

CODE OF PRACTICE DEALING WITH THE RELATIONSHIP BETWEEN THE NATIONAL AUDIT OFFICE AND THE COMPTROLLER AND AUDITOR GENERAL

Approved at the Public Accounts Commission hearing on 13 March 2012

The Budget Responsibility and National Audit Act received Royal Assent in March 2011. The Act established the NAO as a body corporate with a statutory board and makes explicit provision for the appointment of the Chair and members of the NAO (the NAO Board), and the role of both the Board and the office of C&AG.

The Act requires a Code of Practice to govern the relationship between the NAO Board and the C&AG, preserving the independence of the C&AG while providing robust governance and oversight of the operations of the NAO.

1. As required by paragraph 10 of Schedule 3 to the Budget Responsibility and National Audit Act 2011 (“the Act”) this Code of Practice (“Code”) deals with the relationship between the National Audit Office (NAO Board) and the Comptroller and Auditor General (C&AG). The Code is subject to approval by the Public Accounts Commission, and the NAO Board and the C&AG will comply with provisions of the Code. Details of the role of the Public Accounts Commission, the NAO Board, and the C&AG are set out in Annex 1 to the Code of Practice. In preparing or revising for Code, the NAO, and the C&AG must consult the Treasury.

Setting the strategy (Paragraph 1, Schedule 3)

2. The strategy will be prepared on an annual basis and will cover the next three financial years. It will form the basis of the NAO’s bid for resources to the Public Accounts Commission, and will set out the priorities of the NAO that will guide the work programme and the allocation of resources. It will include a resourcing plan for the three-year period, including estimates of the resources that will be needed and details of the broad balance between work to be performed in-house and that which will be contracted out to third parties. The processes will be as follows.

- Every 12 months, the C&AG will prepare a draft strategy to cover the next three financial years.
- The NAO Board will consider the C&AG's draft and approve the strategy, after making any modifications it considers appropriate.
- The Chair of the NAO Board and the C&AG will jointly submit the strategy to the Public Accounts Commission, and give evidence at any hearing the Commission may hold on the strategy.
- The Public Accounts Commission will review and approve the strategy, and the bid for resources included within it, after making any revisions it considers appropriate. In doing this, the Commission will have regard to any advice given by the Treasury.
- The NAO and the C&AG will each give effect to the strategy.

Agreeing the work programme (Paragraph 2, Schedule 3)

3. The work programme will cover one financial year, and will set out details of the statutory and NAO approved services that the C&AG will carry out. Annex 2 to the Code of Practice provides further information on the distinction between statutory and NAO approved services. The C&AG is required or authorised to carry out statutory work by a provision in statute, but will be able to carry out NAO approved services with the approval of the NAO Board (in accordance with paragraph 3 of schedule 3 to the Act). The work programme will include financial audits, value for money examinations, and other advice and assurance work. The processes will be as follows.

Statutory work

- For each financial year, the C&AG will prepare a draft programme of statutory work, including proposals for value for money examinations; audits which the C&AG is statutorily obliged to perform will necessarily be included in the work programme.
- The NAO Board will consider the C&AG's draft programme of statutory work. Board members may offer advice on the balance of the programme or on particular proposals, but decisions about the final programme will be taken by the C&AG.

- During the financial year, the C&AG may amend his/her programme of statutory work, for example to reflect changing priorities. The C&AG will notify the NAO Board of any such changes.

NAO Approved Services (Paragraph 3, Schedule 3)

- For each financial year, the C&AG will make proposals for a programme of NAO approved services, together with associated budgets. NAO approved services cover a variety of workstreams undertaken voluntarily by the C&AG and the NAO, and approved by Parliament as part of the NAO's strategy rather than through statute.
- The NAO Board will consider the C&AG's proposals for NAO approved services, and may remove or amend the proposals before approving the programme and the budgets it considers appropriate to carry out the work. The NAO Board will approve budgets for each workstream rather than for individual projects except where a project is material by value or nature or where a long-term contractual commitment is being made.
- The C&AG will have the discretion to decline to carry out particular NAO approved services where he/she considers that the budget approved by the NAO Board is insufficient.
- During the financial year, the C&AG may propose changes to the approved programme of NAO approved services. The NAO Board will consider the C&AG's proposals and may approve, reject or amend them.

Agreeing the resource estimate (Section 23, and Paragraph 2, Schedule 3)

4. The resource estimate will cover one financial year, and will provide for the resources required to cover the administrative expenditure and non-cash costs incurred by the NAO. It will provide funding for the C&AG's programme of statutory work and NAO approved services. The processes will be as follows.
 - For each financial year, the C&AG will determine the resource budget required for his/her programme of statutory work. The funds required for such statutory work will be a first charge on the resources allocated to the NAO. The NAO Board will not be able to amend the budget set by the C&AG for statutory work.

- For each financial year, the C&AG will make proposals for the resourcing of NAO approved services from within the remaining resource provision.
- The NAO Board will consider the C&AG's proposals for NAO approved services and approve a budget, after making any modifications it considers appropriate.
- The Chair of the NAO Board and the C&AG will jointly submit the resource estimate, incorporating the budgets for statutory and NAO approved services, to the Public Accounts Commission, and give evidence at any hearing the Commission may hold on the estimate.
- The Public Accounts Commission will review the resource estimate and lay it before the House of Commons, with any modifications it considers appropriate. In doing so, the Commission will have regard to any advice given by the Committee of Public Accounts or the Treasury.

Monitoring the carrying out of the C&AG's functions (Paragraph 4, Schedule 3)

5. The C&AG has complete discretion in carrying out the functions of that office. During the course of each financial year, the NAO Board will monitor the carrying out of the C&AG's functions in respect of statutory work and NAO approved services. The processes will be as follows.
 - During the financial year, the C&AG will provide the NAO Board with regular reports to allow the Board to monitor progress in delivering the approved work programme and outturn against the approved budgets.
 - The NAO Board will consider the C&AG's progress reports and may offer advice on the carrying out of the C&AG's functions, to which the C&AG will have regard.
 - In the event that the C&AG requires more resources to deliver his/her programme of statutory work than was estimated at the start of the financial year, the C&AG will put forward proposals for how the work should be funded, options being to make a compensating reduction to the budget approved by the NAO Board for NAO approved services or to go back to Parliament to seek additional resources. The NAO Board will consider the C&AG's proposals and approve a course of action which provides the C&AG with the resources he/she needs for statutory work although for any financial year the maximum amount of resources the

C&AG may require is the maximum amount specified in the approved strategy.

- For NAO approved services, in the event that the C&AG requires more resources to deliver a particular workstream than was approved by the NAO Board, the C&AG will propose a course of action. Options will be to reduce the cost of the workstream in question, for example by amending what is to be delivered; to free up resources by making a compensating reduction to one or more of the budgets for other NAO approved services workstreams; to recover the additional cost through audit fees; or to go back to Parliament to seek additional resources. The NAO Board will consider the C&AG's proposals and agree a way forward.

Preparing the resource accounts (Paragraph 24, Schedule 2)

6. The resource accounts will cover one financial year. The Public Accounts Commission will appoint the C&AG or another appropriate person as Accounting Officer with responsibility for preparing the accounts. The processes will be as follows.
 - The Accounting Officer will prepare the resource accounts for each financial year.
 - The resource accounts will be certified by the NAO's auditor, who will send the accounts, together with the auditor's report on them, to the Public Accounts Commission.
 - The Public Accounts Commission will lay the resource accounts and the auditor's report before the House of Commons.

Agreeing the annual report (Paragraph 9, Schedule 3)

7. The annual report will cover one financial year, and will provide details of the s performance and impact of the national audit functions during the year. The processes will be as follows.
 - As soon as practicable after the end of each financial year, the C&AG will prepare a draft annual report.
 - The NAO Board will consider the C&AG's draft and approve the annual report, after making any modifications it considers appropriate.

- The Chair of the NAO Board and the C&AG will jointly submit the annual report to the Public Accounts Commission, and give evidence at any hearing that the Commission may hold on the report.
- The Public Accounts Commission will lay the annual report before Parliament.

Making public comment

8. The Chair of the NAO Board and the other non-executive members of the NAO Board may comment publicly on the work of the NAO in general terms and on the governance of the organisation. They will not make public comments about questions of audit opinion and judgement, which will be a matter for the C&AG.

Charging fees (paragraph 8, Schedule 3)

9. The NAO may charge fees for audits and NAO approved services carried out by the C&AG. The processes will be as follows.
 - The C&AG will prepare proposals for a fee charging scheme.
 - The NAO will submit the fee charging scheme to the Public Accounts Commission, who will consider and approve the scheme, after making any modifications it considers appropriate.
10. The C&AG may charge fees and other amounts in relation to NAO-approved services, but only in accordance with the agreement or other arrangements under which the services are provided. Fees and other amounts received by the C&AG must be paid to the NAO.

Maintaining standards of corporate governance

11. The NAO will maintain systems of governance and internal controls consistent with best practice, monitor that the systems are operating effectively, and report on the systems in its annual report. The NAO will identify and manage risks effectively, and conduct its business in an economic, efficient and effective way. The NAO will be able to set up committees to support its operation.

Audit Committee

12. The NAO Board will establish an Audit Committee and appoint members, all of whom will be non-executive. The Chair of the NAO will appoint one of the other non-executive members of the NAO as the Chair of the Audit Committee. Other members of the Audit Committee may be appointed from outside the NAO Board.
13. The NAO Board will set terms of reference for the Audit Committee, which will include considering the reports of the external auditor and of the NAO's Director of Internal Audit and Assurance, and the response of the management of the NAO.
14. On the advice of the Audit Committee, the NAO will appoint an external auditor for the NAO for each financial year. The appointment will require the approval of the Public Accounts Commission.

Remuneration Committee

15. The NAO Board will establish a Remuneration Committee and appoint members, all of whom will be non-executive. The Chair of the NAO will appoint one of the other non-executive members of the NAO Board as the Chair of the Remuneration Committee. Other members of the Remuneration Committee may be appointed from outside the NAO Board.
16. The NAO Board will set terms of reference for the Remuneration Committee, which will include setting the remuneration of the executive members of the NAO Board, other than the C&AG, and advising on the remuneration of any other NAO staff referred to the Remuneration Committee by the NAO Board.

ROLE OF THE PUBLIC ACCOUNTS COMMISSION, THE NATIONAL AUDIT OFFICE, AND THE COMPTROLLER AND AUDITOR GENERAL

The Public Accounts Commission

1. The main functions of the Public Accounts Commission are as follows.
 - To appoint the non-executive members of the NAO Board, upon the recommendation of the Chair. The Commission may appoint any person so recommended, or require the person who chairs the NAO to recommend another person.
 - To receive the resignation of the non-executive members of the NAO Board (other than the Chair). The Commission may terminate the appointment of any non-executive member of the Board (other than the Chair) in accordance with the provisions of the Act.
 - To appoint a person as the Accounting Officer with responsibility for preparing the NAO's accounts.
 - To review and approve the NAO's strategy.
 - To examine the NAO's estimate and to lay the estimate before the House of Commons, with any modifications the Commission considers appropriate.
 - To approve the appointment by the NAO of an external auditor; to receive from the auditor the NAO's certified accounts and auditor's report, and lay the accounts and report before the House of Commons; and to receive reports by the auditor on the NAO's use of resources, and lay the reports before the House of Commons.
 - To approve the Code of Practice dealing with the relationship between the C&AG and the NAO. The Commission may make proposals to the NAO and the C&AG for revising the code.
 - To approve the delegation by the C&AG of any of his/her functions, in accordance with paragraph 6 of schedule 3 to the Act.

The National Audit Office Board

2. The main functions of the NAO Board are as follows.

- To appoint the executive members, upon the recommendation of the C&AG.
- To prepare a strategy for the NAO, jointly with the C&AG, and to give effect to the strategy, jointly with the C&AG.
- To prepare an estimate of the NAO's use of resources for each financial year.
- To provide resources for the C&AG by employing staff and procuring services.
- To approve a programme of NAO approved services and associated budgets.
- To monitor the carrying out of the C&AG's functions and provide advice to the C&AG.
- To prepare an annual report on the NAO's activities, jointly with the C&AG.
- To prepare a Code of Practice dealing with the relationship between the C&AG and the NAO, jointly with the C&AG, and to comply with the code.
- To prepare a fee charging scheme, for approval by the Public Accounts Commission.
- To appoint an external auditor for the NAO for each financial year. The approval of the Public Accounts Commission is required for the appointment.

The Comptroller and Auditor General

3. The C&AG has complete discretion in carrying out his/her functions, subject to the provisions of the Code of Practice and any other statutory provisions. Responsibility for all audit opinions and judgements rests with the C&AG alone.
4. The main functions of the C&AG are as follows.
 - To be the Chief Executive of the NAO.
 - To be the Accounting Officer of the NAO, if appointed by the Public Accounts Commission.

- To approve the release of funds from the Exchequer to government departments.
 - To decide on and deliver a programme of statutory work, which will include the following:
 - Financial audit: to provide independent assurance and advice to Parliament on the proper accounting for central government expenditure, revenue and assets and on regularity, through auditing the annual accounts of public bodies; and
 - Value for money audit: to examine and report to Parliament on whether public bodies have used resources economically, efficiently and effectively.
 - To recommend the executive members of the NAO Board for appointment by the non-executive members.
 - To make proposals to the NAO Board for a programme of NAO approved services and the associated budgets, as approved by the NAO Board.
 - To carry out a programme of NAO approved services, as approved by the National Audit Office Board. Once the C&AG has obtained approval for NAO approved services and the associated budget, he/she will have complete responsibility for the audit judgements reached.
5. In addition, the C&AG has a range of functions which he/she carries out jointly with the NAO, as set out in paragraph 2 above.

STATUTORY AND NAO APPROVED SERVICES

1. The split between statutory and NAO approved services underpins key aspects of the arrangements which govern the relationship between the C&AG and the NAO.
2. The programme of **statutory work** is the work initiated by the C&AG in discharging the statutory functions of his/her office. These functions are:
 - examination of resource accounts, of other accounts prepared under Treasury direction (or direction of the relevant department), of accounts of receivers of money by law payable into the Exchequer, and the making of reports on those accounts; and
 - examinations into the economy, efficiency and effectiveness with which departments and other relevant bodies have used their resources, and the reporting of the results to the House of Commons.
3. Paragraph 3 of Schedule 3 to the Act establishes that the programme of statutory work includes those services provided by the C&AG:
 - To the NAO by virtue of Schedule 2 of the Act;
 - That are part of, or incidental to, the C&AG's functions under the following Acts:
 - the Exchequer and Audit Departments Act 1866,
 - the Exchequer and Audit Departments Act 1921,
 - the National Loans Act 1968,
 - the National Audit Act 1983, and
 - the Government Resources and Accounts Act 2000,
 - Or that consist of, or are incidental to, an audit, examination or inspection that the Comptroller and Auditor General is required or authorised to carry out by a statutory provision, other than section 1226 of the Companies Act 2006(eligibility for appointment as a statutory auditor).

The statutory functions do not include the wider dissemination or promotion of the reports made by the C&AG, or the handling of requests from third parties for elucidation of the reports.

4. In addition to these audit functions, the C&AG also has the statutory responsibility as Comptroller to grant credit on the Consolidated and National Loans Funds at the request of the Treasury.
5. There are a range of other statutory obligations which have to be met in the course of business, such as data protection, freedom of information, or health and safety requirements, or operating the PAYE system. These, however, are obligations which the Budget Responsibility and National Audit Act 2011 transfers from the C&AG and to be vested in the NAO. The resources required to meet these obligations will not therefore form part of the resource budget required for the C&AG's programme of statutory work.
6. The programme of **NAO Approved Services** is all work which is not statutory, and covers a range of other workstreams and activities undertaken voluntarily by the C&AG and the NAO.
7. If the NAO approves the provision of such services, it is for the NAO to determine the maximum amount of resources that the C&AG may require. The C&AG may decline to carry out any such service where he/she believes the resources provided are insufficient.