the new authority to decide. I understand that the usual arrangement is that a shadow authority is set up in advance of the new authority assuming its full range of functions and takes decisions on matters such as location of its municipal offices or indeed other major capital expenditure items that will fall to the ratepayers of the new authority to pay for."

Chairman's Allowance

50. Section 12 of the Local Government Act (Northern Ireland) 1972 provides that: "a council may pay to the chairman of the council such allowance as the council considers to be reasonable to meet the expenses of his office".

51. Over the years queries to and by local government auditors have arisen with regard to

expenditure under this heading - returns to the Department showed expenditure by council in the range from £2,445 to £46,194 (2005-06).

52. The report by the Councillors' Remuneration Working Group, in June 2006, has recommended that:

- the council chairman's and vice-chairman's allowance should be used for civic expenses only and that expenditure should be receipted, and
- the council chairman and his/her deputy may, however receive a Special Responsibility Allowance.

53. Separate arrangements are in place for councils to pay special responsibility allowances to members, up to a ceiling determined by the Department. The maximum amounts of allowances have recently been substantially increased by the Department, effective from 1 April 2007.

54. I would encourage councils to review their present arrangements for payments to their chairman and vice-chairman to comply with the spirit of the recommendations of the Councillors' Remuneration Working Group.

Job Evaluation

55. In the management letters for the 2004/05 audits the following paragraph was included:

"I would highlight the following legal advice to audit which is relevant to 'job evaluations'. Councils cannot make retrospective increases in remuneration except where there is an agreement that the fixing of remuneration for extra work is deferred until the work is complete or where there is an agreement that remuneration is to be reviewed but the review is not completed until after the agreed date for the implementation of the outcome of the review has passed."

56. Following this a number of councils sought expansion of the advice received by audit. Accordingly the following paragraphs are shared from a local government auditor's correspondence with a council in March 2006.

"A local authority has no power to vary the terms and conditions of an officer's employment so as to increase retrospectively the amount to which he/she was entitled in accordance with those terms and conditions. In the absence of specific statutory power to do so, such as equal pay legislation, as Maugham LJ put it in *In re Audit (Local Authorities) Act 1927* [1934] 2 KB 415 at p435:

a “local authority cannot out of public moneys give gratuities to their officers or servants over and above their fixed salaries and wages. As it is not within the powers of members of a local authority administering public funds to give an officer or servant by formal resolution a fixed salary, and at the same time to reserve not merely to themselves in the current year but to a council meeting at some future date, ...a power to give a larger wage or salary to such an officer or servant so that resolution shall have a retrospective effect. It seems to me that a later resolution of that kind can be nothing other than one giving a gratuity to the officer or servant in question”.

57. Further, such retrospective increases in the remuneration of officers, requiring taxpayers in one year to pay for services provided in an earlier year, are also unlawful as infringing the principle that local authority finance is to be conducted on an annual basis: See eg *Smith v Southampton Corporation* [1902] 2 KB 244 at p253; *Croydon Corporation v Croydon RDC* [1908] 2 Ch 321 CA at p328, 330; *Westminster City Council v the GLC* [1986] AC 668; *R v Wirral MBC v Milstead* (1989) 87 LGR 611.

58. The legal advice obtained by the council does not address the legal principles which apply to local authorities. The references to potential claims under the Equal Pay legislation are misconceived and miss the central point that the council has no statutory power to agree to retrospective increases in salary. My letter of 1 December 2005 recognised that it is important to distinguish unlawful retrospective increases in remuneration from cases where there is an agreement that the fixing of remuneration for extra work is deferred until the work is complete or where there is an agreement that remuneration is to be reviewed but the review is not completed until after the agreed date for the implementation of the outcome of the review has passed.”

Issues highlighted in management letters to councils

Creditors from Select Lists

59. In earlier years a local government auditor raised issues associated with emergency remedial work. He highlighted weaknesses in the controls over monitoring the work of a firm appointed from the select list and also the subsequent approval of invoices. Specifically he pointed out that

subcontractor timesheets detailing days worked and rates levied therein should be checked, validated and approved by the council departments before being passed to Finance for payment. Likewise overtime rates and the payment rates for staff to be used (e.g. skilled/craftsman/foreman) by contractors should be agreed in advance of work being performed.

60. Since there were, again, significant monetary payments to sub contractors the local government auditor once more drew attention to the issue.

61. The local government auditor recommended that the council reviews its procedures to ensure that the weaknesses referred to above are eliminated.

62. The local government auditor recommended that the council satisfy itself that use of the chosen suppliers from the select list still represented best value and that over familiarity between officers and suppliers does not result in less challenge to costs. In 2005/06 one supplier from the select list was paid over £280k and another over £120k.

Service Level Agreements

63. A local government auditor noted that no service level agreement was in place with a significant outside body to which a council awarded a large revenue grant.

64. The local government auditor pointed out that without a service level agreement the council may have difficulty:

- making the payee responsible for the agreed planned outputs following the council’s contribution;
- having access to the payee’s financial records as required;

65. The local government auditor recommended that the council ensures that signed service level agreements are in place, with all relevant bodies to which the council awards financial contributions.

66. In another audit the local government auditor highlighted that while the council had a service delivery plan with outside bodies, it was important in all cases that independent checks are performed by the council to ensure that the agreed outputs have been delivered.

Funding outside bodies

67. A local government auditor noted that a council had paid out £45k to an outside body before the conditions of receiving a 50% revenue grant contribution were agreed with the relevant Government Department.

68. The local government auditor expressed concern that the Department may disallow the revenue grant contribution. He recommended that specific conditions of grant be agreed before further expenditure is incurred on the project and that such a principle be applied in the case of any other similar grants.

69. In another audit a council provided £1.5 million grant aid to a number of organisations, mainly in the voluntary sector, but did not carry out independent checks to ensure agreed outputs had been delivered. The council has now advised all departments that outputs derived from funded organisations must be checked to ensure they assist the delivery of the council's corporate plan.

Corporate Governance Arrangements in bodies to which a council awards significant monetary grants

70. The local government auditor noted that while a council received copies of audited financial statements in respect of bodies to which it awards significant monetary grants, it does not receive copies of external or internal audit management letters for these bodies.

71. The local government auditor pointed out that, in consequence, there was reduced knowledge as to how these bodies are being run and reduced decision making information when deciding the council's level of financial support for these bodies.

72. He recommended that the council ensures that it receives all relevant corporate governance information from the bodies to which it awards grants, including copies of management letters.

73. In a separate case, a local government auditor noted that a council funded the payments for the Local Strategy Partnership Board and then sought reimbursement by way of grant aid from the relevant Government Department.

74. The local government auditor noted that at the year end that the council was owed over £700k by this body and pointed out the risk to the council of non recovery of grant aid if some/part of the grant payments are deemed ineligible by the relevant Government Department. He further pointed out the reduced cash flow through loss of interest/having to pay interest.

75. The local government auditor recommended that, for all bodies where the council funds its payments, subject to being 100% reimbursed by grant aid, strict limits are imposed on the size of debt the council is owed by these bodies.

Self Insurance

76. A local government auditor noted that a council's policy of partial self insurance for its public and employer liability claims appeared to be worthwhile with substantial savings on insurance costs. However, as claimants have several years to submit claims, he recommended that after a few years experience the council perform an evaluation of this scheme to identify if savings have been made and, if so, at what level.

Lease agreement with sports club for nil consideration

77. A local government auditor noted that a council began the process to obtain approval from the DoE to enter into a lease with a local Sports Club in respect of land valued at £70k, for nil consideration. The proposed lease specified that the Sports Club had to carry out its proposed works before the land transfer took place. Another clause provided that the land must always be used for sports purposes otherwise land ownership reverts back to the council.

78. The local government auditor pointed out the risk of financial loss to the council through foregoing proceeds and/or if the project did not run as envisaged e.g. if the Sports Club continues to require financial support from the council.

79. The local government auditor recommended that in such cases the council should outline the policy regarding the benefits to the general body of ratepayers and any public use made of such a facility, deemed to come from this type of arrangement.

Land Terrier

80. A local government auditor, in two management letters, recommended that a council establishes a land terrier of all its lands, cross referenced to title deeds and important land rights. Not only should this improve custodial control over its assets but it should also assist in ensuring that the council's assets are not understated.

81. The local government auditor explained that in the absence of this exercise being performed the council's records of its assets may possibly remain understated and recommended that a timetable be set in place to perform the exercise.

82. Having an updated land terrier will be an important issue for each council as it moves towards the implementation of the Review of Public Administration.

Land disposal by way of long lease

83. A local government auditor queried whether a council had satisfactory procedures to identify land disposed of by way of lease. He identified the risk to the council of land which was due to revert back to the council being forgotten about with consequent possible loss to the council. He recommended that a register be drawn up of all land disposals by way of leases for a term of under 100 years.

Fixed Asset - Inventory Lists

84. Generally assets below a determined de minimis level are not included in the Fixed Asset Register. Rather for custodial control purposes they are recorded in inventory listings. In the course of an audit a local government auditor highlighted that no periodic validation checks were performed between actual assets and the inventory listings with the possibility of the listings being inaccurate.

85. The local government auditor recommended that department managers should be asked to complete an annual return of all inventory items held and that the information should be compared / reconciled to the information recorded on inventory schedules.

Economic Appraisals

86. A local government auditor raised concern at the lack of a council policy with regard to economic appraisals in connection with capital expenditure

decisions. The auditor highlighted the risk of potential loss if the council has not adopted the best possible option or has failed to apply the lessons learnt on past projects.

87. The local government auditor recommended that the council formally introduce a policy of economic appraisals on capital works acquisitions and disposals and that post project evaluations should also be performed.

88. I have been encouraged by the work over the past year by representatives from the Association of Local Government Finance Officers working with officials in the Department of the Environment to take forward the application of central government Green Book (Treasury Guidance) practices to the circumstances of local government. Both parties are to be commended on the training seminars run in Newtownabbey and Omagh in February 2007.

BBC Restoration Programme

89. A local government auditor highlighted that a council had permitted members of the public, under supervision, to use the council premises to make phone calls in support of the local project. As this was contrary to the rules of the BBC Programme, the BBC repaid its portion of the cost of the phone calls received.

90. The local government auditor pointed out that while the cost to the council may not have been material, the council might suffer reputation damage through failure to follow the rules of the BBC programme.

Bacs Payments (a special bank transfer arrangement for paying invoices)

91. A local government auditor noted that two payments amounting to £50k and £14k were paid to a supplier in error. The wrong Bacs details were input to the Bacs payment schedule which was sent to the bank for payment. The council did not identify the error until a month later when the proper supplier requested payment of monies due. Whilst the lower of the two amounts was recovered from the payee it required a solicitors letter to obtain repayment of the second, larger amount of £50k.

92. The local government auditor was informed that this payment error occurred as a result of there being no requirement for two individuals to be involved in changes to the supplier master file i.e. the person who processed the changes also checked those changes. Hence the error was not picked up by the Finance Manager when reviewing the payment run - the invoices and payments looked in order and the Finance Manager would not have known that the Bacs detail was incorrect.

93. The local government auditor recommended that management should ensure that appropriate controls are in place over the validity, recording and valuation of supplier payments.

Staff Restructuring

94. A local government auditor expressed disappointment to a council when he noted that the revised re-organisation, rather than resulting in savings, was now expected to cost the council almost £140k over 3 years. In addition the predicted running costs would be approximately the same as the previous costs. It transpired that the envisaged cost savings would not occur since the cost estimates did not take into account the regrading costs of the staff who took on additional responsibilities.

95. This case highlights the need for re-organisation plans to be carefully thought through and for robust financial estimates to be made.

Payment to an Employee following a “Compromise Agreement”

96. The local government auditor’s 2004-05 report noted that he was investigating the basis in legislation for the payment of a “compromise agreement” to an employee, as part of the terms reached in concluding that employee’s employment with the council. His investigation of this matter was concluded in 2005-06. He examined in detail the circumstances surrounding the payment and associated legal costs arising from the “compromise agreement” (the agreement) made by the council to the former employee. The agreement notes that the council:

“without any admission of liability whatsoever, will pay £27,000 within 21 days to the employee by way of compensation for any contractual rights, loss of office and potential claims of the type referred to [elsewhere in the agreement].”

Legal costs, incurred by the council, as a result of the agreement were £3,244 (including VAT).

97. A report to the Resources Committee on 15 April 2004 recommended approval of the agreement. The report recorded what was described as a serious breakdown in the mutual trust and confidence between the employee and the council. This situation had occurred as a result of:

- Disciplinary issues which the council had with the employee’s conduct.
- Grievance issues which the employee had with the Council’s Chief Executive.

98. The report concluded:

“an agreed termination agreement (a compromise Agreement) would be the most expedient, sustainable and cost effective solution.”

99. The Resources Committee approved payment in accordance with the agreement.

100. The local government auditor asked the council to identify if the Local Government (Early Termination of Employment (Discretionary Compensation) Regulations (NI) 2003, or any other statutory provision provided a legal basis to support the payment made. The council could provide the local government auditor with no relevant statutory power. Consequently the local government auditor considered that the payment made in accordance with the agreement, and the supporting legal costs, representing a total of £30,244, to have been irregular.

101. A similar “compromise agreement” was also held to be irregular by another local government auditor in a 2003-04 audit.

102. Central to the council’s decision to accept the agreement was the report submitted to the Resources Committee meeting (15 April 2004). The local government auditor was concerned as to the levels of supporting documentation which underpinned this report including that:

- There was no evidence to support how the £27,000 awarded in the agreement had been derived.
- There was no documentary evidence of input from the Labour Relations Agency to the agreement although the report notes the agreement was prepared under the auspices of the Labour Relations Agency.
- There was no legal advice on the draft terms of the agreement including the sum payable or the statutory basis for proceeding with the agreement. The report, however, notes the agreement has been prepared with legal advice.

- There was no documentary evidence of input from the Local Government Staff Commission although the Commission are described as “supportive in using a compromise agreement”.

103. A key process in the governance of a council is the accuracy and robustness of information brought to council committees by council officers. Councillors as members of committees, have a right to expect that their decisions should be based on thoroughly researched and clearly expressed reports from officers. Where research has been limited or issues of uncertainty remain this should be recorded. Given the sensitive and complex nature of the issues which culminated in the agreement, the Resources Committee should have received a higher standard of report which would have better informed its decision.

104. The local government auditor noted the council's view that its course of action was expedient. A council's consideration of expediency can never be a substitute for the absence of relevant legal powers to support the council actions. The council informed the local government auditor that the decision to pursue the agreement represented “accepted human resource practice.” Accepted human resource practice involves maintaining comprehensive personnel records. In the absence of adequate supporting documentation the council was poorly placed to pursue issues of discipline with the employee, and to defend counter claims from the employee arising from any disciplinary action taken by the council. Insufficient documentation to support disciplinary matters with staff reflects poor standards of human resource practice. In this case it prompted the council to undertake irregular expenditure believing that an alternative course of action, although compliant with legislation, would have subjected the council to even greater loss.

105. The local government auditor recommended that the council should:

- Review all expenditure, which is not covered by an obvious statutory base, to determine if the council has a legal basis on which to proceed.
- Fully document the information supporting key reports to council committees to facilitate further examination, if required, by the committee itself or by the local government auditor.
- Ensure that human resource records are complete and capable of supporting, where necessary, the council in taking appropriate disciplinary procedures with its employees, regardless of any possible legal action by the employee.

Tribunal cases

106. In another council, the local government auditor highlighted the significant legal costs to a council in respect of tribunal cases taken by a former employee. While the council had a good record in defending the claims it was not without cost which at the date of the auditor's report had reached over £115k.

Annual Leave Carry Forward

107. A local government auditor noted that a council paid for 16 days of annual leave carried forward from the previous financial year in respect of the former Chief Executive who subsequently retired. The audit understanding of the legal position on this is that while approved carried forward annual leave can be taken as leave there is however no legal right for it to be paid if not taken, as that would involve ratepayers in a later financial year paying for services in earlier years, which is in breach of the principle that local government finance is to be conducted on an annual basis. Given the circumstances that the former Chief Executive had difficulty taking leave due to holidays of senior staff and the fact he was also working for the best interests of the council, on this occasion the local government auditor did not seek to challenge this payment. He did however, ask the council to ensure that measures are put in place to ensure that future carried over annual leave from one financial year to another is only taken as holidays and not paid for.

Special Appeals - Bank Account

108. A local government auditor noted that there was over £17k in a bank account relating to an earthquake appeal. This account was not included in the council's financial statements and hence not subject to statutory audit.

109. The local government auditor highlighted the reputation loss to the council should the monies in this account not be applied as intended. He recommended that the council consider whether this and similar bank accounts be subject to audit by the authority's internal auditors.

Landfill Provision

110. A local government auditor raised the lack of backup documentation in a council to support the landfill provision of £2 million included in the accounts. The Director of Environmental Services has since prepared the supporting documentation.

Location of local government auditors

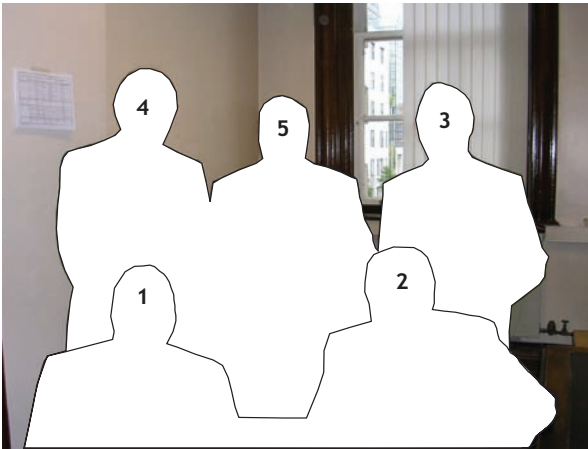
111. Legislation provided, for Local Government Audit (LGA) staff employed by the DoE on the audit of the accounts of district councils and a number of non departmental public bodies to transfer to the Northern Ireland Audit Office, from 1 April 2003.

112. Since then local government auditors have continued to be based in Room 56 at the City Hall, accommodation which LGA had occupied for approximately 80 years.

113. As I write this report accommodation works have just completed at the NIAO offices in University Street to provide space for staff from both Local Government Audit and Health Service Audit to join their NIAO colleagues.

114. At a recent gathering in Room 56 opportunity was taken for current and former staff of LGA to meet and mark the move from the City Hall, which is about to close for a period of two years for extensive renovations.

The photograph on the front of this report, taken at the gathering, shows the last four chief local government auditors together with Ian Bissett, who has a long association with LGA and the only member of staff to work for “4 chiefs”.



Phtotgraph taken by Alfred Knox

1	Mr G A P Bryan, CLGA	1965 - 1980
2	Mr J A McDonald, CLGA	1980 - 1984
3	Mr S J Bailie, CLGA	1984 - 1997
4	Mr J S Buchanan, CLGA	1997 - to date
5	Mr I Bissett, Auditor	1971 - to date

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