



Northern Ireland
Assembly

Audit Committee

OFFICIAL REPORT (Hansard)

Governance and Accountability Arrangements for
the Northern Ireland Audit Office and the
Northern Ireland Public Services Ombudsman:
Professor David Heald, University of Glasgow

10 March 2021

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Members present for all or part of the proceedings:

Mr Daniel McCrossan (Chairperson)
Ms Joanne Bunting (Deputy Chairperson)
Mr Jim Allister

Witnesses:

Professor David Heald University of Glasgow

The Deputy Chairperson (Ms Bunting): I welcome Professor Heald to the meeting. The session is being reported by Hansard, and the transcript will be published on the Committee web page. I invite you to make some brief opening remarks.

Professor David Heald (University of Glasgow): Thank you very much. I trust that you can hear me.

The Deputy Chairperson (Ms Bunting): Yes, we can hear you.

Professor Heald: Thank you very much for the invitation to give evidence. I will talk only about the Northern Ireland Audit Office (NIAO). I do not know anything about the Public Services Ombudsman service, but some of the matters may well carry across. We are talking about an area that is not particularly glamorous but is very important. The public audit offices are immensely important generally. We have seen that from the problems that have arisen in English local government when things go seriously wrong.

In the context of Northern Ireland, the Audit Office is particularly important, beyond the general importance elsewhere, because of two specific circumstances. The first is that the Assembly has had periods of suspension, and, secondly, because of the power-sharing arrangements, there is not a conventional Opposition. One of the benefits of a conventional Opposition is that they are there to criticise and to scrutinise what the Government do. In the context of the Northern Ireland Assembly, with most of the major parties being in government, that function is difficult to sustain, so what the Audit Office does is of immense importance.

With regard to what your governance inquiry is concerned with, I presume that there are two major issues that you have to address with reference to the Audit Office. The first one is whether there should be a term limit for the next Comptroller and Auditor General (C&AG) of Northern Ireland, and the second one is whether there should be a board, as opposed to an advisory board, which is the position now.

One of the advantages that Northern Ireland has is that it starts from a position of strength. As an outside observer, my impression is that the Audit Office in Northern Ireland is highly regarded by the Northern Ireland public and by Assembly Members. That is not the position that happened in the United Kingdom at Westminster and in Wales when audit office reform was driven by scandals.

My point to the Committee is that this is something that is unglamorous but extremely important. What is very important is that one maintains the independence of the Comptroller and Auditor General for the reasons that I have already stated. That means that incremental change in respect of the governance of the Audit Office strikes me as being sensible. Term limits are a sensible step forward, but issues can arise with that. A term limit in a small jurisdiction like Northern Ireland would probably mean that a person's career in Northern Ireland would come to an end at the end of their term. Basically, it might restrict the attractiveness of the post to someone aged under 55 or under 50.

The second point is that Northern Ireland is such a small place. Generally, I tend to favour term limits of about eight years, but the particular circumstances in Northern Ireland might make me veer towards a slightly higher term limit. I am more agnostic on the question of boards. You have to have a board that does not interfere with the operational autonomy of the auditor general, and, in practice, what will matter very much is the calibre and experience of the people appointed to that role. I was concerned in the context of the National Audit Office (NAO) that the board might well start to erode the independence of the Comptroller and Auditor General of the United Kingdom. That does not seem to have happened, but it is a danger that we ought to be aware of. Thank you very much.

The Deputy Chairperson (Ms Bunting): Thank you very much, Professor Heald. I invite Jim to ask questions, and then I will ask a couple.

Mr Allister: Thank you very much. Is there enough for an independent board to do? Is there enough to occupy it?

Professor Heald: That is a question that you have to put to the Audit Office and the members of the board. As I say in my memorandum, there are what I call "housekeeping issues". One point became very important 10 years ago when two auditor generals left in controversial circumstances. There are the conventional purposes of a board in ensuring that the audit committee works properly, that there is a proper strategic planning framework and that the remuneration committee works properly, but, as you imply, it depends on those board members recognising that their role is limited compared with what it would be in an ordinary public body or private-sector context, particularly.

Mr Allister: In your experience, do independent boards challenge, or have they evolved into a support role?

Professor Heald: Your formulation is a good one. In the context of the corporate sector or an ordinary public board, you want them to challenge the executives; in the context of the Audit Office, you do not want it to challenge the Comptroller and Auditor General about the conduct of particular investigations, audit judgements or the selection of topics. To make the system work with a full board, a substantial degree of forbearance on the part of the board members will be needed. One issue is that, if appointments to the board became politically controversial, that might well damage the reputation of the Audit Office, without anything having happened. The controversy about an appointment might itself be damaging.

Mr Allister: What should they challenge?

Professor Heald: They should challenge the quality of the financial statements and ensure that there is a proper framework for planning and governance in place. The question about the substantive content of the corporate plan, for example, for work programmes, in this specific context, ought to be the responsibility of the Comptroller and Auditor General.

Mr Allister: Who should appoint the board?

Professor Heald: I used to work as a specialist adviser to the Public Accounts Commission (TPAC) at the House of Commons. The role of the Public Accounts Commission is to deal with appointments to the post of Comptroller and Auditor General and to the board, as well as to approve the Estimates and the corporate plan. In answer to your question, your Committee should have a role in making the

appointments. Some of the appointments are Crown appointments anyway, but they should be on the nomination of your Committee.

Mr Allister: What is the appropriate size for a board?

Professor Heald: If there is a formal board, it should have a non-executive majority. In the context of a relatively small organisation, such as the Northern Ireland Audit Office, we are talking about a board of five or seven.

Mr Allister: I take your point that anything other than a long fixed term would discourage younger applicants, but are there any limitations in other jurisdictions on the future jobs that former auditors can take? Should there be?

Professor Heald: Yes, there are restrictions. You would have to ask the individual audit bodies about the nature of those restrictions; and, yes, there should be. Clearly, you do not want any public suggestion that an auditor general might be influenced by future career opportunities. This is a person who is a watchdog for audit for the Assembly. Auditor generals are an important part of our democratic infrastructure in maintaining an impartiality about the auditing and value-for-money assessment of public services.

Yes, there should be restrictions on future employment. I made the point in my opening remarks that the fact that Northern Ireland is small would make the issue of future job opportunities more significant than it would be, for example, in the UK Parliament. If you are going to have a term limit — I am on the public record as favouring between eight and 10 years — in the context of Northern Ireland, I would go for 10 years. One should recognise the fact that a term limit, which is essential in order to avoid one person becoming too dominant over a long period, has some practical problems.

Mr Allister: Would you have a prohibition on a second term?

Professor Heald: Absolutely. Sorry, I did not make that clear. More important than the term is the fact that it is not renewable. If you get into a position of renewable terms, you run the danger that the choice of topic and the tone of report is conditioned by issues about reappointment. In the United Kingdom as a whole — I am not sure about the position in Northern Ireland — some recent public appointments have become extremely controversial. Any suggestion that the Comptroller and Auditor General was being careful with reports to not upset particular Ministers or parties would be damaging.

Mr Allister: Who would appoint the Comptroller and Auditor General?

Professor Heald: It would, obviously, be a competitive recruitment process with internal and external candidates. In terms of the formal procedure, I would expect your Committee to have the decisive role.

Mr Allister: Would the Commissioner for Public Appointments be involved?

Professor Heald: I do not know the detailed institutional arrangements in Northern Ireland. What I am saying is that your Committee would have a lead role in the process.

Mr Allister: Thank you.

(The Chairperson [Mr McCrossan] in the Chair)

The Chairperson (Mr McCrossan): Thank you, Joanne, for chairing in my absence. I apologise to members for the delay. I was at the Education Committee, and then I had to nip out for an unavoidable situation.

Thanks very much, professor, for those answers. I have no direct question at present. Jim asked some important questions and received some interesting answers.

Joanne, do you have any questions?

Ms Bunting: I do, Chairman, if that is OK.

The Chairperson (Mr McCrossan): Yes, of course. Thank you for chairing in my absence.

Ms Bunting: No problem.

Professor, have you seen the memorandum of understanding that we have with the Audit Office?

Professor Heald: Yes. I do not know the detail of it, but I read it on the website.

Ms Bunting: OK. Given what you saw there, what is your assessment of how our memorandum of understanding with the Audit Office compares with other places and the governance arrangements there, and do you see any gap?

Professor Heald: I do not know the detail of the institutional arrangements in Northern Ireland to that depth. There are different institutional arrangements here. There is the institutional arrangement between the Committee and the Audit Office and the question about the board. At the moment, there is an advisory board for the Northern Ireland Audit Office, not a board that has the conventional public roles. One of the issues that you would have to face if you were going to a formal role is, "What are the respective functions of the Audit Committee, as the equivalent of the Public Accounts Commission at Westminster, of the board and of the Comptroller and Auditor General?". You would have a tripartite, rather than a dual, arrangement. It would make the architecture more complex.

One point that I did not mention is that, 10 years ago, in the context of the National Audit Office, I made the point that what was happening was that the governance arrangement of a corporation sole, with authority resting in the Comptroller and Auditor General, was being kept at the same time as one was imposing the corporate structure of a corporate board. My view at the time was that the structure looked pretty redundant. One of the issues that would worry me now is that, if Northern Ireland got a corporate structure for the Audit Office and the corporation sole status was taken away from the Comptroller and Auditor General, that might well be seen as a downgrading of the role of the Comptroller and Auditor General.

The redundant position of having two different systems working seems to have worked in the context of the National Audit Office. You would have to ask the NAO board and the NAO Comptroller and Auditor General of the UK about that. There certainly has not been public controversy about those roles. How those systems work internally is a matter on which I cannot pronounce, but there has not been significant trouble. One of the points that I would make is that, from outside, my general impression of the Northern Ireland Audit Office is highly positive, but that was very much based on when I was adviser to the Public Accounts Commission. If the Committee shares my view that the Northern Ireland Audit Office generally does a good job, the changes that one makes should be incremental, gradual and evolving, and it should bear in mind the small size of the Northern Ireland jurisdiction.

Ms Bunting: From your expertise in other places, do you consider that there are weaknesses in our governance structure because there is no formal accountability mechanism?

Professor Heald: There is an accountability mechanism: it is from the Comptroller and Auditor General of the Audit Office back to this Committee. The question is about how complex you want the governance system to be. It is important not to think of the Audit Office as an ordinary public body: it is not that. It has a role that is crucial to the functioning of democratic processes.

Ms Bunting: Our remit, with regard to the Audit Office, is purely to look at its budget. It is different in that regard and leads to circumstances where there does not appear to be governance because the C&AG appoints his own advisory board. Are there potential conflicts of interest? What is the best means of ensuring that the body remains independent and effective and yet that there is an element of accountability? What is the best means to balance that?

Professor Heald: You will have to take evidence from other people about how effectively the arrangement works in Northern Ireland. Governance of the public sector is of massive importance for the reasons that I have already recounted. However, the independent judgement of the Comptroller and Auditor General is even more important. One must be careful that one does not elaborate governance mechanisms that interfere with that independence. As I said, the Audit Office has been important in keeping accountability mechanisms working in Northern Ireland during periods of suspension. I repeat the point that scrutiny in Northern Ireland depends much more on the Audit Office

because of the lack of a formal Opposition in Stormont. You have difficult trade-offs to make. Unless there are specific concerns about the way that the present system operates, one should think carefully before one makes the systems more complicated.

I am relatively agnostic about whether one appoints a formal, conventional board. If you have a conventional board, the question of who is appointed, the calibre of those people and whether they actually understand the limited role that they have, which is a governance role, not a strategic judgement role, are really important. One of the questions that you have to ask yourself is, "Where will the people who will constitute the board members of the Audit Office come from?". On the governance, you may well need to think more about the role of your Committee. When I worked for the Public Accounts Commission, it exercised accountability over the National Audit Office through the mechanisms of reviewing the corporate plan and reviewing the Estimates. There were extensive discussions in the public domain about those issues.

Ms Bunting: To some extent, that is similar to our position. In those circumstances, all public bodies have policies and procedures by which they may deal with internal issues. Is there any best practice in that regard?

Professor Heald: Yes, there are various good governance guides, including from the Chartered Institute of Public Finance and Accountancy (CIPFA), which, I think, you are hearing from later. The point that I keep coming back to is that the questions about how the governance system works are important but the question of the independent judgement of the Comptroller and Auditor General is, in my view, even more important. Basically, one wants to get both things, but, if I were going to take a risk, I would take a risk on the governance side in favour of protecting the independence of the Comptroller and Auditor General.

Obviously, you need a mechanism for removing a Comptroller and Auditor General who is not doing their job. In Westminster, from memory, that is a resolution of both Houses of Parliament. In a unicameral legislature, it will probably be a two thirds majority number, possibly with a community balance issue in the context of Northern Ireland. You need mechanisms to remove an underperforming Comptroller and Auditor General, but you have to be careful not to overcomplicate the governance mechanisms in a way that might damage independence. One of the standard points that I teach my students is that it is not just independence that matters but perceived independence that matters. Any suggestion that there is not full independence and that the Comptroller and Auditor General has been illegitimately influenced would be extremely damaging to that institution. Once you get damage, it is difficult to repair that damage.

Ms Bunting: I have one last question. Bearing in mind that our only responsibilities are, essentially, budget and the corporate plan, how would any person know whether the C&AG should be removed in any circumstance? How would you find out?

Professor Heald: There is substantial interface between the Comptroller and Auditor General and the Assembly anyway through the auditing of the accounts of public bodies and local government in Northern Ireland and through the reports that the Comptroller and Auditor General presents to the Public Accounts Committee. There are mechanisms and interfaces. If the Comptroller and Auditor General was not performing or if the Audit Office was losing its way, that would come into the public domain very quickly.

Ms Bunting: Thank you very much.

The Chairperson (Mr McCrossan): Thank you, professor, for your answers. Detailed and interesting points have been raised, and we fully take on board some of the points that you have made. I have no further questions at this point.

Mr Allister: Chair, may I ask one question?

The Chairperson (Mr McCrossan): Briefly, Jim, yes.

Mr Allister: Professor, you keep referring to this Committee — the Audit Committee — as having the oversight. Where does the Public Accounts Committee fit into that?

Professor Heald: You have a more detailed knowledge of the way that Stormont works than I have, but how it works at Westminster is that, essentially, the Public Accounts Commission, which is a statutory commission set up under the National Audit Act 1983, is the governance mechanism for the NAO, and the Public Accounts Committee is the client. Basically, the governance role is for TPAC, and the client role, in the sense of processing the value-for-money reports and dealing with accounts where there are matters of concern, is a role for the Public Accounts Committee. Although those roles sometimes get confused at Westminster because of interconnected membership of the two bodies, that is an important distinction to make. I see your role as being a governance role, and I see the Public Accounts Committee as the Committee that deals with the reports and outputs of the Audit Office. To go back to my earlier answer, if you want an opinion on how well the present arrangements are functioning, I would ask your Public Accounts Committee whether it is satisfied with what the Audit Office is doing.

Mr Allister: Thank you.

The Chairperson (Mr McCrossan): Thank you, professor, for providing evidence and answers. We deeply appreciate it. Thank you for your time.

Professor Heald: Thank you very much. Best wishes for your inquiry.

The Chairperson (Mr McCrossan): Thank you.