



# Examining and determining accountability in local governments

## *Summary*



*Report of the  
Inquiry concerning local government auditing*

*Stockholm 2004*



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# Summary

## Remit and background

The remit of this inquiry has been to carry out a review of the conditions for local government audit and how this audit functions. The remit has included

- making a special analysis of whether the present rules for the assembly's discharge process and determination of accountability have functioned satisfactorily and considering possible ways of reinforcing this process.
- following ongoing work on the certification of experts
- analysing and giving examples of measures to broaden recruitment of elected – political – auditors in municipalities and county councils (local governments).
- analysing the potential for cooperation on audit between local governments.

The following starting points have applied to the work of the inquiry

- Local government audit will continue to be an instrument for local democratic control.
- As has been the case up to now, the assembly will take the final decision on discharge against the background of the auditors' recommendations.
- The political parties nominate elected auditors.

The inquiry has sought to work openly and to have a dialogue with those affected by its work. As a result, we have been in touch with elected auditors and experts in a large number of municipalities and county councils. The inquiry has also conducted an interview survey of assembly members. We have also met representatives of all the parties represented in the Riksdag (the Swedish Parliament).

The main background to this inquiry is a number of discharge processes in recent years that have attracted a great deal of attention. In these cases the grave and generally unanimous criticism that auditors have made of committees has not been well received by the assembly. In certain cases the political parties have not been able to accept the grave criticism either. In some cases the result has been that auditors – who have fulfilled their mandate in an independent manner and with high integrity – have not been nominated by their party for a new period.

### **Independent democratically based local government audit is necessary**

The Swedish model, in which elected representatives inspect elected representatives, is unique and has a long tradition. For a long time local government audit consisted solely of the inspection of accounts. Gradually, however, audit has increasingly focused on inspecting and assessing how committees, assembly drafting committees and individual elected representatives follow the goals, decisions and political intentions of the assembly.

This development underlines the role of audit as one of the assembly's most important control instruments and as an essential part of the system of local democracy. Auditing has a central role in securing insight into and control of all the activities that local governments are responsible for.

In this report the inquiry wants to mark the democratic perspective in the discharge process and local government auditing in particular. The intention is to further strengthen and increase the efficiency of local government audit by clarifying the auditors' role and the assembly's responsibility for ensuring that audit functions as the legislator intended. The inquiry's recommendations and proposals deal mainly with the independence of audit, clarity in the discharge process by the assembly and the need for increased knowledge, reinforced dialogue and enhanced cooperation between the assembly and the auditors.

In the view of the inquiry there is good potential for audit to function well, but ultimately it is the assembly that determines whether local government audit can function as the legislator intended. It is the assembly's capacity, attitude and will that determine whether audit will be able to function as a sharp

instrument for democratic control in the service of the assembly and the public.

The assembly – and the political parties, too – need to reflect on the role of auditing as a control instrument in local government democracy. Obviously it is also important that the auditors are visible and work actively to clarify the mandate, purpose and outcome of their audit.

### **The discharge process can be strengthened**

In the absolute majority of all discharge processes the auditors and the assembly are in full agreement. There are, however, a number of cases where the auditors propose refusal of discharge, but where the assembly decides to grant discharge. In certain cases this has to do with the sovereign right of the assembly to also take other circumstances into account and to reach a different conclusion from the auditors. Unfortunately we have also seen some examples where assemblies and party groups have been unable to handle the auditors' criticism in a constructive manner.

These latter cases are deeply unsatisfactory. Assemblies and political parties that do not take the auditors' recommendations seriously demonstrate a great lack of responsibility. This kind of conduct entails an obvious risk that the position of auditing will be undermined and that auditing will lose its meaning and sting as an instrument for democratic control – and thereby its legitimacy. The discharge process risks being regarded as meaningless and the system of signals to citizens will lose its clarity.

#### *The assembly must always give reasons for its decisions on the discharge issue*

The clarity of the assembly's discharge determination will be significantly improved if the assembly must give reasons for its decisions on the discharge issue – irrespective of whether or not the assembly follows the auditors' recommendations. It is also important that the assembly clearly states whether or not it supports a qualification entered by the auditors and that it explains its reasons for doing so. The inquiry proposes legislative amendments to this effect.

Requiring the assembly to clearly state the reasons for its decision is an important difference compared to the current regulations. Committees and assembly drafting committees will be clearly able to see how well the assembly considers they have lived up to their responsibility. For local citizens this will result in increased openness and transparency in the political process.

*The auditors must always be able to speak at the assembly's consideration of the audit report*

Irrespective of whether or not the auditors have had reason to present serious criticism, it is important that the assembly considers the auditors' report in a clear way. The inquiry therefore proposes a legislative amendment to the effect that the auditors must always be given the opportunity to speak during the assembly's consideration of the audit report. This means that all auditors will have an unconditional right to participate in the assembly meeting that considers the audit report.

*Voting on the discharge issue must be open*

A secret vote on the discharge issue could be used to mark that local government audit is essentially about substance and not about party differences. However, the inquiry does not propose this because democratic reasons, in particular, make it difficult to justify a secret vote.

*The sanctions currently available are powerful enough*

In the view of the inquiry the sanctions available to the assembly – removal from office and action for damages – are powerful enough. Therefore no tougher sanctions are proposed. However, we want to draw particular attention to the responsibility the political parties have for the functioning of the discharge process. The parties must act in a responsible way when one of their own elected members is not granted discharge.

*The right to abstain should be reviewed*

The right of committee members to abstain or to record a dissenting opinion is a key issue in democratic terms and it is also of great importance in view of the discharge process. As a result, there is an urgent need to give further consideration to the issue of abstention rights.

**The position and status of the auditors can be strengthened**

It is important to have a clear division of roles and responsibilities between decision-making, execution and control functions. Sometimes, however, there is no clear division of responsibilities in practice. An unclear division of responsibilities and roles can be an obstacle both to taking responsibility and to seeking accountability.

*The auditors must not hold elected positions in any committee, assembly drafting committee or local government company*

The inquiry considers that it is important to mark the objectivity and impartiality of audit and therefore proposes a legislative amendment to the effect that an elected auditor must not hold an elected position in any committee, assembly drafting committee or local government company in the same local government. This means that the election of auditors should take place before the election of other members, and this should be regulated in the assembly's standing orders.

*The auditors should not hold elected positions in the assembly*

The independence of auditing could be stressed even more by limiting the possibilities of recruiting auditors from the assembly group. However, the inquiry is not prepared to propose this, mainly because it could present smaller municipalities with practical problems in recruiting auditors with political experience and good knowledge of municipal activities. However, the inquiry recommends that, if possible, local governments avoid recruiting auditors from among assembly members.

*The minimum number of auditors is increased and alternates will no longer have to be appointed*

Alternate auditors are seldom able to participate as auditors in inspections and in the discharge process. For this and other reasons the inquiry proposes a legislative amendment to the effect that alternate auditors will no longer have to be appointed. At the same time, we propose that the minimum number of auditors is increased from the current three to five. The assembly may, however, need to appoint more than the minimum number – both to be able to fill the positions as auditors and lay auditors in local government companies and to achieve the broadest possible representativeness.

*The auditors' ability to use experts is clarified*

The auditors must be assisted in their inspection by experts whom they have chosen themselves and use to the extent required to fulfil their mandate *in accordance with generally accepted auditing standards*. The proposed addition to the Local Government Act italicised above entails a clarification of the legislator's intention and is intended to underline the requirement that experts must be used to ensure a full and complete audit. This also entails a requirement that an equivalent assessment is made throughout the country.

*Other measures to strengthen the auditors are also important*

The inquiry's report also recommends a number of other measures to strengthen the position and status of auditors:

- To mark the auditors' independence of the political majority it is recommended that the chair of the auditors is appointed by the minority.
- The auditors' appropriation should be prepared by a special budget drafting committee.
- The auditors must be ensured financial resources that enable them to conduct their audit mandate in accordance with legislation, generally accepted auditing standards and the audit regulations.

- Remuneration for auditors should be on the same level as remuneration for other heavy elected appointments in local governments.

### **Good communication and increased knowledge are necessary**

It is essential that relations between the assembly and the auditors are good. Good communication cannot be regulated by legislation. Instead, what is needed is for both the auditors and the assembly, especially the assembly's presiding officers, to actively seek regular, constructive and respectful contact and dialogue. Both parties – the auditors and the presiding officers – bear a weighty responsibility for this.

The audit regulations are an instrument that can be developed in various ways, for example in terms of the forms for communication between the assembly and the auditors. The same applies to the assembly's standing orders.

The inquiry has noted that assembly members, committee members and the political parties do not always know enough about the mandate and role of the auditors. In our opinion it is for the assembly, in the first place, to ensure that all members have a good knowledge of the mandate and role both of the assembly and committees and of the auditors, as well as a deep understanding of the democratic content of the discharge process.

### **Joint working and cooperation in audit needs to be supported**

Auditors work together in various ways to develop and strengthen local government auditing. They do so, for instance, in various networks, in associations and in joint projects. Well-developed joint working between auditors in local governments has many advantages. It provides good opportunities for increased exchange of knowledge and experience. It is also a way of getting more out of limited auditing resources – especially in small and medium-sized municipalities.

It is very important to be able to cooperate on expert assistance. A new provision is proposed giving local governments the right to enter into agreements on providing expert assistance to each other's auditors. The provision entails an expansion of local

government powers. However, the Public Procurement Act is still applicable.

### **The representativeness of auditors can be improved**

The average auditor is a 59-year old Swedish man. Women, young people, people born abroad, people with less education, people on low incomes and private employees are under-represented among auditors.

It is important that people with a range of backgrounds and perspectives are represented among local government auditors and that local government auditing, like all other local government activities, is largely representative of the composition of population as a whole. The auditors elected must be as broadly representative as possible in terms of age, sex, ethnicity, etc. If possible all parties in the assembly should be represented in the audit.

It is very important for the political parties to have a well-considered nomination strategy that safeguards the auditors' experience and independence while also leading to renewal, rejuvenation and a more equal gender distribution in the audit.

### **Continued development of local government audit is needed**

For a long time the Swedish Association of Local Authorities and the Federation of Swedish County Councils have been mandated to work on monitoring the interests of local government and providing service in matters concerning local government audit. The primary target group is elected auditors in municipalities and county councils along with assembly members. In the opinion of the inquiry these two bodies are doing important work in the audit field, but their resources for audit issues are too limited. Nor do audit matters have a clear standing in their organisation.

The inquiry therefore considers that it is very important for these national bodies to take clear and unified responsibility for audit issues at national level and for generating the resources needed to develop and support local government audit as the assembly's instrument for democratic control. These matters should be the subject of further discussions within these bodies.

### **The auditors are strengthened by professional experts**

The mandatory presence of professional experts has strengthened local government audit. The requirement to use expert assistants has made a tangible contribution to increased audit expertise.

A system for the certification of experts (professional auditors) has been built up on a voluntary basis by SKYREV, the Swedish Association of Professional Local Government Auditors. In our assessment this work has helped to raise the status of local government audit. A legal requirement for the certification of experts might be a further way of ensuring that these experts have the necessary professional expertise and experience. At present, however, there is no reason to put forward such a proposal. Work on certification on a voluntary basis should continue.

### **Certain questions concerning coordinated audit**

#### *The personal link is clarified*

A clarification is proposed in the Local Government Act to the effect that the assembly must always appoint lay auditors in companies and auditors in foundations providing services from among the local government's elected auditors. This also applies in the cases where lay auditors are appointed in companies where the municipality or county council makes decisions together with some other person and in foundations that have been formed together with some other person to deal with a local government matter.

#### *Right of lay auditors to experts is clarified*

In the opinion of the inquiry present legislation is not clear about the ability of lay auditors to decide by themselves the extent to which they need to use experts. This means there is reason to legislate that lay auditors must be assisted by experts whom they have chosen themselves and use to the extent required to fulfil their mandate in accordance with generally accepted auditing standards in this kind of inspection. A new provision to this effect is proposed in the Companies Act.

*Insight into local federations and local government companies is strengthened*

At present local federations are not covered by the audit in the municipalities and county councils that are members of the federation. In view of the fact that the executive committee also has a supervisory duty for local federations there should, in our opinion, be a duty of information between the local federation's auditors and the auditors of member local governments. There should be a direct obligation to provide information concerning the federation's own activities and an indirect obligation concerning companies from which the federation's auditors are entitled to information. A new provision to this effect is proposed in the Local Government Act.

In view of the assembly's overall financial responsibility the inquiry considers that there is also reason to strengthen the assembly's insight into and control of both local federations and limited companies, trading partnerships, cooperative societies and foundations to which the municipality or county council has transferred management of a local government matter, and to do so by annexing the audit report for these bodies to the report from the local government's auditors. An amendment to this effect is proposed in the Local Government Act.

*Coordinated scheduling of audit is important*

The inquiry also wants to mark how important it is for the assembly to ensure that there is, in practice, a coordinate schedule that enables a real determination of accountability to be made for all local government activities, i.e. a planning that covers annual reports, audit reports and inspection reports as well as general meeting decisions and assembly decisions.

**Impacts and entry into force**

The reasons for the inquiry's recommendations and proposals are that a strong and independent audit can contribute both to increased efficiency and cost savings in activities and to strong credibility among local citizens. The inquiry's assessment is that,

overall, the proposals it has presented will only entail a modest cost increase in local governments.

It should be possible for the proposals presented in this report to enter into force on 1 July 2005. Some proposed legislative amendments can only be applied from the 2007 Financial Year.

# Local government audit in brief

The mandate of auditors is regulated in national legislation and in local regulations – the Local Government Act (mainly Chapter 9), the Companies Act (Chapter 11 on the mandate of lay auditors) and the local government assembly’s audit regulations as well as any other relevant local regulations.

## **Audit is the assembly’s instrument for democratic control**

In local governments – municipalities and county councils – the ultimate decision-making powers are exercised by the assembly while responsibility for preparing matters and for administration and execution rests with elected representatives in committees and assembly drafting committees.

Auditing is the assembly’s instrument for inspecting the activities of committees and assembly drafting committees. The *Local Government Auditing Inquiry* (SOU 1998:71) emphasised that auditing is the instrument of the entire assembly and that a resident or citizen perspective can therefore be said to be its primary focus.

Elected representatives in committees and assembly drafting committees act on the mandate of the assembly and therefore have audit accountability to the assembly. The assembly acts on the direct mandate of voters. Therefore the auditors’ inspection cannot cover assembly decisions.

## **The auditors must submit an audit report**

The auditors must submit an audit report to the assembly each year. The report must contain a statement of whether or not they recommend discharge. If the auditors enter a qualification against a

committee or an individual elected representative the reason must be stated in the audit report. The auditors can enter a qualification but still propose discharge.

### **The auditors are elected by the assembly**

The assembly elects the auditors. The law does not lay down any formal qualifications for elected – political – auditors except that they must be at least 18 years of age and therefore entitled to vote in local government elections. Auditors are elected for a period of four years.

### **All auditors fulfil their individual mandate independently**

All auditors fulfil their individual mandate independently. This means that an auditor cannot be out-voted by the other auditors when choosing what matters to inspect, for instance. All auditors are also entitled to attach their own individual opinion to the audit report. In principle there is nothing to prevent every auditor presenting their own audit report, either.

The auditors must be assisted in their inspection by experts (professional auditors) whom they have chosen themselves and use to the requisite extent.

### **The auditors inspect all local government activities**

Each year the auditors inspect all activities to the extent that follows from generally accepted auditing standards. The auditors determine whether the activities have been carried out in an appropriate and financially satisfactory way, whether the accounts are true and fair and whether the internal control carried out in the committees is sufficient. In the same way, they auditors must inspect activities of local government enterprises by using the auditors or lay auditors appointed in these enterprises.

### **The auditors' inspection and determination follow generally accepted auditing standards**

The text of the Act and case-law do not specify in detail what can be regarded as generally accepted auditing standards; instead these standards develop gradually in an interaction between theory, practice and legislation. The Swedish Association of Local Authorities and the Swedish Federation of County Councils have published *Generally accepted auditing standards in local government* as guidance for elected representatives. Generally accepted auditing standards can be seen as a “living” set of standards that evolves continuously through the experience gained in local government auditing. So far these bodies have documented their view of what are generally accepted auditing standards on three occasions at intervals of a few years, most recently in 2002.

### **Local government audit includes both financial audit and performance audit**

The overall task of auditing in local governments is to examine whether activities are in line with assembly decisions and whether activities achieve the political goals within the applicable financial framework.

The task of auditing includes both financial audit and performance audit, i.e. managerial and political audit. Another important part of the auditors' work is to help committees improve the governance and control of their own activities.

### **The auditors determine whether the committees have sufficient internal control**

The committees shall each ensure that activities in their field are carried out in accordance with the goals and guidelines decided by the assembly and with the regulations that apply to the activities. The committees themselves – and not the auditors – are responsible for ensuring that there is sufficient internal control. However, it is the task of the auditors to determine, or validate, whether the internal control carried out in the committees is sufficient.

### Coordinated audit of a local government and its companies

One or more of the elected auditors or alternate auditors elected for the inspection of the activities of committees must be appointed as lay auditors in wholly owned local government companies and in foundations set up solely by the municipality or county council.

Coordinated auditing of the local government and its companies is one of the tools for control and follow-up by the assembly and is therefore an important part of the active governance of owned companies. Responsibility for this governance rests with the assembly which can, however, assign the task to the executive committee to a certain extent. The inspection of this governance and of how the executive committee fulfils its supervisory duty are central issues for coordinated auditing.



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