Auditor Guidance Note 7 (AGN 07)

Auditor Reporting

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About Auditor Guidance Notes

Auditor Guidance Notes (AGNs) are prepared and published by the National Audit Office (NAO) on behalf of the Comptroller and Auditor General (C&AG) who has power to issue guidance to auditors under Schedule 6 paragraph 9 of the Local Audit and Accountability Act 2014 (the Act).

AGNs set out guidance to which local auditors must have regard under Section 20(6) of the Act. The guidance in AGNs supports auditors in meeting their requirements under the Act and the *Code of Audit Practice* published by the NAO on behalf of the C&AG.

The NAO also prepares and publishes Supplementary Guidance Notes (SGNs) under Schedule 6 paragraph 9 of the Act. SGNs are prepared and published when the C&AG wishes to address a particular issue. SGNs are part of the full suite of AGNs which as such constitute guidance to which local auditors must have regard under Section 20(6) of the Act.

The NAO issues Weekly Auditor Communications (WACs), and less frequently Special Auditor Communications (SACs) to local auditors to bring to their attention relevant information to support them in carrying out audit work. Whilst these are for information, they may draw attention to guidance that has been issued by the NAO on behalf of the C&AG in AGNs to which, as stated above, auditors must have regard. The NAO may also use SACs to clarify expectations in relation to interpretation of specific issues.

The firms that are local auditors under the Act may use these communications to update their own internal communications and reference tools.

AGNs are numbered sequentially and published on the NAO's website. Any new or revised AGNs are brought to the attention of local auditors through the WACs.

AGN 07 is relevant to all local auditors of bodies covered by the Local Audit and Accountability Act 2014 and the *Code of Audit Practice* including auditors of foundation trusts.

Introduction

This AGN sets out guidance on the application of the requirements of the NAO *Code of Audit Practice* (the Code) for auditors when reporting the results of their audit work. Auditors of smaller authorities should have regard only to sections 1 and 3 of this AGN, and should refer to AGN 02 for detailed guidance in respect of annual reporting.

This AGN supersedes the guidance note issued on 14 December 2021. Audits relating to 2019-20 or earlier should be undertaken in accordance with the 2015 Code of Audit Practice and relevant AGN 07. Auditors can access previous versions of our guidance via the Extranet or by contacting the NAO.

Contents

This AGN is structured as follows:

Section 1: General Principles

Objectives of Reporting

1. Reporting is fundamental to auditing. It is the way in which auditors communicate the results of their work in order to fulfil their legal and professional responsibilities. Effective reporting is the primary means by which auditors' work achieves its impact.
2. Paragraph 1.19 of the Code emphasises that auditors should use the most effective means of reporting in support of their statutory functions:

    - *"The auditor has a range of means at their disposal, by which their findings may be reported publicly. The auditor should report using their professional judgement on the most appropriate and effective means of reporting and applying the following principles, reflecting the wider scope of public audit".*

Principles of Public Audit

3. Local auditors are public office holders with statutory duties and powers which they exercise in their own right and in the public interest. The Public Audit Forum (PAF) has set out principles of public audit which include:
    - *"The ability of public auditors to make the results of their audits available to the public is a fundamental strength. To be effective, there must be clear and impactful reporting arrangements, under which auditors report the results of their work both to the bodies responsible for funding and to the public".'*

4. Local auditors should always keep in mind this principle of public audit when considering how to report their findings and the results of their audit work.

Principles of Effective Reporting

5. The Code requires auditors to comply with auditing standards but also recognises at paragraph 1.11 that it may be appropriate for the C&AG to issue guidance on the application of the Code to meet particular circumstances. This AGN recognises that there are particular circumstances relating to the audit reporting requirements for local bodies which impact on the application of auditing standards to local audits.

6. In particular, local public bodies are subject to audit under legislation and the Code, which gives auditors various reporting duties and powers. The scope of local public audit, which includes consideration of arrangements to secure value for money (VFM), is wider than that reflected in auditing standards. The range of means of reporting available to local auditors is also greater than is typically the case for auditors in other sectors where auditing standards apply and for all local bodies includes a requirement to issue an Auditor's Annual Report which must be published by the body after being issued by the auditor[1].

7. Therefore, in recognition of these particular circumstances, local auditors should use their professional judgement to apply the principles of effective reporting set out in this AGN through the range of reporting available to them.

8. The principles of effective reporting in this AGN build upon those that underpin auditing standards. The principles in this AGN also reflect the wider scope of local public audit. Therefore, local auditors should per paragraph 1.19 of the Code:

   - report on a timely basis, clearly, concisely and objectively without fear or favour. Timely reporting includes producing audit reports in time, insofar as the auditor can do so under auditing standards, to allow local bodies to comply with the requirements placed on them to publish their audited financial statements. It also means ensuring that when matters of concern arise during the course of the audit, the auditor raises them promptly with the body and considers whether the matter needs to be brought to public attention at the appropriate time;
   - when reporting in public, use language that readers will understand, reflecting the principle that local audit reporting is for the benefit of the public as well as the body being audited;
   - use the most appropriate form of reporting available in the expectation that audited bodies ensure that the report is sufficiently prominent and accessible to people when published;
   - set out to whom the report is addressed, the period to which it relates, its date, its purpose and the relevant duty or power under which the auditor is issuing it;
   - reflect the wider scope of public audit by covering the range of audit responsibilities under the Code;
   - be open and transparent about the scope and nature of the work carried out; and

[1] The Auditor's Annual Report constitutes an audit letter for the purposes of local bodies complying with the Accounts and Audit Regulations, Department of Health and Social Care Group Accounting Manual and the NHS England NHS Foundation Trust Annual Reporting Manual.

- if making recommendations, set judgements out clearly, along with the evidence on which those judgements are based, explain the impact they have on the audited body, and the actions the body should take in response.

Section 2: Annual Reporting

Annual Reporting Cycle

9. Schedule 1 of the Code sets out the auditor's statutory responsibilities according to the type of local body. A number of these relate to reporting, with further detail on the auditor's reporting responsibilities provided in Chapter Four of the Code.

10. The requirements applicable to bodies other than FTs are derived from the Local Audit and Accountability Act 2014 (the 2014 Act). The National Health Service Act 2006 (the 2006 Act) applies to the audits of FTs. Schedule 10, paragraphs 3 to 5, of the 2006 Act sets out the auditor's duties in relation to reporting the results of their audit work. The 2006 Act continues to apply to the audits of FTs but was amended by the 2014 Act to require FT auditors to comply with the Code prepared and published by the C&AG.

11. This section of the AGN covers annual reporting by the auditor under the Code. In particular, it provides guidance on:

    - audit planning;
    - reporting to those charged with governance;
    - the audit report;
    - the Auditor's Annual Report; and
    - audit completion certificate.

Audit Planning

12. Section 4.3 of the Code requires auditors to report how they plan to meet their responsibilities based on their assessment of risks. The audit planning report should cover both the work on the audit of the financial statements, and the work needed in respect of the audited body's arrangements to secure VFM.

13. The planning report should include the overall audit strategy and how this relates to the auditor's risk assessment. The planning report should also include the results of any planning work already undertaken under *AGN 03 – Auditors' Work on Value for Money (VFM) Arrangements.*

14. Any actions that have been agreed in respect of matters identified through previous audit work and where progress has been considered, the planning report should include reference to this.

15. The audit planning report should facilitate timely discussion between the auditor, management and those charged with governance, to demonstrate how the auditor's responsibilities will be met under the Code. Auditors determine who those charged with governance are for the purpose of meeting their responsibilities under the Code, as this varies depending on the nature of the audited body.

16. The auditor should keep their initial risk assessment and planning under review, and if appropriate, should issue an additional planning report or update the report previously issued. Any change should be discussed with management and with those charged with governance.

17. Auditors will wish to refer to their audited bodies' respective roles and responsibilities when reporting their plans.

Report to Those Charged with Governance

18. Sections 4.3 and 4.4 of the Code require auditors to report the results of their audit work to those charged with governance.

19. The report to those charged with governance needs to meet the requirements of ISA (UK) 260[2], but also needs to cover auditors' work on VFM arrangements and any other reporting matters in relation to auditors' additional powers and duties.

20. Wherever possible, the report to those charged with governance should be issued as one document covering all of the auditor's work and responsibilities under statute and the Code. In the interests of promoting transparency in the audit process, in addition to the reporting requirements in respect of the audit of the financial statements, the report to those charged with governance should include:

    - an overview of the scope of the work on arrangements to secure VFM including a description of any assessed risk of significant weakness in arrangements as identified by the auditor, and the auditor's response to those risks;
    - where additional work is performed in respect of any identified risks of significant weaknesses in VFM arrangements, auditors should also report this to those charged with governance;

[2] ISA (UK) 260 (Revised November 2019) Communication With Those Charged With Governance

- the audit findings from VFM arrangements work relating to significant weaknesses, including associated recommendations;
- any significant difficulties encountered when undertaking the work;
- significant matters, if any, arising from auditors' work on areas other than the financial statements that were discussed, or subject to correspondence, with management;
- any other matters arising from the work that, in the auditor's professional judgement, are significant to the auditor's consideration of arrangements to secure VFM; and
- the results of any additional work undertaken in accordance with their statutory powers and duties.

21. Auditors should satisfy themselves that the report to those charged with governance is considered at an appropriate level within the relevant audited body. Auditors of an FT should agree with the body the most appropriate form of reporting.

22. Auditors should use the report to help those charged with governance to understand the audit process, key risks and judgements, and findings in advance of issuing their opinion on the financial statements and their commentary on arrangements to secure VFM. The report should refer back to the audit planning report and any relevant interim reports or updated planning documents, including any significant weaknesses identified in relation to VFM arrangements and recommendations issued in response, while also providing the basis for the material needed for the audit report and the Auditor's Annual Report.

23. While the ISA (UK) 260 report may be appropriate for reporting significant weaknesses in VFM arrangements, AGN 03 stresses the importance of timely reporting and states that the auditor should decide on the most appropriate format. This could also be, for example, via a stand-alone interim report or as part of an audit committee update.

Audit Report

24. At the conclusion of the audit, the Code requires auditors to issue an audit report[3]. Section 4.2 of the Code requires the audit report to cover:

    - the results of the auditor's work on the financial statements as set out at paragraphs 2.6 to 2.12 of the Code, including consideration of other information published together with the audited financial statements

[3] In this AGN 'audit report' means the outputs required by Section 20 of the 2014 Act (for bodies other than FTs) and schedule 10 of the 2006 Act (for FTs).

(including the Annual Governance Statement, the annual report/narrative statement and remuneration report where appropriate);

- by exception, any reporting of significant weaknesses identified from the auditor's work to date[4] on the audited body's VFM arrangements in 2022-23 and a summary of associated recommendations made as set out at paragraphs 3.5 to 3.14 and 4.5 of the Code. As stated in AGN 03, when reporting by exception, auditors should confirm that they have identified a significant weakness and state to which of the reporting criteria the weakness relates. Since the detail of the significant weakness and the associated recommendation will have been reported to those charged with governance, a summary of the auditor's recommendations will suffice; and
- by exception, any report by the auditor on a range of additional matters as set out in the Code: *Schedule 2 – Audit report: Inclusion of additional matters by exception*.

25. The partner or director who is the relevant engagement lead should sign the audit report with their name as well as the name of the firm of auditors.[5]

26. Auditors should seek to keep the audit report concise and, where relevant, use the Auditor's Annual Report as the means of providing fuller and more accessible reporting to the public.

'Enhanced' Reporting

27. Where the auditor concludes that a local authority meets the definition of a Public Interest Entity under the FRC's Revised Ethical Standard, they should adopt the additional 'enhanced' reporting requirements in ISA (UK) 700[6], including the reporting of Key Audit Matters under ISA (UK) 701[7].

28. Where auditors issue an enhanced report, this should only include Key Audit Matters to support the opinion on the financial statements. Auditors should also include, by exception, significant weaknesses in VFM arrangements and a summary of the associated recommendation(s). The commentary on VFM arrangements should

[4] Refer to AGN 03 special reporting provisions.
[5] Auditors may sign the opinion in typeface or legible manuscript provided that both the name of the engagement lead and the firm is included and that the signature reflects the intention to authenticate the finalised audit report. Further details regarding arrangements for issuing the auditor's report at principal local government audits are available in supporting information separately provided to local auditors.
[6] ISA (UK) 700 (Revised November 2019) Forming an Opinion and Reporting on Financial Statements
[7] ISA (UK) 701 (Revised November 2019) Communicating Key Audit Matters in the Independent Auditor's Report

include any matters arising from the auditor's work and should be included separately in the Auditor's Annual Report in accordance with section 4.5 of the Code and *AGN 03 – Auditors' Work on Value for Money (VFM) Arrangements.*

Where auditors are not able to complete their work on VFM arrangements by the time they issue their opinion on the financial statements, they should refer to the special reporting provisions contained in the Annex to AGN 03 relating to the timing and reporting of auditors' work.

Pension Funds

29. For administering authorities, in many cases the opinion on the pension fund annual report will be given at the same time – or very shortly after – the opinion on the administering authority's financial statements. However, finalisation of the pension fund annual report in some cases may be as late as 1 December (the statutory deadline for publication).

30. Where the authority's audited accounts have already been published (or are published simultaneously) and these contain the pension fund financial statements, auditors need to report on whether the pension fund accounts within the pension fund annual report are consistent with the authority's accounts.

31. The Code of Audit Practice also sets the expectation that local auditors will co-operate where it is possible and efficient to do so. As part of this, auditors have agreed a voluntary protocol with each other and the NAO that covers the agreement of timescales for requesting and providing assurances and keeping auditors informed of potential delays. Consistent with this principle, the provision of IAS 19 assurances to auditors of relevant authorities under the Act and in accordance with the protocol should be considered work undertaken under the Code of Audit Practice. Arrangements for provision of assurances to auditors of other admitted bodies should be considered by auditors in accordance with their firm's policies on such matters.

Harbour Authorities

32. Specific accounting and audit requirements[8] apply to harbour authorities in line with the requirements of the Harbours Act 1964. The only direct requirement placed on appointed auditors is in Section 42(5) which requires the authority to send a copy of

[8] Statutory Harbour Undertakings (Accounts etc.) Regulations 1983

the statement of accounts relating to harbour activities 'together with a copy of the auditor's report on it' to the Department for Transport (DfT).

33. The DfT is responsible for issuing guidance covering the accounting and reporting requirements for harbour authorities. Section 42 of the Harbours Act 1964 does not provide detail on the nature, scope and content of the auditor's report and so auditors may wish to refer to the supporting information issued on the LACG extranet.

Consolidation Returns

34. In addition to giving an opinion on the statutory accounts, auditors are also required to report on the consistency of certain consolidation returns with the statutory accounts. These are not provided within the audit report but take the form of a separate statement on relevant packs to support consolidation of health accounts and the preparation of Whole of Government Accounts (WGA). Auditors should refer to guidance on these requirements in *AGN 05 – NHS Audit Planning* and *AGN 06 – Local Government Audit Planning*.

35. While it may be appropriate to issue the audit report prior to the completion of work on consolidation returns, auditors should not issue the certificate until the work required by any group auditor instructions is complete.

Auditor's Annual Report

36. The Code places a requirement on the auditor to produce an Auditor's Annual Report[9] for all local bodies. The Auditor's Annual Report should bring together the auditor's work over the year. A major element of the Auditor's Annual Report will be the commentary in accordance with Chapter Three of the Code and *AGN 03 – Auditors' Work on Value for Money (VFM) Arrangements.*

37. Section 4.5 of the Code requires the commentary to be "*clear, readily understandable and highlight any issues that the auditor wishes to draw to the attention of the body or the wider public. This should include details of any recommendations arising from the audit and follow-up of recommendations issued previously, along with the auditor's view as to whether they have been implemented satisfactorily".* AGN 03 states that where the auditor cannot yet determine whether a recommendation has been implemented satisfactorily (for example, where an inspectorate is yet to revisit and re-

[9] The Auditor's Annual Report constitutes an audit letter for the purposes of local bodies complying with the Accounts and Audit Regulations, Department of Health and Social Care Group Accounting Manual and the NHS England NHS Foundation Trust Annual Reporting Manual.

assess), they should reflect their understanding of the current position. Auditors should continue to follow up previously issued recommendations until they have been fully addressed.

38. AGN 03 also confirms that auditors may include in their commentary areas for improvement or to keep in view even if they do not identify any underlying significant weaknesses in arrangements. While the auditor is free to determine how they choose to describe such matters, they should ensure that they are clearly distinguished from recommendations relating to significant weaknesses.

39. Auditors will have already reported to those charged with governance. The Auditor's Annual Report is a public facing document that draws on the contents of the report to those charged with governance but should be written for a wider audience. It will also include the auditor's commentary on VFM arrangements.

40. The Code states in paragraph 4.6 that *"the Auditor's Annual Report should be published* [issued by the auditor] *at the same time as the opinion on the financial statements for local NHS bodies. For relevant authorities other than local NHS bodies, the Auditor's Annual Report should be published* [issued by the auditor] *no later than 30 September. Where the auditor is unable to do this, they should issue an audit letter including a statement explaining the reason for the delay."* The audit letter should be issued to those charged with governance and then published by the body.[10]

41. In practice this means that the auditor should issue their Auditor's Annual Report on local NHS at the same time as giving their opinion on the financial statements. For relevant authorities other than local NHS bodies, the auditor should issue their Auditor's Annual Report no later than 30 September.

42. For issues which extend over a period longer than a financial year, auditors should exercise their judgement over when it is appropriate to report a significant weakness. Even where the auditor has been unable to fully complete all of their work, they should still seek to issue their Auditor's Annual Report each year to cover as fully as possible the matters upon which they are able to report.

43. AGN 03 includes special reporting provisions for circumstances where auditors may need to delay issuing their Auditor's Annual Report in order to deliver their opinions on the financial statements; where this happens, the auditor should follow the process set out in the Code and in paragraph 40 above.

[10] An audit letter that includes a statement explaining reasons for a delay also constitutes an audit letter for the purposes of local bodies complying with the Accounts and Audit Regulations, Department of Health and Social Care Group Accounting Manual and the NHS England NHS Foundation Trust Annual Reporting Manual.

44. Where there is a change of auditor, the outgoing auditor should seek to issue their Auditor's Annual Report at the same time as the opinion on the financial statements, unless they are applying the special reporting provisions set out in AGN 03.

45. In accordance with paragraphs 4.5-4.7 of the 2020 Code, the Auditor's Annual Report must include:

- the commentary on VFM arrangements;
- details of any recommendations relating to significant weaknesses in VFM arrangements arising from the audit and follow-up of recommendations issued previously, along with the auditor's view as to whether they have been implemented satisfactorily;
- confirmation of the opinion given on the financial statements and where relevant work on WGA; and
- (by exception), reference and/or follow-up to any reporting by the auditor under the auditor's additional reporting powers.

46. While the Code refers to the Auditor's Annual Report bringing together all of the auditor's work during the year, this is in the context of the auditor's general duties under the 2014 Act. It is generally a matter of auditor judgement to determine the level of detail considered to be appropriate when meeting the requirements of paragraph 45 above. Where auditors have reported under ISA(UK) 260 on delays to the audit opinion or significant difficulties encountered when undertaking their work (paragraph 20), these should be reflected in the Auditor's Annual Report unless the auditor judges that public disclosure would not be appropriate.

47. Where auditors consider it to be appropriate, they may issue a combined Auditor's Annual Report[11] and commentary covering more than one body. This could be where local bodies are merging or demising or where there are shared management arrangements during the year under audit, for example, a police and crime commissioner and chief constable. However, where an auditor has identified a significant weakness in arrangements the commentary should identify clearly to which entity the weakness relates.

48. For bodies that demise at the end of a financial year, AGN 03 confirms that while the Code requires auditors to include a commentary on arrangements in their Auditor's Annual Report, the commentary should focus on whether or not any significant

[11] As a minimum the Auditor's Annual Report is issued on behalf of the audit firm.

weaknesses were identified at the demised body. Auditors may also highlight any other findings that the auditor considers appropriate.

Audit Completion Certificate

49. At the conclusion of the audit the auditor should issue the audit completion certificate. This closes the audit and marks the point when the auditor’s responsibilities in respect of the audit of the period covered by the certificate have been discharged.

50. The audit certificate is usually issued at the same time as the audit report. However, in certain circumstances an auditor may issue their opinion on the financial statements and their Auditor’s Annual Report, including their commentary on VFM arrangements, but cannot conclude the audit. Examples of such situations include:

    - where a local authority also has a pension fund for which the opinion on the financial statements in the pension fund annual report is yet to be issued;
    - where there is outstanding work to be performed in relation to consolidation returns (including Whole of Government Accounts); and/or
    - where there is an outstanding objection, or other matter that has come to the auditor’s attention, which the auditor has concluded has no material impact on the presentation of the financial statements or their VFM arrangements work.

51. In relation to VFM arrangements work for 2022-23 the C&AG has maintained the special reporting provisions in AGN 03 relating to the timing and reporting of auditors’ work. Where these provisions apply and auditors are not able to complete their work on VFM arrangements by the time they issue their opinion on the financial statements they should not issue the certificate until their planned VFM arrangements work is complete.

52. If at the time of issuing the opinion on the financial statements, the auditor is satisfied as to whether or not there are significant weaknesses in the body’s arrangements, they may issue the certificate in advance of completing their commentary and issuing the Auditor’s Annual Report. Where the auditor still needs to carry out work to determine whether or not there are significant weaknesses in VFM arrangements, they should not certify completion.

Revisiting the auditor’s report when the certificate is delayed

53. If an opinion including any exception reporting on significant weaknesses in VFM arrangements is given in advance of concluding the audit, auditors need to consider when issuing the certificate if anything has come to their attention that might have a material effect on their opinion including any exception reporting on VFM arrangements from the date of the earlier auditor’s report up to the date when the audit is concluded.

54. Where such issues are identified, for example where a body makes a prior period adjustment, reference to that fact is required in the certificate. In recognition of the expectation that auditors will act proportionately, such references should be factual, reflecting the nature and magnitude of the matter where possible. Auditors are not expected to undertake additional work to inform the disclosure in the certificate. Where there are opinions and/or certificates open for a number of years, auditors should consider to which years any new information relates and should only reflect the impact of the new information in reporting on the relevant financial years. If no matters have come to the attention of the auditor that would have had a material effect on their opinion or additional exception reporting on significant weaknesses in VFM arrangements, a statement to that effect should be included in the audit certificate.

55. In the summer of 2022, the Department for Levelling Up, Housing & Communities (DLUHC) consulted on a temporary statutory solution to difficulties both preparers and auditors were having in accounting for (and subsequently auditing) some aspects of local authority infrastructure assets. The Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2022 were laid in parliament on 30 November 2022, and came into force on 25 December 2022. The regulations complement a temporary change to the 2021-22 CIPFA Code of Practice.

56. In summary, the regulations and the changes to the Code remove the requirement to disclose the gross book value of infrastructure assets and allow local authorities to assume that assets being de-recognised are at nil net book value. The regulations also confirm that no prior year adjustments are required to be made. These changes apply to 2021-22 financial statements and any earlier years where certificates have not yet been issued.

57. There may be instances where auditors have issued opinions on financial statements but have not yet certified the audit as complete. Given the requirements of paragraphs 53 and 54 above, auditors therefore need to consider whether this issue would have

impacted their opinion or their exception reporting for VFM (or VFM arrangements conclusion for years prior to 2020-21).

58. Our interpretation of the application of the regulations regarding infrastructure assets where certificates have yet to be issued is set out below. For the avoidance of doubt, paragraphs 59-64 **only** apply to consideration of issues related to accounting for infrastructure assets under the revised 2021-22 CIPFA Code of Practice:

59. Where an unqualified opinion has been issued, there is no requirement for auditors to refer to this matter in the 2021-22 certificate or in any certificates remaining open in relation to previous years.

60. Where the authority has made a Prior Period Adjustment in respect of infrastructure assets, this fact should be noted on any certificate still open for previous years, including stating what, if any impact, this would have had on the financial statements for that year of account.

61. Where there has been a qualified opinion given in respect of infrastructure assets, this fact should be noted on any certificate still open for previous years if the auditor judges, on the basis of information obtained, they would have qualified their opinion on those financial statements. However, in the interests of balancing transparency and proportionality, in order to satisfy the requirements of this AGN, auditors are not required to undertake additional work to quantify the impact on prior year financial statements beyond determining whether the issue would have been material.

62. Where auditors have referred to infrastructure assets issues in their ISA(UK) 260 report, their attention is drawn to the requirements of paragraph 46 in relation to ensuring any matters the auditor judges to be significant are reflected in the Auditor's Annual Report, and considering whether these matters are relevant to their wider public reporting responsibilities.

63. With regard to VFM arrangements work, where local authorities have applied the approach set out in the regulations and auditors have been able to issue an unqualified opinion on the financial statements, it is unlikely that any information will have come to their attention that would have affected their VFM arrangements reporting in previous years. However, where auditors issuer a non-standard opinion in respect of matters related to accounting for infrastructure assets, (including any exception reporting on VFM arrangements in the auditor's report or subsequently under AGN 03 provisional arrangements),they will need to assess and document their judgement as to whether, had those matters been known at the time, they would have reported differently on arrangements to secure VFM, and reflect this in any open certificate.

64. Auditors are not required to undertake additional work on arrangements in previous years unless they have concluded a significant weakness exists for 2021-22 in relation to infrastructure assets. Where significant weakness(es) have been identified, auditors' work should be limited to considering whether the specific weakness(es) identified was/were in place in previous years where the certificate remains open.

Part-Year Reporting Requirements

65. Where the auditor is required to issue an audit report in respect of a body that demises during the year of account, the requirement to certify completion still applies in respect of the demising body.

66. Paragraph 4.5 of the Code states "a core element of the auditor's annual report will be the commentary in accordance with the specified reporting criteria set out in Chapter Three (and as supplemented in statutory guidance issued by the NAO)." For bodies that demise part way through a financial year, auditors should refer to paragraphs 84-91 of AGN 03 for guidance on the approach to VFM arrangements work. The auditor's commentary can be limited to setting out the approach as outlined in paragraph 87 of AGN 03 and confirming whether any significant weaknesses have come to the auditor's attention, including making any associated recommendations.

Section 3: Other Forms of Reporting

Introduction

67. This section of the guidance is about auditor reporting which is discretionary. In particular, it covers:

- determining whether, how and when to report;
- interim reporting;
- statutory recommendations;
- public interest reports; and
- referral of matters arising.

68. Auditors should also have regard to the guidance in *AGN 04 – Auditors' Additional Powers and Duties*.

Determining Whether, How and When to Report

69. Auditors should consider at each audit whether they need to use any of their discretionary powers to report. In particular, auditors are required to consider whether there is any matter on which they should report in the public interest[12].

70. It is for the auditor to exercise their judgement and determine the most appropriate and effective means of reporting. When doing so, auditors should bear in mind the principles set out in paragraph 1.19 of the Code and the principles of effective reporting set out in this AGN. In particular, auditors should report on a timely basis and without fear or favour.

71. When considering whether, how and when to report, auditors should weigh up:

    - the significance of the matter or weakness in arrangements which has come to their attention or which they have identified during the audit;
    - whether the body itself recognises the need to address a concern and is taking appropriate action in a timely way;
    - what information is already in the public domain and whether there is merit in bringing the matter to the attention of the public in the interests of openness, transparency and accountability or to facilitate dissemination of learning to other public bodies;
    - which form of reporting is likely to be most effective in helping the audited body to understand the significance of the matter and the need to take action; and
    - whether previous reporting has been acted upon and, if not, whether more prominent reporting – such as issuing a statutory recommendation or a report in the public interest – is now necessary.

72. The auditor may consider the audited body's own governance or other annual reporting and whether it is sufficient to draw attention to the body's own reporting in the auditor's report to those charged with governance and in the Auditor's Annual Report. However, there will be some matters on which the auditor needs to report in a timely way or to achieve more prominence and impact. The 2020 Code requires auditors to raise any significant weaknesses in respect of VFM arrangements promptly with those charged with governance at the body. Auditors may make recommendations at any time during the year and should include any recommendations in respect of significant weaknesses that have been made, along

[12] See paragraph 1 of Schedule 7 of the 2014 Act.

with the auditor's view on progress with implementation in the Auditor's Annual Report.

Interim Reporting

73. The Code allows the auditor at any stage of the audit to communicate the results of, or matters arising from, specific elements of their work to management and those charged with governance.

74. Auditors should comply with ISA (UK) 260, which requires the auditor to communicate with those charged with governance on a timely basis. Auditors should raise any significant weaknesses in respect of VFM arrangements promptly with those charged with governance at the body as set out in paragraph 75. Where an auditor identifies issues in the course of the audit which they wish to bring to the attention of management or those charged with governance, they should do so using the most appropriate means of communication.

75. Examples of situations where the auditor may wish to issue some form of interim report include:

    - identification of issues that are likely to lead to a modified opinion or another form of public reporting;
    - where a significant difficulty has been encountered during the audit and those charged with governance are able to assist the auditor to overcome the difficulty;
    - where the auditor's risk assessment has been revisited and has changed during the year – for example in respect of their work on VFM arrangements, auditors should also report this to those charged with governance;
    - identification of significant deficiencies in internal control or significant weaknesses in VFM arrangements; or
    - completion of a significant piece of work which the auditor has identified is necessary as part of their work supporting the audit of the financial statements, or in respect of arrangements to secure VFM.

Statutory Recommendations

76. An auditor may make recommendations about actions that the auditor thinks the body should take in response to the findings of an audit. In some circumstances the auditor may identify a need to make recommendations that must be considered by the body and responded to publicly.

77. Under the 2014 Act there are two types of statutory recommendations. These are recommendations under:

- Paragraph 2 of Schedule 7 ('schedule 7 recommendations'); or
- Section 27 ('section 27 recommendations').

78. Statutory recommendations under schedule 7 may be issued to local government bodies of any type or local health bodies other than FTs; section 27 recommendations are not applicable to health service bodies.

Schedule 7 Recommendations

79. The ability to make a schedule 7 recommendation to an audited body, which the body must consider and to which it must respond publicly[13], is a powerful tool for the auditor. A schedule 7 recommendation can be made during or at the end of the audit. The auditor can follow up the audited body's response to the recommendation as part of planned or future audit work.

80. Making a schedule 7 recommendation can be useful where the background to an issue is already in the public domain. They can:

- direct the audited body to respond to specific shortcomings or failures; or
- assist in monitoring the audited body's progress on specific issues.

81. To be effective, a schedule 7 recommendation needs to be clearly worded so that it is obvious what the audited body should consider. It should also clearly set out what the audited body should do, and by when, in response to the recommendation. There is no right of appeal against a schedule 7 recommendation.

82. While it is no longer a requirement of the 2014 Act, it is important that the status of such recommendations are clearly understood. Auditors should therefore clearly state that they are making a recommendation under paragraph 2, Schedule 7 of the 2014 Act when doing so. This can be included within a separate specific letter or report to the audited body or within other written outputs. When making a recommendation under Schedule 7, the auditor should ensure that the audited body is aware of the statutory requirements for considering and responding to the recommendation as appropriate[14].

[13] Note that in line with Schedule 7(5)(4)(b), NHS bodies are not required to respond publicly.
[14] Note that in line with Schedule 7(5)(4)(b), NHS bodies are not required to respond publicly.

83. The auditor must also copy a schedule 7 recommendation to the relevant Secretary of State. For Clinical Commissioning Groups (CCGs) and Integrated Care Boards (ICBs), NHS England must also be notified[15].

Section 27 Recommendations

84. The other type of statutory recommendation that an auditor can make is known as a section 27 recommendation. Under the 2014 Act the auditor may make a section 27 recommendation after considering an objection and concluding that there are no grounds for reporting in the public interest or applying to the court for a declaration that an item of account is unlawful, but the auditor has identified actions that the audited body should take to strengthen its processes or arrangements.

85. Section 27 recommendations do not impose requirements on audited bodies for public consideration and response, and auditors are not required to send a copy of these recommendations to the relevant Secretary of State.

Reports in the Public Interest

86. Section 4.9 of the Code sets out the auditor's responsibility to consider whether, in the public interest, they should report on any matter that comes to their notice so that it is brought to the attention of the audited body and the public. Schedule 7 of the 2014 Act, and in particular paragraphs 1, 3 and 4, sets out the auditor's powers to issue a public interest report and the process that must be followed by the auditor and the audited body which is the subject of the report. For FTs, paragraphs 3-4 of Schedule 10 of the 2006 Act include a similar requirement for auditors to consider the need for a public interest report.

87. Guidance on considerations relevant to issuing a public interest report is set out in *AGN 04 - Auditors' Additional Powers and Duties.*

88. Reporting in the public interest is one of the highest profile powers available to the auditor and is one which is taken particularly seriously by audited bodies and commentators. The body has to consider and respond to the report and there are also publicity requirements that audited bodies must fulfil if they receive a public interest report.

[15] Further details regarding arrangements for copying schedule 7 recommendations to the relevant Secretary of State are available on the LACG extranet in the supporting information to this AGN.

89. If an auditor identifies a matter for which they feel the issue of a public interest report would be appropriate, they should consider whether the matter is sufficiently important to be brought to the attention of the audited body and the public, and if the public interest would best be served by publicising the issue of concern.

90. The auditor can issue a public interest report in relation to any matter whether identified as part of routine audit work or as a result of investigation into a particular subject. The need to report in the public interest can arise during the course of or after the end of the audit. The auditor should tailor their approach to the significance and urgency of the matter, and may publish the report in any way the auditor thinks fit.

91. When making a public interest report during the audit, the auditor must not fetter their discretion at the end of the audit year in giving their audit opinion. The auditor should therefore include a statement that their opinion will depend on any further matters or information that come to light on the matter reported upon.

92. In addition to sharing the material documents and seeking representations and comments from interested parties, auditors should share relevant parts of the draft report which they are considering making with anyone whom the report is criticising. Auditors should also share the report with the audited body itself and any relevant connected entity. When sharing draft reports, the auditor should make clear that the draft is confidential and should not be shared other than with an advisor.

93. Comments received during the consultation process may result in changes to the draft or even a decision that a public interest report will not be issued. If changes are made as a result of representations which are adverse to any party, the auditor should repeat the process of sharing the report or relevant parts of it and inviting comment.

94. Auditors should make clear that a final decision to issue will only be made once all the material information and any representations received on that information have been fully considered.

95. For bodies other than FTs, when making a public interest report the auditor should send it, as soon as reasonably practicable after it is made, to:

- the body concerned (whether the relevant authority or a connected entity);
- if in relation to a connected entity, to the relevant authority to which the entity is connected and any other relevant authority with which the entity is connected;
- the Secretary of State[16]; and
- where relevant, the Greater London Authority.

[16] Further details regarding arrangements for copying public interest reports to the relevant Secretary of State and national bodies are available on the LACG extranet in the supporting information to this AGN.

96. For FTs, when making a public interest report the auditor should send it immediately, or within 14 days of the conclusion of the audit where not an immediate report, to:

- the council of governors of the FT;
- the board of directors of the FT; and
- NHS England[16].

97. Auditors of NHS bodies, where these bodies are the subject of a potential public interest report involving issues of legality, should also consider their responsibilities to make a referral under Section 30 of the 2014 Act or a referral to NHS England under Schedule 10 of the 2006 Act.

Referral of Matters Arising

98. As set out in Section 4.9 of the Code, the auditor of a health service body has a duty to consider whether there are any issues arising during their work that indicate possible or actual unlawful expenditure or action leading to a possible or actual loss or deficiency that should be referred to the Secretary of State, and NHS England as appropriate.

99. Under Section 30 of the 2014 Act, and under Schedule 10 of the 2006 Act for FTs, where an auditor believes that the body or an officer of the body:

a) is about to make, or has made, a decision which involves or would involve the incurring of expenditure which is unlawful, or
b) is about to take, or has taken, a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency,

the auditor should make a referral as follows:

- NHS CCGs and ICBs – to the Secretary of State and NHS England;
- NHS trusts – to the Secretary of State;
- FTs – to NHS England.

100. Auditors have no duty to seek out matters for referral to the Secretary of State. Auditors should consider matters arising during their work and matters raised by members and officers of the audited body and by others.

101. Auditors should give particular consideration to any report that is made by any officer of the audited body, which comes to their attention and which provides

evidence of possible unlawful expenditure, an unlawful course of action leading to a loss or deficiency, or a likelihood of expenditure exceeding income.

102. As soon as an auditor believes, or has reason to believe, that either of the circumstances set out in criteria a) or b) above is met, this triggers the referral duty. Once the auditor has reached the decision to refer, the referral must be made as soon as reasonably practicable (or 'at once' for FTs). This means referrals can be made before issuing the opinion on the financial statements[17].

103. Auditors have no statutory requirement to consult the audited body before referring a matter to the Secretary of State, and in some circumstances, it may not be appropriate to give notice to the audited body before taking action. Consultation is good practice however, helping to ensure accurate reporting with appropriate context, and also drive positive management action.

104. Taking account of the requirement for referrals to be made promptly, auditors should seek to give the audited body an opportunity to respond to the issues giving rise to the referral. This should be considered even if it is only possible to give the audited body a very short period to respond.

105. There are no statutory requirements about the content of the auditor's referral to the Secretary of State. Referrals should be clearly drafted, taking account of the complexity of the issue. A complex issue may warrant a detailed referral, providing an explanation of the relevant issues.

106. The Secretary of State will be aware of financial challenges faced by audited bodies through in-year monitoring arrangements. Less detail will therefore be required in referrals relating to an actual or expected breach of resource limits or breach in breakeven duty. In such cases, a short letter-style may provide a clearer form of reporting.

Other Support and Raising Technical Issues or Queries on this AGN

107. Auditors in firms should raise queries within the firm, in the first instance, so that the relevant technical support service can consider whether to refer queries to the NAO's Local Audit Code and Guidance (LACG) team by e-mailing LACG.Queries@nao.org.uk.

[17] Supporting information for this AGN in respect of referrals of matters arising and the application of the breakeven duty for NHS trusts, CCGs and ICBs is available on the LACG extranet. This includes contact details that should be used to fulfil the requirement to submit the referral to the Secretary of State and NHS England as relevant.

108. Information supporting auditors is available on the LACG extranet. Updates will be communicated through the Weekly Auditor Communication (WAC). If there is a need for further statutory guidance during the year, the NAO may issue an addendum to this AGN.

109. The NAO also engages with the firms through its Local Auditors' Advisory Group (LAAG) and supporting technical networks to consider any emerging regime-wide technical issues on a timely basis. Auditors should follow their in-house arrangements for bringing significant emerging issues to the attention of their supplier's representative on LAAG or the relevant technical network.