



Department for
Communities and
Local Government

Changes to the smaller authorities' local audit and accountability framework: a guide



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1. Introduction and context

Aim of this guide

This guide aims to help smaller authorities officials in England to understand how the changes introduced by the Local Audit and Accountability Act 2014 (the Act) and new Regulations will affect them. It offers a less technical explanation of the changes and describes the key requirements of the new audit regime for smaller authorities. However, as a working guide, it assumes a basic knowledge of local authority finance and financial procedures.

It explains what public accountability means for smaller authorities and what happens after the Audit Commission closes. It sets out what smaller authorities need to do from 1 April 2015 and what will change from 1 April 2017. For further information, a list of the legislation and other relevant guidance can be found in Appendix 2 at the end of this guide.

This guide is not explicitly aimed at the general public. However they will have an interest in how accountability and transparency will be strengthened as a result of the Government's changes.

Background

The Local Audit and Accountability Act 2014 (the Act) closes the Audit Commission and establishes new arrangements for the accountability and audit of local public bodies in England.

Local public bodies include smaller authorities such as parish councils, parish meetings and internal drainage boards. A smaller authority is an authority that has gross annual income or expenditure (turnover) below £6.5 million, including those 'exempt authorities' with a turnover below £25,000.

What is public accountability?

The Act builds on the general principle that all local public bodies, regardless of size, must account for all the money they receive and spend, wherever it comes from. Local taxpayers expect local public bodies to be open and transparent about how they have handled public money, as these bodies are always accountable to the communities they serve.

Terms used in the guide

The Government's policy is that smaller authorities' annual accounts are subject to an "assurance review", which involves the auditor issuing a report on the annual return prepared by the authority, rather than full annual audit. This approach is

proportionate to the amounts of public money that smaller authorities handle. It also continues the existing practice of how audit firms provide assurance on smaller bodies.

Details of what is covered in an assurance review and how auditors of smaller authorities should meet their responsibilities are set out in the guidance which accompanies the Code of Audit Practice.

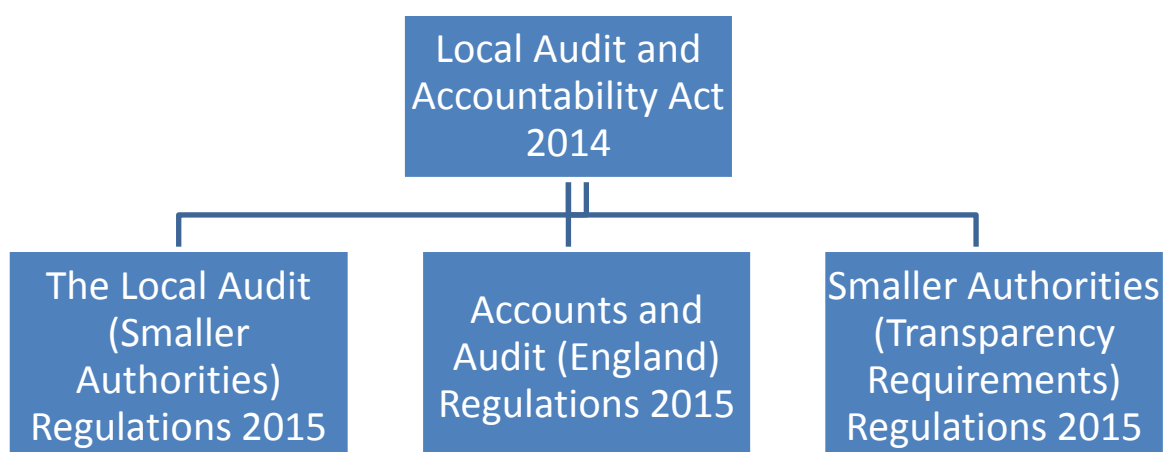
In this guide smaller authorities with an annual turnover below £25,000 - that will be exempt from the requirement to have a routine annual assurance review under the new regime - are referred to as 'exempt authorities.' Smaller authorities with an annual turnover above £25,000 - that will be 'non-exempt' from this requirement and must still have a routine annual assurance review - are referred to as 'non-exempt authorities.'

Smaller authorities can also chose to voluntarily have a full external audit which increases accountability further. This option will remain under the new regime.

Overview of the new legislative framework

The new legislation replaces the Audit Commission Act 1998 and the Accounts and Audit (England) Regulations 2011.

The Act will be supported by a number of sets of Regulations, as well as the Transparency Code for smaller authorities and the Code of Audit Practice. The main sets of Regulations of significance to smaller authorities are shown in the diagram below.



The changes introduced by the new legislative framework will happen in two stages. The first stage starts on 1 April 2015 and applies to the 2015/16 and 2016/17 financial years. The second stage is currently expected to start on 1 April 2017 and apply to all financial years from 2017/18 onwards¹.

This guidance addresses what smaller authorities will have to do during each of the two stages.

What happens after the Audit Commission closes?

Initially, very little will change for smaller authorities.

The Audit Commission will close on 31 March 2015. From 1 April 2015, responsibility for making auditor appointments and setting audit fees will transfer to a new company, Public Sector Audit Appointments Limited. This new company will undertake these functions until the current contracts with audit firms expire – currently expected to be after the completion of the 2016/17 audits. Some Audit Commission staff will transfer to the new company to ensure continuity.

Smaller authorities will keep the external auditor appointed by the Audit Commission until the 2016/17 audit process has been completed.

As of 1 April 2015, the Comptroller and Auditor General² is responsible for publishing the Code of Audit Practice and for issuing guidance to auditors. The new Code of Audit Practice will take effect for the 2015/16 accounts onwards. Auditors' work on 2014/15 annual accounts will be conducted under the Audit Commission's existing Code of Audit Practice. The National Audit Office will also prepare, update and publish *Council Accounts: a guide to your rights*, which explains how local residents and electors can exercise their legal rights in respect of the accounts.

¹ The current audit contracts are set to expire in 2017.

² In practice, the National Audit Office will undertake the day to day operational activities associated with the Code of Audit Practice on the Comptroller and Auditor General's behalf.

2. What do smaller authorities (both ‘exempt’ and ‘non-exempt’) need to do from 1 April 2015?

There are limited changes for smaller authorities from 1 April 2015. All smaller authorities will continue to prepare annual accounts in the form of an annual return.

The annual return must be completed in accordance with proper practices. Proper practices are set out in the Practitioners’ Guides which are published jointly by the National Association of Local Councils (NALC) and the Society of Local Council Clerks (SLCC), for parish councils, and by the Association of Drainage Authorities (ADA) for Internal Drainage Boards. Other smaller authorities may follow the Practitioners Guide that best suits their needs.

There are no changes to the requirement for smaller authorities to have an internal audit. The Practitioners’ Guides provide guidance on internal control, internal audit and other good governance arrangements.

For 2014/5, 2015/16 and 2016/17, the annual return will continue to be audited by the external auditor appointed by the Audit Commission.

Exercise of public rights

From 1 April 2015, there will be changes to the way smaller authorities support local electors in the exercise of their rights in relation to the accounts. For the accounts of 2014/15, nothing changes and the auditor will call the audit and set the dates for public inspection of the accounts in the usual way.

However, for the 2015/16 financial year and beyond it is the Responsible Financial Officer of each smaller authority who must set the commencement date for the exercise of public rights, rather than the auditor.

From the commencement date set by the Responsible Financial Officer, and for a single period of 30 working days, the accounts can be inspected. During this period electors can ask questions of the auditor or make an objection. Any question or objection must be raised within the 30 day inspection period. This is a change from the current arrangements where the period for the exercise of public rights follows the inspection period.

The Responsible Financial Officer will be able to exercise some discretion in setting the 30 day period. However, whatever period the officer sets it must include a common inspection period - during which the accounts of all smaller authorities must be simultaneously available for public inspection - of the first 10 working days

(consecutive days excluding Saturdays, Sundays and bank holidays) of the July following the financial year to which the accounts relate. These changes are set out in the new Accounts and Audit Regulations.

Transparency Code for smaller authorities

A further change is that from 1 April 2015 smaller authorities with annual turnover below £25,000 will be subject to the requirements of a new Transparency Code for smaller authorities. Parish meetings where there is no parish council are exempt from the requirements of the Code.

The Transparency Code for smaller authorities was issued as recommended practice in December 2014 and following legislation will become mandatory on 1 April 2015. The Code requires the following information, relating to the authority and the previous financial year, to be published annually. This should be published on the first occasion by 1 July 2015 and in each subsequent year no later than 1 July:

- all items of expenditure above £100;
- end of year accounts, annual governance statement, and internal audit report (as contained in the annual return). The end of year accounts should be accompanied by:
 - a copy of the bank reconciliation for the relevant financial year;
 - an explanation of any significant variances (e.g. more than 10-15%, in line with proper practices) in the statement of accounts for the relevant year and previous year; and
 - an explanation of any differences between 'balances carried forward' and 'total cash and short term investments', if applicable.
- a list of councillor or member responsibilities; and
- details of public land and building assets owned by the smaller authority (except internal drainage boards and charter trustees).

The Code also requires the following information to be published more frequently than once annually:

- The draft minutes from all formal meetings (i.e. full council or board, committee and sub-committee meetings) should be published not later than one month after the meeting has taken place.
- Meeting agendas and associated meeting papers should be published not later than three clear days before the meeting is taking place.

All the information must be published on a website, which is publicly accessible and free of charge to view.

3. What will change for smaller authorities from 1 April 2017?

Appointing an external auditor

For the financial year starting on 1 April 2017, smaller authorities will be responsible for appointing their own external auditor. Each year the appointment must be made by the 31 December before the start of the audited year in April. So, by 31 December 2016, smaller authorities must have appointed an external auditor to undertake an assurance review of the 2017/18 accounts.

To help smaller authorities find and appoint an auditor, the Secretary of State can specify a new body that will have powers to appoint auditors and set audit fees for smaller authorities. Any appointing body will make arrangements to appoint an auditor to all smaller authorities unless they decide to actively opt-out and make the appointment themselves. Any appointing body will contact all smaller authorities during 2015/2016 to advise them of the process for making auditor appointments and to explain their options. It is anticipated that representatives from the sector will bring forward a proposal to undertake this role as a 'Sector Led Body' to provide bulk procurement services.

A change from the 2017/18 financial year is that smaller authorities whose annual turnover is below the £25,000 threshold will, in most circumstances, be exempt from undergoing a routine annual assurance review. They will continue to meet requirements set out in the Transparency Code for smaller authorities in place of this requirement, as part of a more proportionate regime.

Smaller authorities below the £25,000 threshold ('exempt' authorities)

Instead of having an annual assurance review, exempt smaller authorities will only need to comply with the publication requirements of the Transparency Code for smaller authorities. However an auditor must be available to deal any question or objection made by an elector to the accounts.

Exempt authorities that decide to use any appointing body's arrangements will not have to have an auditor appointed automatically, unless an elector wishes to ask the auditor a question or make an objection to the accounts. In these circumstances, the local elector will have to contact the appointing body who will then assign an auditor to deal with the question or objection. If the authority's turnover rises above £25,000 during the year it must tell the appointing body and the appointing body will appoint an auditor for that year.

Exempt authorities that opt out of the appointing body's arrangements will be required to appoint their own auditor as if they were not exempt. The auditor of an exempt authority will not undertake an annual assurance review of the accounts but

will need to be available to deal with questions or objections from local electors about the accounts.

Smaller authorities above the £25,000 threshold ('non-exempt' authorities)

Smaller authorities above the £25,000 threshold are required to have a routine annual assurance review of the annual return. These authorities can use the appointing body's auditor appointment arrangements or can opt out and make their own arrangements.

Smaller authorities (exempt and non-exempt) that choose to opt out of the appointing body's arrangements have to:

- take the decision at full council;
- notify the appointing body of their decision by a set deadline;
- establish an independent auditor panel to advise on the appointment of the auditor; and
- procure an auditor either alone or collectively with others.

Non-exempt smaller authorities that use the appointing body's arrangements will not need to establish an independent auditor panel and will have an auditor appointed for them.

Appendix 1

Commencement schedule – Key Dates

What?	When?
Transparency Code for smaller authorities issued as 'recommended practice'	December 2014
Transparency Code for smaller authorities becomes mandatory	1 April 2015
Audit Commission closure	31 March 2015
Transitional period	From financial year 2015/16
Public Sector Audit Appointments Limited - takes over management of former Audit Commission contracts	1 April 2015
New Code of Audit Practice	1 April 2015
Responsible Financial Officer to set commencement date for exercise of electors' rights	For 2015/16 Annual Return
First 'common inspection period'	1 July 2016 to 14 July 2016
Earliest commencement date of 30 working day inspection period (for 2015/16 accounts)	9 June 2016
Latest commencement date of 30 working day inspection period (for 2015/16 accounts)	1 July 2016
Local appointment	From financial year 2017/18
Determination of 'opt in' or 'opt out' from appointing body arrangements	By the closing date set by the appointing body (during 2015/16)
Appointment of auditor for 2017/18 by appointing body	By 31 December 2016
Appointment of auditor for 2017/18 by exempt bodies opting out of appointing body arrangements	By 31 December 2016

Appendix 2

List of relevant legislation and guidance

Regulations

The Local Audit and Accountability Act 2014

The Accounts and Audit (England) Regulations 2015

The Local Audit (Smaller Authorities) Regulations 2015

Local Government (Transparency) (Descriptions of Information) Order 2015

Smaller Authorities (Transparency Requirements) Regulations 2015

The Local Audit (Auditor Panel) Regulations 2014

The Local Audit (Auditor Panel Independence) Regulations 2014

The Local Audit (Appointing Person) Regulations 2015

The Local Audit (Resignation and Removal) Regulations 2014

Guidance

Transparency Code for smaller authorities 2014 -

http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/388541/Transparency_Code_for_Smaller_Authorities.pdf

Code of Audit Practice – Comptroller and Auditor General

Council accounts - A guide to your rights – National Audit Office (NAO)

Joint Practitioners' Advisory Group, Governance and Accountability in Local Councils: A Practitioner's Guide (England) 2014

Joint Practitioners' Advisory Group, Governance and Accountability in Internal Drainage Boards: A Practitioner's Guide 2007

Useful websites

Public Sector Audit Appointments Limited

National Audit Office: www.nao.org.uk

National Association of Local Councils (NALC): www.nalc.gov.uk

Society of Local Council Clerks (SLCC): www.slcc.co.uk

Association of Drainage Authorities (ADA): www.ada.org.uk

STATUTORY INSTRUMENTS

2015 No. 234

LOCAL GOVERNMENT, ENGLAND AND WALES

The Accounts and Audit Regulations 2015

Made - - - - *12th February 2015*
Laid before Parliament *17th February 2015*
Coming into force - - *1st April 2015*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 32, 43(2) and 46 of the Local Audit and Accountability Act 2014⁽¹⁾.

In accordance with section 32(3) of the Act he has consulted the Comptroller and Auditor General, such representatives of relevant authorities as he thinks appropriate, and the recognised supervisory bodies.

PART 1

Introductory

Citation, commencement and application

1.—(1) These Regulations may be cited as the Accounts and Audit Regulations 2015 and come into force on 1st April 2015.

(2) Regulations 2 to 21 and Schedule 1 apply in relation to any financial year⁽²⁾ beginning on or after 1st April 2015.

(3) These Regulations apply to relevant authorities⁽³⁾ other than health service bodies⁽⁴⁾.

Interpretation

2.—(1) In these Regulations—

“the 1989 Act” means the Local Government and Housing Act 1989⁽⁵⁾;

(1) 2014 c. 2; see also section 134(6) of the Greater London Authority Act 1999 (c.29) (amended by paragraph 43 of Schedule 12 to the Local Audit and Accountability Act 2014) and S.I. 2015/179 (C.11).

(2) See section 3(2) of the Local Audit and Accountability Act 2014 for the definition of “financial year”.

(3) See section 2 of and Schedule 2 to the Local Audit and Accountability Act 2014 for the definition of “relevant authority”.

(4) See section 3(9) of the Local Audit and Accountability Act 2014 for the definition of “health service body”.

(5) 1989 c. 42.

“the 2011 Act” means the Police Reform and Social Responsibility Act 2011⁽⁶⁾;

“the Act” means the Local Audit and Accountability Act 2014;

“audit letter” means the annual audit letter to the relevant authority by the local auditor sent pursuant to the Code of Audit Practice published by the National Audit Office, 157-197 Buckingham Palace Road, Victoria, London SW1W 9SP and dated January 2015. Reference number: 10495-001;

“Category 1 authority” means a relevant authority that either—

- (a) is not a smaller authority⁽⁷⁾; or
- (b) is a smaller authority that has chosen to prepare its accounts for the purpose of a full audit in accordance with regulation 8 of the Smaller Authorities Regulations;

“Category 2 authority” means a smaller authority which is not a Category 1 authority;

“Category 2 authority with exempt status” means a Category 2 authority that has certified itself as exempt under regulation 9(1) of the Smaller Authorities Regulations;

“period for the exercise of public rights” means the period of time referred to in regulation 14 within which the rights of objection, inspection and questioning of the local auditor conferred by sections 26 and 27 of the Act may be exercised;

“Smaller Authorities Regulations” means the Local Audit (Smaller Authorities) Regulations 2015⁽⁸⁾;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England under the Banking and Financial Dealings Act 1971⁽⁹⁾.

(2) Any reference in these Regulations to the “responsible financial officer” means—

- (a) the person who, by virtue of—
 - (i) section 151 of the Local Government Act 1972⁽¹⁰⁾ (financial administration);
 - (ii) section 17(1) of the Norfolk and Suffolk Broads Act 1988⁽¹¹⁾ (accounts);
 - (iii) section 112(1) of the Local Government Finance Act 1988⁽¹²⁾ (financial administration as to certain authorities);
 - (iv) section 6(1) of the 1989 Act (officer responsible for financial administration of certain authorities);
 - (v) paragraph 13(6) of Schedule 7 to the Environment Act 1995⁽¹³⁾ (National Park Authorities);
 - (vi) section 127(2) of the Greater London Authority Act 1999⁽¹⁴⁾;
 - (vii) paragraph 6(1)(b) of Schedule 1 to the 2011 Act (police and crime commissioners);
 - (viii) paragraph 4(1) of Schedule 2 to the 2011 Act (chief constables);
 - (ix) paragraph 1(1) of Schedule 4 to the 2011 Act (Commissioner of Police of the Metropolis);

⁽⁶⁾ 2011 c. 13.

⁽⁷⁾ See section 6 of the Local Audit and Accountability Act 2014 for the definition of “smaller authority”.

⁽⁸⁾ S.I. 2015/184.

⁽⁹⁾ 1971 c. 80.

⁽¹⁰⁾ 1972 c. 70.

⁽¹¹⁾ 1988 c. 4.

⁽¹²⁾ 1988 c. 41.

⁽¹³⁾ 1995 c. 25.

⁽¹⁴⁾ 1999 c. 29.

as the case may be, is responsible for the administration of the financial affairs of a relevant authority or, if no person is so responsible, the person who is responsible for keeping the accounts of such an authority; or

- (b) if the person referred to in sub-paragraph (a) (P) is unable to act owing to absence or illness, such member of P's staff as is nominated by P for the purposes of section 114 of the Local Government Finance Act 1988⁽¹⁵⁾ (functions of responsible officer as regards reports) or where that section does not apply to the relevant authority, such member of staff as is nominated by P for the purposes of these Regulations.

(3) Where a relevant authority is a corporation sole, references to "members of the authority meeting as a whole" are to a holder of that office of corporation sole.

(4) The references in these Regulations to a "local auditor" in—

- (a) regulation 12(3)(b); and
(b) regulation 15(2)(b)(iii),

must, where such a reference concerns a Category 2 authority with exempt status, which is also an opted in authority⁽¹⁶⁾ within the meaning of the Smaller Authorities Regulations, be construed as a reference to the specified person under regulation 3 of those Regulations.

(5) Any reference in these Regulations to publication on an authority's website must be construed as—

- (a) in the case of a Category 2 authority without its own website, a reference to publication on any website, provided that information so published is accessible by any member of the public without registration or payment;
(b) in the case of a Category 2 authority which is a parish meeting, a reference to—
(i) publication on a website of the type specified in paragraph (a); or
(ii) displaying the information in question in a conspicuous place in the area of the authority for at least 14 days.

PART 2

Internal control

Responsibility for internal control

3. A relevant authority must ensure that it has a sound system of internal control which—

- (a) facilitates the effective exercise of its functions and the achievement of its aims and objectives;
(b) ensures that the financial and operational management of the authority is effective; and
(c) includes effective arrangements for the management of risk.

Accounting records and control systems

4.—(1) Subject to paragraphs (3) and (4), and, in so far as they are not in conflict with those paragraphs, to any instructions given by a relevant authority to its responsible financial officer, that officer must determine, on behalf of the authority—

⁽¹⁵⁾ 1988 c. 41. Section 114 was amended by section 130(1), and (2) of the Greater London Authority Act 1999, section 99 of and paragraphs 180 and 188 of Part 3 of Schedule 16 to the Police Reform and Social Responsibility Act 2011.

⁽¹⁶⁾ See regulation 2 of the Local Audit (Smaller Authorities) Regulations 2015, [S.I. 2015/184](#) for the definition of "opted in authority".

- (a) the form of its accounting records and supporting records; and
 - (b) its financial control systems.
- (2) The responsible financial officer for a relevant authority must ensure on behalf of that authority that the financial control systems determined by that officer in accordance with subparagraph (1)(b) are observed and that the accounting records of the authority are kept up to date.
- (3) The accounting records must, in particular, contain—
- (a) entries from day to day of all sums of money received and expended by the authority and the matters to which its income and expenditure or receipts and payments relate; and
 - (b) a record of the assets and liabilities of the authority.
- (4) The financial control systems determined in accordance with paragraph (1)(b) must include—
- (a) measures—
 - (i) to ensure that the financial transactions of the authority are recorded as soon as, and as accurately as, reasonably practicable;
 - (ii) to enable the prevention and the detection of inaccuracies and fraud, and the reconstitution of any lost records; and
 - (iii) to ensure that risk is appropriately managed;
 - (b) identification of the duties of officers dealing with financial transactions and division of responsibilities of those officers.

Internal audit

5.—(1) A relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.

(2) Any officer or member of a relevant authority must, if required to do so for the purposes of the internal audit—

- (a) make available such documents and records; and
- (b) supply such information and explanations;

as are considered necessary by those conducting the internal audit.

(3) In this regulation “documents and records” includes information recorded in an electronic form.

Review of internal control system

6.—(1) A relevant authority must, each financial year—

- (a) conduct a review of the effectiveness of the system of internal control required by regulation 3; and
- (b) prepare an annual governance statement;

(2) If the relevant authority referred to in paragraph (1) is a Category 1 authority, following the review, it must—

- (a) consider the findings of the review required by paragraph (1)(a)—
 - (i) by a committee; or
 - (ii) by members of the authority meeting as a whole; and
- (b) approve the annual governance statement prepared in accordance with paragraph (1)(b) by resolution of—

- (i) a committee; or
 - (ii) members of the authority meeting as a whole.
- (3) If the relevant authority referred to in paragraph (1) is a Category 2 authority, following the review it must—
- (a) consider the findings of the review by members of the authority meeting as a whole; and
 - (b) approve the annual governance statement prepared in accordance with paragraph (1)(b) by resolution of members of the authority meeting as a whole.
- (4) The annual governance statement, referred to in paragraph (1)(b) must be—
- (a) approved in advance of the relevant authority approving the statement of accounts in accordance with regulations 9(2)(b) or 12(2)(b) (as the case may be); and
 - (b) prepared in accordance with proper practices in relation to accounts⁽¹⁷⁾.

PART 3

Published accounts and audit – Category 1 authorities

Statement of accounts for Category 1 authorities

7.—(1) A statement of accounts prepared by a Category 1 authority under section 3(3) of the Act must be prepared in accordance with—

- (a) these Regulations; and
- (b) proper practices in relation to accounts.

(2) The statement referred to in paragraph (1) must include such of the following accounting statements as are relevant to that authority's functions—

- (a) housing revenue account;
- (b) collection fund;
- (c) firefighters' pension fund;
- (d) any other statements relating to each and every other fund in relation to which the authority is required by any statutory provision to keep a separate account.

(3) The statement referred to in paragraph (1) must include a note setting out the matters referred to in Schedule 1 (employee and police officer remuneration).

(4) The statement referred to in paragraph (1) must include a note demonstrating whether the Dedicated Schools Grant (made under section 14 (power of Secretary of State to give financial assistance for purposes related to education or children etc) of the Education Act 2002⁽¹⁸⁾) has been deployed in accordance with regulations made under the following provisions of the School Standards and Framework Act 1998⁽¹⁹⁾—

⁽¹⁷⁾ See section 21 of the Local Government Act 2003 (c.26) for the definition of "proper practices in relation to accounts".

⁽¹⁸⁾ 2002 c. 32. Section 14 has been amended by section 59 of the Children Act 2004 (c. 31) and paragraph 23 of Schedule 14 to the Education Act 2005 (c. 18).

⁽¹⁹⁾ 1998 c. 31. Section 45A was inserted by section 41 of the Education Act 2002 (c. 32), and was amended by paragraph 3 of Schedule 16 and Part 4 of Schedule 19 to the Education Act 2005, section 202 of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), and S.I. 2010/1158. Section 45AA was inserted by paragraph 4 of Schedule 16 to the Education Act 2005, and was amended by S.I. 2010/1158. Section 47 was amended by paragraph 6 of Schedule 16 to the Education Act 2005, and S.I. 2010/1158. Section 48 was amended by paragraph 3 of Schedule 5 and Part 6 of Schedule 18 to the Education and Inspections Act 2006 (c. 40), paragraph 2 of Schedule 3 to the Education Act 2002, paragraph 7 of Schedule 18 to the Education Act 2005, and S.I. 2010/1158. Section 138(7) was amended by paragraph 3 of Schedule 17 to the Education and Inspections Act 2006. Paragraph 1(7) of Schedule 14 was substituted by paragraph 5 of Schedule 5 to the Education and Inspections Act 2006.

- (a) section 45A (determination of specified budgets of local authority);
- (b) section 45AA (power to require local authorities to make initial determination of schools budget);
- (c) section 47 (determination of school's budget share);
- (d) section 48(1) and (2) (local authorities' financial schemes);
- (e) section 138(7) (orders and regulations); and
- (f) paragraph 1(7)(b) of Schedule 14 (revision of local authority schemes).

(5) In the case of a relevant authority which is required by section 74(20) of the 1989 Act to keep a housing revenue account, the statement of accounts referred to in paragraph (1) must also include an account in respect of a reserve for major repairs to property of the authority to which section 74(1) of the 1989 Act for the time being applies (to be called a major repairs reserve), showing in particular—

- (a) a credit of an amount in respect of any charge for depreciation included in the housing revenue account for that financial year under item 8 of Part 2 of Schedule 4 to the 1989 Act;
- (b) a debit in respect of any capital expenditure, within the meaning of section 16 (capital expenditure) of the Local Government Act 2003(21), which was—
 - (i) incurred in that financial year,
 - (ii) met by payments out of the major repairs reserve, and
 - (iii) in respect of any land, houses or other property to which section 74(1) of the 1989 Act for the time being applies, other than capital expenditure for the purpose of demolition of any such property;
- (c) a debit in respect of any repayment, made in that financial year, of the principal of any amount borrowed where the repayment was met by payments out of the major repairs reserve; and
- (d) a debit in respect of the meeting of any liability, in that financial year, in respect of credit arrangements, other than any liability which, in accordance with proper practices in relation to accounts, must be charged to a revenue account, where the meeting of that liability was met by payments out of the major repairs reserve.

Narrative statements

8.—(1) A Category 1 authority must prepare a narrative statement in accordance with paragraph (2) in respect of each financial year.

(2) A narrative statement prepared under paragraph (1) must include comment by the authority on its financial performance and economy, efficiency and effectiveness in its use of resources over the financial year.

Signing and approval of statement of accounts for Category 1 authorities

9.—(1) The responsible financial officer for a Category 1 authority must, on behalf of that authority, in the following order—

- (a) sign and date the statement of accounts, and confirm that they are satisfied that it presents a true and fair view of—
 - (i) the financial position of the authority at the end of the financial year to which it relates; and
 - (ii) that authority's income and expenditure for that financial year;

(20) Section 74 was amended by paragraph 24 of Schedule 18 to the Housing Act 1996 (c. 52).

(21) 2003 c. 26.

- (b) commence the period for the exercise of public rights in accordance with regulations 14 and 15; and
 - (c) notify the local auditor of the date on which that period was so commenced.
- (2) Subject to paragraph (3), a Category 1 authority must, following the conclusion of the period for the exercise of public rights in regulation 14, in the following order—
- (a) consider, either by way of a committee or by the members meeting as a whole, the statement of accounts;
 - (b) approve the statement of accounts by a resolution of that committee or meeting;
 - (c) ensure that the statement of accounts is signed and dated by the person presiding at the committee or meeting at which that approval is given.
- (3) The responsible financial officer for a Category 1 authority must re-confirm on behalf of that authority that they are satisfied that the statement of accounts presents a true and fair view of—
- (a) the financial position of the authority at the end of the financial year to which it relates; and
 - (b) that authority's income and expenditure for that financial year,
- before that authority approves it.

Publication of statement of accounts, annual governance statement and narrative statement for Category 1 authorities

- 10.**—(1) A Category 1 authority must, after approving the statement of accounts in accordance with regulation 9(2) but not later than 31st July of the financial year immediately following the end of the financial year to which the statement relates, publish (which must include publication on the authority's website)—
- (a) the statement of accounts together with any certificate or opinion, entered by the local auditor in accordance with section 20(2) of the Act;
 - (b) the annual governance statement approved in accordance with regulation 6(2); and
 - (c) the narrative statement prepared in accordance with regulation 8.
- (2) Where an audit of accounts has not been concluded before the date specified in paragraph (1) an authority must—
- (a) publish (which must include publication on the authority's website) as soon as reasonably practicable on or after that date a notice stating that it has not been able to publish the statement of accounts and its reasons for this; and
 - (b) comply with paragraph (1) as if for “but not later than 31st July of the financial year immediately following the end of the financial year to which the statement relates” there were substituted “as soon as reasonably practicable after the receipt of any report from the auditor which contains the auditor's final findings from the audit which is issued before the conclusion of the audit”.
- (3) Where documents are published under paragraph (1) an authority must—
- (a) keep copies of those documents for purchase by any person on payment of a reasonable sum; and
 - (b) ensure that those documents remain available for public access for a period of not less than five years beginning with the date on which those documents were first published in accordance with that paragraph.

PART 4

Published accounts and audit – Category 2 authorities

Statement of accounts for Category 2 authorities

11.—(1) A Category 2 authority must ensure that the statement of accounts required by section 3(3) of the Act is prepared in accordance with these Regulations.

(2) Subject to paragraph (3), a statement of accounts prepared by a Category 2 authority under section 3(3) of the Act must take the form of—

- (a) an income and expenditure account; and
- (b) a statement of balances,

prepared in accordance with, and in the form specified in any annual return required by, proper practices in relation to accounts.

(3) Where, in relation to a Category 2 authority and a financial year, the gross income or expenditure (whichever is the higher) is not more than £200,000 for that financial year or for either of the two immediately preceding financial years, the statement of accounts may, instead of complying with paragraph (2), take the form of a record of receipts and payments of the authority in relation to that financial year.

(4) A record prepared in accordance with paragraph (3) must be prepared in accordance with, and in the form specified in any annual return required by, proper practices in relation to accounts.

Signing and approval of statement of accounts for Category 2 authorities

12.—(1) The responsible financial officer for a Category 2 authority must, on behalf of that authority—

- (a) in a case where the authority has prepared a record of receipts and payments, sign and date that record, and confirm that they are satisfied that it properly presents that authority's receipts and payments for the financial year to which the record relates; or
- (b) in any other case, sign and date the income and expenditure account and statement of balances, and confirm that they are satisfied that they present fairly—
 - (i) the financial position of the authority at the end of the financial year to which they relate; and
 - (ii) that authority's income and expenditure for that financial year.

(2) When the responsible financial officer has complied with paragraph (1), a Category 2 authority must, in the following order—

- (a) consider the statement of accounts by the members meeting as a whole;
- (b) approve the statement of accounts by resolution; and
- (c) ensure the statement of accounts is signed and dated by the person presiding at the meeting at which that approval is given.

(3) The responsible financial officer for a Category 2 authority must, as soon as reasonably practicable after the date on which the authority complies with paragraph (2)(c), on behalf of that authority—

- (a) commence the period for the exercise of public rights in accordance with regulation 14 and regulation 15; and
- (b) notify the local auditor of the date on which that period was so commenced.

Publication of statement of accounts and annual governance statement for Category 2 authorities

13.—(1) Subject to paragraph (3), a Category 2 authority must, after the conclusion of the period for the exercise of public rights but not later than 30th September of the financial year immediately following the end of the financial year to which the statement relates, publish (which must include publication on that authority’s website)—

- (a) the statement of accounts together with any certificate or opinion entered by the local auditor in accordance with section 20(2) of the Act; and
- (b) the annual governance statement approved in accordance with regulation 6(3).

(2) Where documents are published under paragraph (1), the authority must—

- (a) keep copies of those documents for purchase by any person on payment of a reasonable sum; and
- (b) ensure that those documents remain available for public access for a period of not less than five years beginning with the date on which those documents were first published in accordance with that paragraph.

(3) Paragraphs (1) and (2) do not apply to a Category 2 authority with exempt status.

(4) A Category 2 authority with exempt status must—

- (a) keep copies of its statement of accounts for purchase by any person on payment of a reasonable sum; and
- (b) after the conclusion of the period for the exercise of public rights in regulation 14, ensure that the statement of accounts that was published on the authority’s website in accordance with regulation 15(2) remains available for public access for a period of not less than five years beginning with the date of such publication.

(5) In the case of a Category 2 authority which is a parish meeting, and where the authority has displayed its statement of accounts in a conspicuous place in accordance with regulation 2(5)(b)(ii), paragraph (4)(b) does not apply.

PART 5

Inspection and notice procedure

Period for the exercise of public rights

14.—(1) Any rights of objection, inspection and questioning of the local auditor conferred by sections 26 and 27 of the Act may only be exercised within a single period of 30 working days.

(2) The period referred to in paragraph (1) starts with the day on which the period for the exercise of public rights is treated as having been commenced in accordance with regulation 15(3).

(3) During the period for the exercise of public rights a relevant authority must make the documents referred to in section 26(1) of the Act available for inspection on reasonable notice at all reasonable times.

Commencement of the period for the exercise of public rights

15.—(1) The responsible financial officer for a relevant authority must, on behalf of the authority, ensure that commencement of the period for the exercise of public rights under regulation 9(1)(b) or 12(3)(a) (as the case may be), takes place on such a day that ensures that the period referred to in regulation 14(1) includes—

- (a) the first 10 working days of June of the financial year immediately following the end of the financial year to which the statement relates, where that authority is a Category 1 authority; or
 - (b) the first 10 working days of July of the financial year immediately following the end of the financial year to which the statement relates, where that authority is a Category 2 authority.
- (2) The responsible financial officer for a relevant authority must, on behalf of that authority, publish (which must include publication on the authority’s website)—
- (a) the statement of accounts, accompanied by—
 - (i) a declaration, signed by that officer to the effect that—
 - (aa) the status of the statement of accounts is unaudited and that the statement of accounts as published may be subject to change; or
 - (bb) in the case of a Category 2 authority with exempt status, the statement of accounts will not be audited on account of that authority’s self-certified status as exempt, unless either a request for an opportunity to question the auditor about the authority’s accounting records under section 26(2) or an objection under section 27(1) of the Act, results in the involvement of the local auditor; and that in either of those circumstances the audit will be limited to that required by section 20 of the Act as modified by the Smaller Authorities Regulations⁽²²⁾;
 - (ii) the annual governance statement prepared in accordance with regulation 6(1)(b), whether or not that statement has been approved in accordance with regulation 6(2)(b) or 6(3)(b) (as the case may be); and
 - (iii) where the authority in question is a Category 1 authority, the narrative statement prepared in accordance with regulation 8;
 - (b) a statement that sets out—
 - (i) the period for the exercise of public rights;
 - (ii) details of the manner in which notice should be given of an intention to inspect the accounting records and other documents;
 - (iii) the name and address of the local auditor;
 - (iv) the provisions contained in section 26 (inspection of documents etc.) and section 27 (right to make objections at audit) of the Act, as they have effect in relation to the authority in question; and
 - (v) in the case of a Category 2 authority with exempt status, the provisions contained in section 25 of the Act (inspection of documents etc.) as they have effect in relation to the authority in question.
- (3) The period for the exercise of public rights is treated as being commenced on the day following the day on which all of the obligations specified in paragraph (2) have been fulfilled, insofar as they are applicable to the authority in question.
- (4) In this regulation “statement of accounts” means—
- (a) in relation to a Category 1 authority, a statement of accounts that has been signed, dated and confirmed in accordance with regulation 9(1)(a);
 - (b) in relation to a Category 2 authority, a statement of accounts that has been considered, approved, signed and dated in accordance with the procedure set out in regulation 12(2);

(22) See regulation 12 of the Smaller Authorities Regulations for the application of section 20 of the Act in relation to a Category 2 authority with exempt status.

but has not yet had entered on it a certificate in accordance with section 20(2)(a) of the Act that the auditor has completed the audit in accordance with the Act.

Notice of conclusion of audit

16.—(1) As soon as reasonably practicable after conclusion of an audit, a relevant authority must publish (which must include publication on the authority’s website) a statement of the matters set out in paragraph (2).

- (2) The matters referred to in paragraph (1) are—
- (a) a statement—
 - (i) that the audit has been concluded and that the statement of accounts has been published; and
 - (ii) of the rights of inspection conferred on local government electors by section 25 of the Act;
 - (b) the address at which, and the hours during which, those rights may be exercised.
- (3) This regulation does not apply to a Category 2 authority with exempt status.

Written notice of objection

- 17.** Any written notice of objection given under section 27 of the Act must state—
- (a) the facts on which the local government elector relies;
 - (b) the grounds on which the objection is being made; and
 - (c) so far as is possible, particulars of—
 - (i) any item of account which is alleged to be contrary to law; and
 - (ii) any matter in respect of which it is proposed that the auditor could make a public interest report under section 24 of, and paragraph 1 of Schedule 7 to, the Act.

PART 6

Miscellaneous

Summary statement of accounts— Greater London Authority

18. The summary statement of accounts which the Greater London Authority (“the Authority”) is required to prepare under section 134 (summary statement of accounts of Authority and other bodies) of the Greater London Authority Act 1999(23) must be prepared in accordance with proper practices in relation to accounts and must include—

- (a) a summary of the income and expenditure of the Authority;
- (b) a summary of the income and expenditure of each of the functional bodies(24) and the London Pensions Fund Authority;
- (c) a summary of the capital expenditure of the Authority;
- (d) a summary of the capital expenditure of each of the functional bodies and the London Pensions Fund Authority.

(23) 1999 c. 29.

(24) See section 424 of the Greater London Authority Act 1999 (c. 29) for the definition of “functional body”.

Joint boards, combined authorities and National Park authorities

19.—(1) Any joint board, combined authority or National Park authority to which these Regulations apply must deposit with each constituent authority—

- (a) any documents it makes available for inspection under section 25(1) of the Act, as soon as reasonably practicable after notice has been given under regulation 16(1) or documents have been published under regulation 13(4) (as the case may be) in the case of a Category 2 authority with exempt status;
- (b) the annual governance statement prepared in accordance with regulation 6(2) or (3) (as the case may be); and
- (c) in the case of a Category 1 authority, the narrative statement prepared in accordance with regulation 8.

(2) In this regulation, “constituent authority” means any county, district, London borough or parish council for the time being entitled to appoint members of the board or authority in question; and in relation to a National Park authority includes—

- (a) the Secretary of State; and
- (b) Natural England.

Publication of annual audit letter

20.—(1) Where, following completion of an audit, a relevant authority receives any audit letter from the local auditor, the members of the relevant authority, or, in the case of a Category 1 authority, a committee of that authority, must meet to consider that letter as soon as reasonably practicable.

- (2) Following consideration of the letter in accordance with paragraph (1) the authority must—
- (a) publish (which must include publication on the authority’s website) the audit letter received from the local auditor; and
 - (b) make copies available for purchase by any person on payment of such sum as the relevant authority may reasonably require.

Transitory provisions

21. In relation to the financial years beginning in 2015 and 2016, these Regulations apply with the following modifications—

- (a) in regulation 10, paragraph (1) is to be read as if for “31st July” there were substituted “30th September”;
- (b) in regulation 15, paragraph (1)(a) is to be read as if for “June” there were substituted “July”.

Revocation and savings

22.—(1) Subject to paragraph (2), the instruments specified in the first column of the table in Schedule 2 are revoked to the extent mentioned in the second column of that table.

(2) Notwithstanding paragraph (1), the provisions revoked by that paragraph shall continue to have effect in relation to any financial year ending on or before 31st March 2015.

Signed by authority of the Secretary of State for Communities and Local Government

12th February 2015

Kris Hopkins
Parliamentary Under Secretary of State
Department for Communities and Local
Government

SCHEDULE 1

Regulation 7(3)

Employee and police officer remuneration

Employees and senior police officers with annual remuneration of £50,000 or more

1.—(1) Subject to sub-paragraph (2), a Category 1 authority must include in its statement of accounts, a note of the number of employees or senior police officers in the financial year to which the accounts relate whose remuneration fell in each bracket of a scale in multiples of £5,000 starting with £50,000.

(2) Sub-paragraph (1) does not apply in relation to persons to whom paragraph 2 (senior employees and relevant police officers) applies.

Senior employees and relevant police officers

2.—(1) A Category 1 authority must include in its statement of accounts a note of the remuneration, set out according to the categories listed in sub-paragraph (2), and the relevant authority's contribution to the person's pension, by the relevant authority during the financial year to which the statement relates, of—

- (a) senior employees, or
- (b) relevant police officers,

in respect of their employment by the relevant authority or in their capacity as a police officer, whether on a permanent or temporary basis, to be listed individually in relation to such persons who must nevertheless be identified by way of job title only (except for persons whose salary is £150,000 or more per year, who must also be identified by name).

(2) The categories are—

- (a) the total amount of salary, fees or allowances paid to or receivable by the person in the current and previous financial year;
- (b) the total amount of bonuses so paid or receivable in the current and previous financial year;
- (c) the total amount of sums paid by way of expenses allowance that are chargeable to United Kingdom income tax, and were paid to or receivable by the person;
- (d) the total amount of any compensation for loss of employment paid to or receivable by the person, and any other payments made to or receivable by the person in connection with the termination of their employment by the relevant authority, or, in the case of a relevant police officer, the total amount of any payment made to a relevant police officer who ceases to hold office before the end of a fixed term appointment;
- (e) the total estimated value of any benefits received by the person otherwise than in cash that do not fall within paragraphs (a) to (d) above, are emoluments of the person, and are received by the person in respect of their employment by the relevant authority or in their capacity as a police officer; and
- (f) in relation to relevant police officers, any payments, whether made under the Police Regulations 2003⁽²⁵⁾ or otherwise, which do not fall within paragraphs (a) to (e) above.

Interpretation

3. In this Schedule—

“contribution to the person's pension” means an amount to be calculated as follows—

(25) [S.I. 2003/527](#) to which there are amendments not relevant to these Regulations.

- (a) in relation to contributions to the local government pension scheme established under section 1 of the Public Service Pensions Act 2013(26), the sum of—
 - (i) the primary rate of the employer’s contribution specified in the rates and adjustment certificate prepared under regulation 62 (actuarial valuations of pension funds) of the Local Government Pension Scheme Regulations 2013(27), being the amount appropriate for that authority calculated in accordance with the certificate and regulation 67(4) (employer’s contributions) of those Regulations, multiplied by the person’s pensionable pay; and
 - (ii) if applicable, any additional contribution under regulations 16 or 68(3) of those Regulations;
- (b) in relation to contributions to the firefighters’ pension scheme established under the Fire Services Acts 1947 and 1959(28), the percentage of the aggregate of the pensionable pay calculated for the purposes of paragraph G2(3) and (4) of Schedule 2 to the Firemen’s Pension Scheme Order 1992(29), multiplied by the person’s pensionable pay;
- (c) in relation to contributions to the firefighters’ pension scheme established under the Fire and Rescue Services Act 2004(30), the percentage of the aggregate of the pensionable pay calculated for the purposes of paragraphs (2) and (3) of Rule 2 of Part 13 of Schedule 1 to the Firefighters’ Pension Scheme (England) Order 2006(31), multiplied by the person’s pensionable pay;
- (d) in relation to contributions to the firefighters’ pension scheme established under the Firefighters’ Pension Scheme (England) Regulations 2014(32), the employer contribution rate on the member’s pensionable earnings determined in accordance with regulation 117 of those Regulations, multiplied by the person’s pensionable pay; or
- (e) in relation to contributions to police pension schemes established under the Police Pensions Regulations 1987(33) or the Police Pensions Regulations 2006(34), the percentage of pensionable pay specified in regulation 5(1) (police authority contributions) of the Police Pension Fund Regulations 2007(35), multiplied by the person’s pensionable pay;

“employee” includes a member of the relevant authority and a holder of an office under the relevant authority, but does not include a person who is an elected councillor, and “employment” is to be construed accordingly;

“relevant police officer” means—

- (a) in relation to a police force maintained under section 2 (maintenance of police forces) of the Police Act 1996(36), the chief constable,

(26) 2013 c. 25. The Local Government Pension Scheme Regulations 2013 were made under section 7 of the Superannuation Act 1972. By virtue of section 28 of the Public Service Pensions Act 2013, they have effect as if they were a scheme established under section 1 of that Act to the extent that they make provision for the payment of pensions and other benefits in relation to a person’s service after 1st April 2014.

(27) S.I. 2013/2356.

(28) 1947 c. 41 and 1959 c. 44. Both these Acts have been repealed by the Fire and Rescue Services Act 2004 (c. 21) which contained savings in respect of pension schemes established under them.

(29) S.I. 1992/129. Paragraphs G2(3) and (4) were inserted by article 2 of, and paragraph 38(b) of Schedule 1 to, the Firefighters’ Pension Scheme (Amendment) (England) Order 2006 (S.I. 2006/1810). Article 4 of the Firefighters’ Pension Scheme (England and Scotland) Order 2004 (S.I. 2004/2306) changed the name of the scheme from ‘Firemen’s Pension Scheme’ to ‘Firefighters’ Pension Scheme’.

(30) 2004 c. 21.

(31) S.I. 2006/3432.

(32) S.I. 2014/2848.

(33) S.I. 1987/257.

(34) S.I. 2006/3415.

(35) S.I. 2007/1932. Regulation 5(1) was amended by S.I. 2008/1887.

(36) 1996 c. 16; section 2 was amended by section 99 of and Part 1 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13).

- (b) in relation to the metropolitan police force, the Commissioner of Police of the Metropolis,
- (c) in relation to the City of London police force, the Commissioner of Police for the City of London, and
- (d) any other senior police officer whose salary is £150,000 or more per year;

“remuneration” means all amounts paid to or receivable by a person, and includes sums due by way of expenses allowance (so far as those sums are chargeable to United Kingdom income tax), and the estimated money value of any other benefits received by an employee otherwise than in cash;

“senior employee” means an employee whose salary is £150,000 or more per year, or an employee whose salary is £50,000 or more per year (to be calculated pro rata for an employee employed for fewer than the usual full time hours for the relevant authority concerned) who falls within at least one of the following categories—

- (a) a person employed by a relevant authority to which section 2 (politically restricted posts) of the 1989 Act applies who—
 - (i) has been designated as head of paid service under section 4(1)(a) of that Act;
 - (ii) is a statutory chief officer within the meaning of section 2(6)(37) of that Act; or
 - (iii) is a non-statutory chief officer within the meaning of section 2(7) of that Act;
- (b) a person who is the head of staff for any relevant authority to which section 4 of the 1989 Act does not apply; or
- (c) a person who has responsibility for the management of the relevant authority to the extent that the person has power to direct or control the major activities of the authority (in particular activities involving the expenditure of money), whether solely or collectively with other persons; and

“senior police officer” means a member of a police force holding a rank above that of superintendent.

SCHEDULE 2

Regulation 22

Revocations

<i>Instrument and Reference</i>	<i>Extent of revocation</i>
The Accounts and Audit (England) Regulations 2011 (S.I. 2011/817)	The whole Regulations.
The Local Policing Bodies (Consequential Amendments) Regulations 2011 (S.I. 2011/3058)	Regulation 27.
The Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2012 (S.I. 2012/854)	Article 4(4).
The National Treatment Agency (Abolition) and the Health and Social Care Act	In Schedule 2, paragraph 163.

(37) Section 2(6) was amended by section 18 of and paragraph 3 of Schedule 2 to the Children Act 2004 (c. 31), paragraph 95 of Schedule 37 to the Education Act 1996 (c. 56), and section 127 of the Greater London Authority Act 1999 (c. 29), and was partially repealed by section 180 of and Schedules 13 and 14 to the Local Government etc (Scotland) Act 1994 (c. 39) and Schedule 2 to the Fire and Rescue Services Act 2004 (c. 21).

<i>Instrument and Reference</i>	<i>Extent of revocation</i>
2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235)	

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 3 of the Local Audit and Accountability Act 2014 (“the Act”) requires a relevant authority (as defined in Schedule 2 to the Act), other than a health service body, to keep adequate accounting records and to prepare a statement of accounts. Section 25 requires a relevant authority to make various documents available for inspection to local electors. Sections 26 and 27 grant various rights of inspection and objection and to question the local auditor to local electors and other interested persons.

These Regulations set out the detailed requirements on a relevant authority in relation to the duties and rights set out above. In particular, there are detailed rules for the preparation, approval and publication of the statement of accounts.

These Regulations revoke the Accounts and Audit Regulations 2011 (S.I. 2011/817), although those regulations continue to have effect in relation to financial years ending on or before 31st March 2015.

Part 1 defines the relevant terms. In particular, it defines the distinction between a Category 1 and a Category 2 authority for the purpose of setting out the different procedures for the preparation, signing, approval and publication of the statement of accounts in respect of each.

Part 2 sets out the requirements on all relevant authorities in relation to internal control, including requirements in respect of accounting records, internal audit and review of the system of internal control.

Part 3 and Schedule 1 set out the specific requirements for a Category 1 authority in relation to the preparation, approval and publication of the statement of accounts required by section 3(3) of the Act. Part 4 sets out the equivalent requirements in relation to Category 2 authorities.

Part 5 sets out the requirements on a relevant authority in relation to the exercise of public rights of inspection, objection and the questioning of the local auditor under sections 26 and 27 of the Act. It also prescribes the period during which the rights conferred by sections 26 and 27 of the Act may be exercised. In addition, it sets out the required content of a notice of objection given in pursuance of section 27 of the Act.

Part 6 contains miscellaneous provisions including provisions concerning the Greater London Authority, joint boards, combined authorities and National Park authorities as well as in relation to the publication of an annual audit letter. It contains transitory provisions which allow Category 1 authorities additional time to publish the statement of accounts and commence the period for the exercise of public rights in the financial years commencing 1st April 2015 and 1st April 2016. It contains a provision revoking the Accounts and Audit Regulations 2011 along with various legislation amending those regulations. Finally it contains a saving provision.

Schedule 1 contains a list of the required matters to be included in the statement of accounts for a Category 1 authority in relation to employee and police officer remuneration.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Schedule 2 sets out a list of instruments revoked or partially revoked by these Regulations and the extent of those revocations.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

STATUTORY INSTRUMENTS

2015 No. 184

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Audit (Smaller Authorities) Regulations 2015

Made - - - - 9th February 2015

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 5(1) to (3), (4)(a), (c) to (g), (5)(a) to (c), (6) to (9), 6(4), 43(2) and 46(1) of the Local Audit and Accountability Act 2014⁽¹⁾.

In accordance with section 43(3) and (4)(d) of that Act, a draft of these Regulations was laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Local Audit (Smaller Authorities) Regulations 2015 and come into force on the day after the day on which they are made .

Interpretation

2. In these Regulations—

“the Act” means the Local Audit and Accountability Act 2014, and, unless otherwise provided references to the Act or to any provision of it are to the Act or that provision as it has effect by virtue of these Regulations;

“audit contract” means a contract between a specified person and a local auditor for the carrying out of audit work;

“audit work” means, in relation to an authority, the carrying out of the assurance engagement functions of a local auditor under the Act in relation to the accounts of that authority—

(a) in compliance with, or with the relevant part or parts of, the code of audit practice prepared under Schedule 6 to the Act applicable to that authority; and

- (b) in accordance with any procedures specified in guidance issued by the Comptroller and Auditor General under paragraph 9 of that Schedule,

to enable the auditor to issue a report on the annual return prepared by the authority;

“compulsory appointing period” means the financial year or years for which a relevant specified person is responsible for appointing a local auditor to conduct the audit of the accounts for any authority which becomes an opted in authority by virtue of regulation 11, which—

- (a) is specified in a invitation; and
(b) relates to—
(i) a specific financial year; or
(ii) a period of consecutive financial years, not exceeding five years;

“exempt authority” means a smaller authority that has certified itself as exempt in accordance with regulation 9(1);

“full audit authority” means a smaller authority which has decided to prepare accounts and be audited as if it was a relevant authority which is not a smaller authority, in accordance with regulation 8;

“invitation” has the meaning given in regulation 10(5);

“newly established smaller authority” means—

- (a) a smaller authority which was not in existence at the time that the relevant specified person issued an invitation under regulation 10 on a class of smaller authorities within which the smaller authority now falls; or
(b) a smaller authority which was not a smaller authority at the time that the relevant specified person issued an invitation under regulation 10 on a class of smaller authorities within which the authority now falls;

“opted in authority” means a smaller authority for which the responsibility for the appointment of a local auditor has become that of a specified person instead of that of the authority by virtue of regulations 11, 14 or 15;

“relevant specified person”, in relation to a smaller authority, means the person specified under regulation 3(2) in relation to the class of authorities within which the smaller authority falls;

“smaller authority” does not include—

- (a) a health service body;
(b) the Mayor’s Office for Policing and Crime;
(c) a police and crime commissioner for a police area in England;
(d) a chief constable for an area in England;
(e) the Commissioner of Police of the Metropolis; or
(f) the Common Council;

“specified person” means a person specified by the Secretary of State under regulation 3 to appoint a local auditor; and

“website” means a website which is publicly accessible free of charge.

PART 2

Specified person

Specification of a person to appoint local auditors

3.—(1) The Secretary of State may, in accordance with regulation 4, specify a person to appoint a local auditor to audit the accounts of an opted in authority.

(2) The Secretary of State may specify different persons in relation to different classes of smaller authorities.

Procedure for specifying a person to appoint local auditors

4.—(1) The specification of a person must be in writing and may, but need not, specify a date when the specification ends.

(2) The Secretary of State must publish the relevant details of any specified person—

- (a) on a website;
- (b) in the London Gazette.

(3) The relevant details are—

- (a) the person's name;
- (b) the person's registered address (if any);
- (c) the person's address for correspondence; and
- (d) details of the class of smaller authorities in relation to which that person is the specified person, if the class is not all smaller authorities.

Ending specification

5.—(1) The Secretary of State may end the specification of a specified person in accordance with this regulation.

(2) Before ending the specification, the Secretary of State must—

- (a) consult such smaller authorities as the Secretary of State considers have an interest;
- (b) consult such associations of smaller authorities or relevant authorities as appear to the Secretary of State to have an interest.

(3) The Secretary of State must—

- (a) give notice to the specified person of the ending of the specification, giving—
 - (i) the date on which the specification is to end,
 - (ii) reasons for ending the specification;
- (b) publish notice of the ending of the specification—
 - (i) on a website, and
 - (ii) in the London Gazette;
- (c) make arrangements for notifying opted in authorities of the ending of the specification.

(4) The Secretary of State may make arrangements under paragraph (3)(c) by requiring the specified person to notify opted in authorities.

Consequences of end of specification

6.—(1) If the Secretary of State gives notice to a specified person under regulation 5(3)(a), the Secretary of State may, either before or after (or both before and after) the specification ends—

- (a) exercise the functions of the specified person arising by virtue of these Regulations;
- (b) transfer rights and liabilities of the specified person arising by virtue of these Regulations to—
 - (i) the Secretary of State; or
 - (ii) another specified person.

(2) The Secretary of State may transfer some rights and liabilities under paragraph (1)(b) to the Secretary of State and some to another specified person.

(3) The specified person to whom notice is given under regulation 5(3)(a) must—

- (a) disclose all its rights and liabilities arising by virtue of these Regulations to the Secretary of State;
- (b) co-operate with the Secretary of State and any other specified person for the purpose of ensuring an audit of an opted in authority is not adversely affected.

Additional functions of specified person

7. A specified person must—

- (a) keep a record of—
 - (i) authorities which are within the class of authorities to which an invitation under regulation 10 must be issued, and
 - (ii) newly established authorities to which it must give notice under regulation 16;
- (b) publish and keep up to date, on a website—
 - (i) the records mentioned in sub-paragraph (a), and which of the authorities are opted in authorities;
 - (ii) the contact details for the auditor appointed to each opted in authority other than an exempt authority;
- (c) design and implement appropriate systems to—
 - (i) oversee issues of independence of any auditor which it has appointed, arising both at the point of appointment and when undertaking audit work;
 - (ii) monitor compliance by a local auditor against the contractual obligations in an audit contract;
 - (iii) resolve disputes or complaints from—
 - (aa) local auditors, opted in authorities and local government electors relating to audit contracts and the carrying out of audit work by auditors it has appointed;
 - (bb) authorities regarding the refusal of a request to become an opted in authority under regulation 15.

PART 3

Types of authority

Full audit authorities

8.—(1) A smaller authority, other than one to whom paragraph (2) applies, may decide to prepare a statement of accounts and be audited as if it were a relevant authority which is not a smaller authority in accordance with this regulation (“a full audit authority”).

(2) This paragraph applies to an authority if—

- (a) the higher of the authority’s gross income for the financial year and its gross expenditure for the year does not exceed £25,000; or
- (b) the higher of the authority’s gross receipts and gross payments for the financial year does not exceed £25,000.

(3) A full audit authority is, for the purposes of these Regulations, to be treated as if it were not a smaller authority other than for the purposes of—

- (a) the definitions of “full audit authority” and “smaller authority” in regulation 2;
- (b) paragraph (1) of this regulation;
- (c) regulations 10(1) and 14(1)(b); and
- (d) regulation 24(2)(a) and paragraph (1) of that regulation insofar as it relates to paragraph (2) (a).

(4) A full audit authority may decide to prepare a statement of accounts and be audited as a smaller authority, and so cease to be a full audit authority.

Exempt authorities

9.—(1) A smaller authority may certify itself as an exempt authority for a financial year if—

- (a) the qualifying condition for that authority and that financial year in paragraph (2) is met;
- (b) the financial year is not one of the first three years of the authority’s existence; and
- (c) none of the relevant circumstances in paragraph (3) apply in relation to the keeping of the accounts for the preceding financial year or to the audit of those accounts.

(2) The qualifying condition is met for an authority and a financial year if—

- (a) the higher of the authority’s gross income for the year and its gross expenditure for the year does not exceed £25,000, or
- (b) the higher of the authority’s gross receipts and gross payments for the year does not exceed £25,000.

(3) The relevant circumstances are—

- (a) the local auditor has made a public interest report(2) in respect of the authority or any entity connected with it;
- (b) the local auditor has made a recommendation to the authority, relating to the authority or any entity connected with it;
- (c) the local auditor has issued an advisory notice under paragraph 1(1) of Schedule 8 to the Act, and has not withdrawn the notice;

(2) See section 44 of the Local Audit and Accountability Act 2014 for meaning of “public interest report” and “recommendation”.

- (d) the local auditor has commenced judicial review proceedings under section 31(1) of the Act, and the proceedings have not been withdrawn nor has the court found against the auditor;
 - (e) the local auditor has made an application under section 28(1) of the Act for a declaration that an item of account is unlawful, and the application has not been withdrawn nor has the court refused to make the declaration; or
 - (f) the court has declared an item of account unlawful after a person made an appeal under section 28(3) of the Act.
- (4) Subject to paragraph (5), where any relevant circumstances under paragraph (3) apply after the authority has certified itself as an exempt authority in relation to a financial year, the authority ceases to be an exempt authority.
- (5) If, after the authority ceases to be an exempt authority because a relevant circumstance in paragraphs (3)(c) to (e) applied—
- (a) the advisory notice referred to in paragraph (3)(c) is withdrawn;
 - (b) the judicial review proceedings referred to in paragraph (3)(d) are withdrawn or the court finds against the local auditor; or
 - (c) the application referred to in paragraph (3)(e) is withdrawn or the court has refused to make the declaration;
- the authority becomes an exempt authority again.
- (6) An authority which has certified itself as exempt must—
- (a) if the authority is an opted in authority, give notice to the relevant specified person as soon as practicable after the certification; and
 - (b) publish a notice—
 - (i) stating that it has certified itself as exempt;
 - (ii) providing an explanation of the effect of that certification in relation to—
 - (aa) the conduct of the audit of the authority; and
 - (bb) the appointment of an auditor to audit the accounts of the authority;
- (7) The notice must be published—
- (a) if the authority has a website, on its website;
 - (b) otherwise in such manner as the authority thinks is likely to bring the notice to the attention of persons who live in its area.
- (8) An authority which certified itself as exempt, but which has ceased to be an exempt authority in accordance with paragraph (4) must—
- (a) if the authority is an opted in authority, give notice to the relevant specified person as soon as practicable after the authority ceases to be an exempt authority; and
 - (b) publish a notice—
 - (i) stating that it is no longer an exempt authority;
 - (ii) providing an explanation of the effect of this in relation to—
 - (aa) the conduct of the audit of the authority; and
 - (bb) the appointment of an auditor to audit the accounts of the authority;
- (9) The notice must be published—
- (a) if the authority has a website, on its website;

- (b) otherwise in such manner as the authority thinks is likely to bring the notice to the attention of persons who live in its area.
- (10) An authority which becomes an exempt authority again in accordance with paragraph (5) must—
 - (a) if the authority is an opted in authority, give notice to the relevant specified person as soon as practicable after the authority has become an exempt authority again; and
 - (b) publish a notice—
 - (i) stating that it has become an exempt authority again;
 - (ii) providing an explanation of the effect of this in relation to—
 - (aa) the conduct of the audit of the authority; and
 - (bb) the appointment of an auditor to audit the accounts of the authority;
- (11) The notice must be published—
 - (a) if the authority has a website, on its website;
 - (b) otherwise in such manner as the authority thinks is likely to bring the notice to the attention of persons who live in its area.

PART 4

Invitation to become an opted in authority

Issuing of invitation to smaller authorities

- 10.**—(1) Before every compulsory appointing period begins, a relevant specified person must issue an invitation in accordance with this regulation to all authorities which it reasonably believes—
- (a) to be smaller authorities, and
 - (b) to fall within the class of authorities in relation to which the person has been specified under regulation 3(2).
- (2) The invitation must be published in such manner as the relevant specified person thinks is likely to bring it to the attention of the principal authorities concerned.
- (3) The invitation must contain the following details—
- (a) the length of the compulsory appointing period, specifying the financial year or years to which it relates;
 - (b) the closing date for the giving of notice to the specified person by an authority within the class giving its response to the invitation (and that date must allow at least eight weeks for the response beginning on the date the invitation is published);
 - (c) a statement that the specified person will not be under a duty to appoint a local auditor to a full audit authority or any other authority which does not become an opted in authority;
 - (d) an explanation of the procedures by which an authority—
 - (i) becomes an opted in authority; or
 - (ii) may reject the invitation.
- (4) An invitation may not relate to a financial year which commences before 1st April 2017.
- (5) In these Regulations “invitation” means an invitation to become an opted in authority for the duration of the compulsory appointing period.

Opting in

11.—(1) A smaller authority which is within the class of authorities to whom an invitation relates, may accept that invitation by giving notice to that effect to the relevant specified person on or before the closing date mentioned in regulation 10(3)(b).

(2) A smaller authority which gives notice under paragraph (1) becomes an opted in authority on the date on which the notice is received by the relevant specified person.

(3) A smaller authority which is within the class of authorities to whom an invitation relates but which does not either give the notice referred to in either paragraph (1) or regulation 12 becomes an opted in authority on the day after the closing date mentioned in regulation 10(3)(b).

(4) An authority which has become an opted in authority under this regulation is an opted in authority only for the duration of the compulsory appointing period specified in the invitation.

Opting out

12.—(1) A smaller authority, which is within the class of authorities to whom an invitation relates, may reject that invitation by giving notice to that effect to the relevant specified person, on or before the closing date mentioned in regulation 10(3)(b).

(2) Subject to regulation 15, an authority which gives notice under paragraph (1) does not become an opted in authority.

Invitation to non-qualifying authorities: duty to notify

13.—(1) If an authority which is within the class of authorities to whom an invitation relates—

- (a) is a full audit authority, it must give notice to the specified person that it is a full audit authority;
- (b) does not fall within the class of authorities in relation to which the specified person is the relevant specified person, it must give notice to the specified person that it does not fall within the class; and

in each case, notice must be given as soon as practicable and in any event on or before the closing date mentioned in regulation 10(3)(b).

(2) Paragraph (3) applies where an authority fails to give notice to the relevant specified person as required by paragraph (1).

(3) The specified person may recover from the authority any reasonable costs incurred in relation to that authority by—

- (a) the specified person; or
- (b) a local auditor appointed to the authority by the specified person,

until the date when the authority notifies the specified person as required by paragraph (1).

PART 5

Opted in authorities during compulsory appointing period

Right to become an opted in authority during a compulsory appointing period

14.—(1) During a compulsory appointing period, the following authorities have the right to become an opted in authority, in accordance with this regulation—

- (a) a newly established smaller authority;

- (b) a smaller authority that was a full audit authority at the time the invitation was published under regulation 10(2), but which has subsequently ceased to be a full audit authority; and
- (c) a smaller authority to which a relevant specified person should have issued an invitation under regulation 10 but failed to do so.

(2) An authority falling within paragraph (1) may become an opted in authority by giving notice to the relevant specified person of its decision to become an opted in authority; and such notice must specify the authority's postal address.

(3) An authority which gives a notice under paragraph (2) becomes an opted in authority on the date on which the notice is received by the specified person.

(4) The authority is an opted in authority for the remainder of the compulsory appointing period which is in existence on the date mentioned in paragraph (3).

Right to request to become an opted in authority during a compulsory appointing period

15.—(1) During a compulsory appointing period, any authority which rejected an invitation made by a relevant specified person under regulation 12 may make a request to the relevant specified person to become an opted in authority, in accordance with this regulation.

(2) The authority must give notice to the relevant specified person of its request to become an opted in authority.

(3) The relevant specified person must—

- (a) consider the authority's request to opt in,
- (b) agree to the request unless the specified person has reasonable grounds for refusing it,
- (c) give notice to the authority of the decision in relation to the request as soon as practicable, and
- (d) provide reasons if the request is refused.

(4) The authority becomes an opted in authority on the date on which the relevant specified person gives notice to the authority agreeing to its request to become an opted in authority.

(5) The authority is an opted in authority for the remainder of the compulsory appointing period which is in existence on the date mentioned in paragraph (4).

(6) A relevant specified person may recover its reasonable costs for making arrangements to appoint a local auditor to an authority which becomes an opted in authority under this regulation, from that authority.

Newly established smaller authorities

16. As soon as a specified person becomes aware of the existence of—

- (a) a newly established smaller authority, or
- (b) a smaller authority on whom it should have served a proposal under regulation 10 but failed to do so,

which falls within the class of authorities in relation to which the person was specified under regulation 3(2), it must write to the authority and provide it with details of the right to become an opted in authority under regulation 14.

Opted in authority ceasing to qualify: duty to notify

17.—(1) An opted in authority which becomes a full audit authority must give notice to the relevant specified person that it is a full audit authority as soon as practicable after it becomes a full audit authority.

(2) An opted in authority which ceases to be a smaller authority must, as soon as practicable after the day on which it ceases to be such an authority, give notice of that fact to the relevant specified person.

(3) An opted in authority which ceases to fall within the class of authority for which the specified person was the relevant specified person, must give notice to the relevant specified person as soon as practicable after it should reasonably have been aware that it no longer fell within the class.

(4) Paragraph (5) applies where an authority fails to give notice to the relevant specified person as required by paragraph (1), (2) or (3).

(5) The relevant specified person may recover any reasonable costs incurred in relation to that authority by—

- (a) the specified person, or
- (b) a local auditor appointed to the authority by the specified person,

until the date when the authority in fact gives notice to the specified person.

PART 6

Appointment of local auditors to opted in authorities

Appointment of local auditors to opted in authorities

18.—(1) Subject to paragraph (3), the relevant specified person must appoint a local auditor to conduct the audit of the accounts of each opted-in authority for the appropriate period.

(2) The appropriate period is—

- (a) for an authority which is an opted in authority by virtue of regulation 11, the compulsory appointing period;
- (b) for an authority which is an opted in authority by virtue of regulation 14 or 15, the remainder of the current compulsory appointing period beginning with the day on which the authority became an opted in authority.

(3) Before appointing a local auditor to an opted in authority, a specified person must consult the authority about the proposed appointment.

(4) In the case of an exempt authority, and subject to paragraph (6), a relevant specified person is only required to appoint a local auditor to audit its accounts after receipt from a local government elector of—

- (a) a request for an opportunity to question the auditor about the authority's accounting records under section 26(2); or
- (b) an objection under section 27(1).

(5) Where a request or objection is received in accordance with paragraph (4), the specified person must appoint an auditor as soon as practicable and in any event within the period of four weeks beginning with the date that the request or objection is received.

(6) The local auditor must only be appointed for the financial year to which the request or objection relates.

(7) Where the specified person appointed a local auditor because the authority ceased to be an exempt authority in accordance with regulation 9(4), that auditor may remain in office if the authority becomes an exempt authority again in accordance with regulation 9(5), but the auditor's term of appointment must be amended if necessary to meet the requirement in paragraph (6).

(8) Paragraph (7) does not prevent the specified person from re-appointing a local auditor.

Retention of local auditor by non-qualifying authority

19.—(1) This paragraph applies where a specified person has appointed a local auditor to audit the accounts of an authority which the specified person reasonably believed to be an opted in authority for which the specified person was the relevant specified person, but at the time of the appointment of the auditor the authority—

- (a) was a full audit authority;
- (b) was not a smaller authority; or
- (c) did not fall within the class of authorities for which the specified person is the relevant specified person.

(2) This paragraph applies where a specified person has appointed a local auditor to audit the accounts of an opted in authority for which the specified person was, at the time of the appointment, the relevant specified person, but subsequently the authority—

- (a) has become a full audit authority;
- (b) has ceased to be a smaller authority; or
- (c) no longer falls within the class of authorities for which the specified person is the relevant specified person.

(3) Where the specified person has appointed a local auditor to an authority and paragraph (1) or (2) applies, the auditor may remain in office for the relevant financial year subject to agreement between the authority and the auditor.

(4) In paragraph (3) “relevant financial year” means the financial year in which the circumstances first fall within paragraph (1)(a), (b) or (c) or paragraph (2)(a), (b) or (c)

Resignation and removal of auditors

20.—(1) The Local Audit (Auditor Resignation and Removal) Regulations 2014(3) are—

- (a) in relation to opted in authorities, disapplied;
- (b) in relation to smaller authorities which are not opted in authorities, modified as follows—
 - (i) omit the definition of “supervisory body” in regulation 1(2);
 - (ii) omit the words in regulation 7(5)(a) after the words “auditor panel” to the end of sub-paragraph (a); and
 - (iii) omit regulation 8.

(2) A specified person may remove a local auditor which it appointed from office before the expiry of the term of that office.

(3) Subject to paragraph (5), when a local auditor appointed by a relevant specified person to an opted in authority leaves office, whether through—

- (a) resignation by the auditor from office, or
- (b) removal by the specified person of the auditor from office,

the relevant specified person must appoint a new local auditor to that opted in authority as soon as practicable after the auditor leaves office.

(4) Paragraph (5) applies where a local auditor appointed to an opted in authority, which is an exempt authority, leaves office, whether through—

- (a) resignation by the auditor from office, or
- (b) removal by the specified person of the auditor from office.

(5) Regulation 18(3) and (4) apply in relation to a local auditor to an authority, so long as it remains an exempt authority, where the relevant specified person has not received in the financial year for which the auditor was appointed—

- (a) a request for an opportunity to question the auditor about the authority's accounting records under section 26(2); or
- (b) an objection under section 27(1).

(6) Before appointing an auditor under paragraph (3), the specified person must consult the authority about the proposed appointment.

(7) An opted in authority which is not an exempt authority must, within the period of 28 days beginning with the day on which an appointment under paragraph (3) is notified to the authority by the relevant specified person, publish a notice that—

- (a) states that the relevant specified person has made the appointment,
- (b) identifies the local auditor that has been appointed, and
- (c) specifies the period for which the local auditor has been appointed.

(8) The notice must be published—

- (a) if the authority has a website, on its website;
- (b) otherwise, in such manner as the authority thinks is likely to bring the notice to the attention of persons who live in its area.

(9) The authority must exclude from the notice information whose disclosure would prejudice commercial confidentiality, unless there is an overriding public interest in favour of its disclosure.

PART 7

Fees for audit

Setting of fee scales for audits

21.—(1) A specified person must specify, before the start of the financial year to which the scale of fees relates, the scale or scales of fees for the audit of the accounts of opted in authorities for which it is responsible for appointing the local auditor.

(2) A scales of fees must relate to a particular financial year, but may be set for more than one financial year at a time.

(3) A specified person may vary the scale of fees which it has specified, but must not do so once the financial year to which the scale of fees relates has begun.

(4) Before specifying or varying any scale of fees, a specified person must consult—

- (a) such representative associations of smaller authorities as appear to the specified person to be concerned, and
- (b) such bodies of accountants as appear to the specified person to be appropriate.

(5) A scale of fees may take account of the costs or expenses and anticipated costs or expenses of—

- (a) the specified person in respect of any function imposed by or under the Act;
- (b) anything which is reasonably incidental or supplementary to the functions of the appointing person imposed by or under the Act;
- (c) local auditors which are recoverable from authorities under the Act, specified in regulation 22(3).

- (6) The scale of fees applicable to the audit of an authority—
- (a) which became an opted in authority under regulation 14 or 15, or
 - (b) which is an exempt authority to which an auditor has been appointed under paragraph (3),
- must be the same scale of fees as is applicable to other opted in authorities falling within the same class of authorities as the authority.

Setting of fee for audit

22.—(1) Subject to paragraph (2), the fee for the audit of the accounts of an opted in authority is to be set in accordance with the appropriate fee scale.

(2) If it appears to a specified person, on the basis of information supplied by the local auditor which it has appointed—

- (a) that the work involved in a particular audit was substantially more or less than that envisaged by the appropriate scale, or
- (b) any of the provisions mentioned in paragraph (3) apply,

the specified person may charge a fee which is larger or smaller than that referred to in paragraph (1) as appropriate.

(3) The costs or expenses of the local auditor recoverable from an authority under any of the following provisions of the Act are recoverable as part of the fee for the audit of the accounts of the opted in authority to which the costs or expenses relate—

- (a) section 23(3) (offences relating to auditor’s right to documents and information);
- (b) section 26(3) (inspection of documents etc);
- (c) section 27(7) (right to make objections at audit);
- (d) section 28(7) (declaration that item of account is unlawful);
- (e) section 31(6) (power of auditor to apply for judicial review);
- (f) paragraph 1(5) of Schedule 7 (public interest reports);
- (g) paragraph 2(4) of Schedule 7 (written recommendations); and
- (h) paragraph 3(5) of Schedule 8 (advisory notices).

(4) The specified person must notify the authority concerned of any larger or smaller fee, giving reasons.

Payment of fee

23. An opted in authority must pay to the relevant specified person the fee set under regulation 22.

PART 8

Miscellaneous

Requirements in relation to certain functions

24.—(1) A smaller authority may only exercise the functions in paragraph (2) by the members of the authority meeting as a whole.

(2) The functions are—

- (a) deciding to become, or to cease to be, a full audit authority under regulation 8;
- (b) deciding to self-certify as an exempt authority under regulation 9;

- (c) deciding to reject an invitation under regulation 12;
- (d) deciding to request to become an opted in authority under regulation 15.

Duty to provide information

25. A smaller authority or local auditor appointed by the specified person must, so far as reasonably practicable, provide the specified person with such information that it may reasonably require for the purposes of exercising its functions under these Regulations.

Notices

26. A notice or document that is required under these Regulations to be given to a person or authority must be in writing and may be served by—

- (a) delivering it to that person’s or authority’s address;
- (b) sending it by post to that person’s or authority’s address; or
- (c) electronic service in accordance with regulation 27.

Electronic service

27.—(1) This regulation applies in respect of electronic service of a notice or document on a person or an authority (“the recipient”).

(2) Transmission of the notice or document to the recipient by means of an electronic communication has effect for the purposes of service of the notice or document on the recipient if, and only if, the conditions in paragraph (3) are met.

(3) The conditions are that—

- (a) the recipient has stated a willingness to receive notices or documents by means of an electronic communication,
- (b) the statement has not been withdrawn, and
- (c) the notice or document was transmitted to an electronic address specified by the recipient.

(4) A statement may be limited to notices or documents of a specified description.

(5) A statement may require a notice or document to be in a specified electronic form.

(6) A statement may be modified or withdrawn—

- (a) in a case where the statement was made by being published, by publishing the modification or withdrawal in the same or in a similar manner;
- (b) in any other case, by giving a notice to the person to whom the statement was made.

(7) Where a notice or document is served on a recipient in accordance with this regulation, the notice or document is, unless the contrary is proved, to be deemed to have been given to that recipient at the time at which the electronic communication is transmitted.

(8) In this regulation—

“electronic address” includes any number or address used for the purposes of receiving electronic communications;

“electronic communication” means an electronic communication within the meaning of section 15 of the Electronic Communications Act 2000 (general interpretation)(4);

“specified” means specified in a statement made for the purposes of paragraph (3)(a).

(4) 2000 c. 7. The definition of “electronic communication” in section 15 was amended by Schedule 17 to the Communications Act 2003 (c. 21).

Modifications to the Act and other Acts

28. The Schedule to these Regulations has effect.

Signed by authority of the Secretary of State for Communities and Local Government

9th February 2015

Kris Hopkins
Parliamentary Under Secretary of State
Department for Communities and Local
Government

SCHEDULE

Regulation 28

Modifications to the Act and other Acts

PART 1

General modifications

1. The Act applies in relation to the audit of the accounts of smaller authorities as it applies in relation to the audit of the accounts of other relevant authorities subject to the modifications to the Act in Parts 2 to 4 of this Schedule.

PART 2

Modification to Part 3 (appointment etc. of local auditors)

Appointment of local auditor

2.—(1) Section 7 applies, in relation to an opted in authority which is an exempt authority, as if for subsections (1) to (4) there were substituted—

“(1) Subject to subsection (3), the specified person responsible for appointing the local auditor to audit the accounts of an opted in authority which is an exempt authority is not required to appoint an auditor unless the specified person receives from a local government elector—

- (a) a request for an opportunity to question the auditor about the authority’s accounting records under section 26(2); or
- (b) an objection under section 27(1).

(2) Where a request or an objection is received in accordance with subsection (1), the specified person must appoint an auditor as soon as practicable, and in any event within the period of 4 weeks beginning with the day that the request or objection is received.

(3) The local auditor must be appointed only for the financial year to which the request or the objection relates.

(4) Where the specified person appointed a local auditor because the authority ceased to be an exempt authority in accordance with regulation 9(4) of the Local Audit (Smaller Authorities) Regulations 2015, that auditor may remain in office if the authority becomes an exempt authority again in accordance with regulation 9(5) of those Regulations, but the auditor’s term of appointment must be amended if necessary to meet the requirement in subsection (3).

(5) Subsection (3) does not prevent the specified person from re-appointing a local auditor.”.

(2) Section 7 applies in relation to an opted in authority which is an exempt authority as if subsections (6) and (8) were omitted.

3.—(1) Section 7 applies in relation to an opted in authority which is not an exempt authority—

- (a) as if for subsection (1) there were substituted—

“(1) Subject to subsection (1A), the specified person must, not later than 31st December in the preceding financial year, appoint a local auditor to audit the accounts

of any opted in authority for which it is responsible for appointing the local auditor for a financial year.

(1A) Where an opted in authority was an exempt authority but the authority ceased to be an exempt authority in accordance with regulation 9(4) of the Local Audit (Smaller Authorities) Regulations 2015, the specified person responsible for appointing that authority's local auditor must appoint a local auditor to audit the authority's accounts—

- (a) in accordance with subsection (1) if the notice given in accordance with regulation 9(8)(a) of those Regulations is given at least four weeks prior to 31st December in the preceding financial year; and
 - (b) if such notice is given less than four weeks before 31st December in the preceding financial year, as soon as reasonably practicable, and in any event within the period of four weeks beginning with the day that the request or objection is received.”;
- (b) as if in subsection (2)—
- (i) for “A relevant authority” there were substituted “The specified person”;
 - (ii) for “its accounts” there were substituted “the accounts”; and
 - (iii) in paragraph (b) for “the authority” there were substituted “the specified person”;
- (c) as if in subsection (3) for “the relevant authority” there were substituted “the specified person”;
- (d) as if in subsection (6) for “a relevant authority” there were substituted “an authority”; and
- (e) as if subsection (8) were omitted.

Procedure for appointment

4. In relation to an opted in authority which is an exempt authority, the Act has effect as if section 8 were omitted.

5. Section 8 applies in relation to an opted in authority which is not an exempt authority as if—

- (a) subsection (1) were omitted;
- (b) in subsection (2)—
 - (i) for “The relevant authority” there were substituted “An opted in authority”;
 - (ii) for “the appointment is made” there were substituted “the appointment of a local auditor in relation to the authority is notified to the authority by the specified person”;
 - (iii) in paragraph (a), for “it has made” there were substituted “the specified person has made”;
 - (iv) at the end of paragraph (b) there were inserted “and”;
 - (v) paragraphs (d) and (e) were omitted;
- (c) in subsection (3) “relevant” were omitted;
- (d) in subsection (4)—
 - (i) for “A relevant authority” the first time it appears there were substituted “An authority”;
 - (ii) in paragraph (a) the words from “in the case” to “health service body,” were omitted;
 - (iii) paragraphs (b) and (c) were omitted;
- (e) in subsection (5) “relevant” were omitted; and
- (f) subsection (6) were omitted.

Requirement to have auditor panel

6. Section 9 applies in relation to a smaller authority as if—
- (a) in subsection (1), after “relevant authority” there were inserted “other than an opted in authority”; and
 - (b) after subsection (1) there were inserted—
 - “(1A) An authority may have an auditor panel at any time, but that panel must not be consulted about—
 - (a) whether or not the authority is to become an opted in authority;
 - (b) matters relating to an auditor appointed by a specified person; or
 - (c) matters relating to an audit carried out by an auditor appointed by a specified person.”.

Functions of auditor panel

7. Section 10 applies in relation to a smaller authority as if before subsection (1) there were inserted—
- “(A1) This section is subject to section 9.”

Failure of specified person to appoint local auditor

8. In the event that the specified person fails to appoint a local auditor to an opted in authority in accordance with Part 3 of the Act, section 12 applies as if—
- (a) for subsection (1) there were substituted—
 - “(1) If a specified person fails to appoint a local auditor to audit the accounts of an opted in authority in accordance with this Part, the authority must immediately inform the specified person and the Secretary of State of that fact.”;
 - (b) in subsection (2)—
 - (i) for the words “relevant authority” to “commissioning group,” there were substituted “specified person”;
 - (ii) after “local auditor”, the first time those words appear, there were inserted “to audit the accounts of an opted in authority”; and
 - (iii) after paragraph (a) there were inserted—
 - “(aa) “(aa) direct that specified person to appoint an auditor, or”;
 - (c) after subsection (2) there were inserted—
 - “(2A) Where an appointment is made under subsection (2)(aa)—
 - (a) the appointment takes effect on such terms as the Secretary of State may direct; and
 - (b) the specified person may recover from the authority its reasonable administrative costs of making arrangements to appoint a local auditor for the authority.”;
 - (d) in subsection (3)(a) “relevant” were omitted;
 - (e) in subsection (4)—
 - (i) “relevant” were omitted both times it occurs;
 - (ii) in paragraph (a), after “authority” there were inserted “and where the Secretary of State intends to direct the specified person, that person”; and

- (iii) in paragraph (b), after “authority” there were inserted “or the specified person”; and
- (f) in subsection (5), for “a relevant authority” there were substituted “an authority”.

Failure of smaller authority which is not an opted in authority to appoint auditor

9. In the event that a smaller authority which is not an opted in authority fails to appoint a local auditor in accordance with Part 3 of the Act, section 12 applies as if—

- (a) in subsection (1), for the words “relevant authority” to “commissioning group,” there were substituted “smaller authority”;
- (b) in subsection (2)—
 - (i) for the words “relevant authority” to “commissioning group,” there were substituted “smaller authority”; and
 - (ii) after paragraph (a) there were inserted—
 - “(aa) “(aa) direct the person who is specified under regulation 3(2) of the Local Audit (Smaller Authorities) Regulations 2015 in relation to the class of smaller authorities within which the authority falls, to appoint an auditor, or”;
- (c) after subsection (2) there were inserted—
 - “(2A) Where an appointment is made under subsection (2)(aa)—
 - (a) the appointment takes effect on such terms as the Secretary of State may direct; and
 - (b) the specified person may recover from the authority its reasonable administrative costs of making arrangements to appoint a local auditor for the authority.”;
- (d) in subsection (3)(a) “relevant” were omitted;
- (e) in subsection (4)—
 - (i) “relevant” were omitted both times it occurs;
 - (ii) in paragraph (a) after “authority” there were inserted “and where the Secretary of State intends to direct the specified person, that person”;
 - (iii) in paragraph (b) after “authority” there were inserted “or the specified person”; and
- (f) in subsection (5) for “a relevant authority” there were substituted “an authority”.

Limitation of local auditor’s liability

10. The Act applies in relation to a smaller authority as if sections 14 and 15 were omitted.

PART 3

Modifications to Part 5 (conduct of local audit)

General duties of auditors

11. Section 20 applies in relation to a smaller authority other than an exempt authority as if—

- (a) in subsection (1)—
 - (i) for “relevant authority other than a health service body” there were substituted “smaller authority other than an exempt authority”; and

- (ii) in paragraph (b) the words from “that the statement” to the end were omitted;
- (b) in subsection (2) for “a relevant authority other than a health service body” there were substituted “a smaller authority other than an exempt authority”;
- (c) in subsections (3) and (5) for “a relevant authority” there were substituted “a smaller authority other than an exempt authority”;
- (d) after subsection (6) there were inserted—

“(7) A local auditor must comply with any directions given by the Secretary of State as to arrangements to monitor the standard of the work of auditors in the performance of audits under this section (including arrangements to inspect that work).

(8) The arrangements mentioned in subsection (7) may include arrangements made by any other person the Secretary of State considers appropriate.”.

12. Section 20 applies in relation to an exempt authority as if—

- (a) before subsection (1) there were inserted—
 - “(A1) A local auditor must not carry out an audit of the accounts of an exempt authority unless a local government elector—
 - (a) requests an opportunity to question an auditor about the authority’s accounting records under section 26(2); or
 - (b) makes an objection under section 27(1).
 - (A2) Subject to paragraph (1), the audit of the accounts of an exempt authority is limited to responding appropriately to any—
 - (a) question raised under section 26(2); or
 - (b) objection made under section 27(1).”;
- (b) in subsection (1)—
 - (i) for the words “auditing the accounts” to “auditor must” there were substituted “exercising functions under subsection (A2), if a matter comes to the attention of the auditor which the auditor thinks merits further investigation, and it would be proportionate to do so, the local auditor may”;
 - (ii) for “be satisfied” there were substituted “consider whether”;
 - (iii) the word “that” at the beginning of paragraphs (a) to (c) were omitted;
 - (iv) in paragraph (b) the words from “that the statement” to the end were omitted;
- (c) subsections (2) to (4) were omitted;
- (d) in subsection (5) for “a relevant authority” there were substituted “an exempt authority”;
- (e) after subsection (6) there were inserted—
 - “(7) A local auditor must comply with any directions given by the Secretary of State as to arrangements to monitor the standard of the work of auditors in the performance of audits under this section (including arrangements to inspect that work).
 - (8) The arrangements mentioned in subsection (7) may include arrangements made by any other person the Secretary of State considers appropriate.”.

Public inspection and action by auditor

13. Section 25(1) applies in relation to an exempt authority as if paragraphs (b) and (c) were omitted.

14. Section 26 applies in relation to an opted in authority which is an exempt authority as if for subsection (2) there were substituted—

“(2) At the request of a local government elector for any area to which the accounts relate, such request being made to the specified person responsible for appointing the local auditor to the authority concerned, the specified person must arrange for the elector, or any representative of the elector, an opportunity to question the auditor about the accounting records.”.

15. Section 27(1) applies in relation to an opted in authority which is an exempt authority as if before “local auditor” there were inserted “specified person responsible for appointing the”.

PART 4

Modification to Schedules to the Act

Modification to Schedule 3 (further provisions about appointment of local auditors)

16. In relation to an opted in authority the Act has effect as if Schedule 3 were omitted.

Modification to Schedule 5 (eligibility and regulation of local auditors)

17. Paragraph 3 of Schedule 5 applies in relation to a smaller authority as if—

- (a) in sub-paragraph (b) after “sections” there were inserted “1217 (supervisory bodies), 1218 (exemption from liability for damages), 1219 (appropriate qualifications), ”;
- (b) after sub-paragraph (d) there were inserted—
 - “(da) “(da) sections 1225 to 1225G (concerning enforcement);”;
- (c) after sub-paragraph (e) there were inserted—
 - “(ea) “(ea) Chapter 4 (the register of auditors etc);”
- (d) after sub-paragraph (f) there were inserted—
 - “(fa) “(fa) sections 1251 (fees) and 1251A (duty of the Secretary of State to report on inspections);”;
- (e) after sub-paragraph (g) there were inserted—
 - “(ga) “(ga) section 1254 (directions to comply with international obligations);”;
- (f) after sub-paragraph (h) there were inserted—
 - “(ha) “(ha) Schedule 10 (recognised supervisory bodies);”.

18. Schedule 5 applies in relation to a smaller authority as if for paragraph 4 there were substituted

—
“4. For section 1212 (individuals and firms: eligibility for appointment as a statutory auditor), substitute—

“Individuals and firms: eligibility for appointment as a local auditor of the accounts of a smaller authority

1212. An individual or firm is eligible for appointment as a local auditor of the accounts of a smaller authority if the individual or firm—

- (a) is eligible for appointment as a local auditor under the Local Audit and Accountability Act 2014 as it has effect apart from its application by virtue of the Local Audit (Smaller Authorities) Regulations 2015; or
- (b) is eligible for appointment as a statutory auditor under Part 42 of this Act as it has effect apart from its application by virtue of the Local Audit and Accountability Act 2014.”.”

19. Schedule 5 applies in relation to a smaller authority as if after paragraph 4 there were inserted

“**4A.** In section 1213 (effect of ineligibility)—

- (a) in subsection (1)—
 - (i) for “statutory auditor of an audited person” substitute “local auditor of a smaller authority”; and
 - (ii) at the end, for “statutory auditor “ substitute “local auditor of a smaller authority”;
- (b) in subsection (2)—
 - (i) for “statutory auditor” both times it occurs, substitute “local auditor of a smaller authority”;
 - (ii) at the end of paragraph (a), omit “and”;
 - (iii) in paragraph (b), for “audited person” substitute “smaller authority”;
 - (iv) at the end of paragraph (b), insert “and”; and
 - (v) after paragraph (b), insert—
 - “(c) “(c) where the local auditor was appointed by a specified person, also give the notice in paragraph (b) to the specified person.”; and
- (c) in subsection (8) for “statutory auditor” substitute “local auditor of a smaller authority”.”.

20. Paragraph 5 of Schedule 5 applies in relation to a smaller authority as if—

- (a) in subsection (1) of the inserted text—
 - (i) for “relevant authority” there were substituted “smaller authority”; and
 - (ii) for “(3), (4) and (5)” there were substituted “, (4), (5) and (5A)”;
- (b) in subsections (2)(a), (4) and (5) of the inserted text for “relevant authority” there were substituted “smaller authority”;
- (c) subsections (2)(b) and (3) of the inserted text were omitted;
- (d) after subsection (5) of the inserted text there were inserted—
 - “(5A) This subsection applies if—
 - (a) P is an employee or a member of the specified person who is responsible for appointing the smaller authority’s local auditor; or
 - (b) P is a partner or employee of a person falling within paragraph (a), or a partnership of which such a person is a partner.”; and
- (e) subsection (7) were omitted.

21. Paragraph 6 of Schedule 5 applies in relation to a smaller authority as if the text of that paragraph were sub-paragraph (2) and before that paragraph there were inserted—

- “(1) In section 1215 (effect of lack of independence) in subsection (1)—

- (a) for “statutory auditor” substitute “local auditor of a smaller authority”;
- (b) omit “and” at the end of paragraph (a);
- (c) in paragraph (b)—
 - (i) for “audited person” substitute “smaller authority”;
 - (ii) at the end insert “and”; and
- (d) after paragraph (b) insert—
 - “(c) “(c) where the local auditor of a smaller authority was appointed by a specified person also give the notice in paragraph (b) to the specified person.”.”

22. Paragraph 7 of Schedule 5 applies in relation to an opted in authority as if the text of that paragraph were sub-paragraph (3) and as if—

- (a) before that sub-paragraph there were inserted—
 - “(1) Section 1216 (effect of appointment of partnership) is amended as follows.
 - (2) In subsection (5) for “relevant authority” both times it occurs substitute “specified person”.”;
- (b) in that sub-paragraph for “In section 1216 (effect of appointment of partnership) after” there were substituted “After”; and
- (c) after sub-paragraph (3) there were inserted—
 - “(4) In subsection (6)—
 - (a) in paragraph (a) for “statutory auditor” substitute “local auditor of a smaller authority” and
 - (b) in paragraph (b) for “audited person” substitute “smaller authority”.”

23. Schedule 5 applies in relation to a smaller authority as if paragraphs 8 to 15 were omitted.

24. Paragraph 16 of Schedule 5 applies in relation to an opted in authority as if—

- (a) in subsection (1) of the inserted text—
 - (i) after “appointed” there were inserted “by a specified person”;
 - (ii) for “relevant authority” there were substituted “smaller authority”;
- (b) in subsections (2) and (5) of the inserted text for “relevant authority” there were substituted “specified person”;
- (c) in subsection (3)(a) of the substituted text after “local auditor” there were inserted “of a smaller authority”;
- (d) in subsection (6) of the inserted text for “authority” there were substituted “specified person”;
- (e) for subsection (7) of the inserted text there were substituted—
 - “(7) In this section, “recognised supervisory body” means a recognised supervisory body under Part 42 of this Act—
 - (a) as it has effect by virtue of Schedule 5 to the Local Audit and Accountability Act 2014; or
 - (b) as it has effect apart from its application by virtue of the Local Audit and Accountability Act 2014.”

25. Paragraph 16 of Schedule 5 applies in relation to a smaller authority which is not an opted in authority as if—

- (a) in subsections (1), (2) and (5) of the inserted text for “relevant authority” there were substituted “smaller authority”;
 - (b) in subsection (3) of the inserted text—
 - (i) in paragraph (a) after “local auditor” there were inserted “of a smaller authority”;
 - (ii) in paragraph (b) “relevant” were omitted;
 - (c) after subsection (7) of the inserted text there were inserted—
 - “(8) In this section, “recognised supervisory body” means a recognised supervisory body under Part 42 of this Act—
 - (a) as it has effect by virtue of Schedule 5 to the Local Audit and Accountability Act 2014; or
 - (b) as it has effect apart from its application by virtue of the Local Audit and Accountability Act 2014.”
- 26.** Paragraph 17 of Schedule 5 applies in relation to an opted in authority as if in subsection (1) of the inserted text—
- (a) for “relevant authority” the first time it occurs there were substituted “smaller authority”;
 - (b) for “relevant authority” the second time it occurs there were substituted “specified person who appointed the auditor”; and
 - (c) after “section 1248” there were inserted “, and must ensure that the authority is either not required to pay a fee for the first audit, or is refunded any fee paid”.
- 27.** Paragraph 18 of Schedule 5 applies in relation to a smaller authority as if—
- (a) after sub-paragraph (1) there were inserted—
 - “(1A) In subsection (1), omit paragraph (a).”;
 - (b) for sub-paragraph (2) there were substituted—
 - “(2) Omit subsections (2) to (4) and (6) to (8).”;
 - (c) sub-paragraphs (4) and (5) were omitted.
- 28.** Schedule 5 applies in relation to a smaller authority as if paragraphs 19 to 20 and 23 were omitted.
- 29.** Schedule 5 applies in relation to a smaller authority as if after paragraph 25 of Schedule 5 there were inserted—
- “25A.** In section 1258(4) (service of notices), for paragraph (a) substitute—
- “(a) “(a) in the case of a person who is eligible for appointment as a local auditor of a smaller authority and who does not have a place of business in the United Kingdom, the address of the recognised supervisory body of which that person is a member under—
 - (i) Part 42 of this Act, or
 - (ii) under Part 42 of this Act as it has effect by virtue of Schedule 5 to the Local Audit and Accountability Act 2014;”.”
- 30.** Schedule 5 applies in relation to a smaller authority as if paragraph 28 were omitted.

Modification to Schedule 6 (codes of audit practice and guidance)

- 31.** Paragraph 1(5) of Schedule 6 applies in relation to a smaller authority as if after paragraph (e) there were inserted—

“(ea) “(ea) a person specified under regulation 3(2) of the Local Audit (Smaller Authorities) Regulations 2015.”.

Modification to Schedule 11 (disclosure of information)

32. Paragraph 1(3) of Schedule 11 applies in relation to a smaller authority as if after paragraph (c) there were inserted—

“(ca) “(ca) a person specified under regulation 3(2) of the Local Audit (Smaller Authorities) Regulations 2015.”.

PART 5

Modifications to other Acts

Modification to the Transport Act 1968

33. Section 14(3) of the Transport Act 1968(5) applies in relation to an opted in authority which is an exempt authority as if the words “, together with a copy of the auditor’s opinion on that statement” were omitted.

Modification to the Anti-terrorism, Crime and Security Act 2001

34. Paragraph 53F of Schedule 4 to the Anti-terrorism, Crime and Security Act 2001(6) applies where an appointing person has been specified under regulation 3 as if after “2014” there were inserted the words “as it has effect by virtue of the Local Audit (Smaller Authorities) Regulations 2015.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Local Audit and Accountability Act 2014 (c. 2) makes provision about the accounts of local and certain other public authorities and the auditing of those accounts. These Regulations make provision for the appointment of a local auditor by a person specified by the Secretary of State to audit the accounts of smaller authorities that choose to opt in to such arrangements. They also make provision for authorities that are exempt from local audit.

Regulations 3 to 7 provide for the specification of a person to appoint local auditors (“specified person”) and that person’s functions. A specified person may be appointed in relation to all smaller authorities or specified classes of such authorities.

Regulations 8 and 9 define “full audit authorities” and “exempt authorities”.

Regulations 10 to 13 provide for the specified person to issue an invitation to all smaller authorities for which it is specified to opt in to the arrangements for the period specified in the invitation (“the

(5) 1968 c. 73. Section 14 was amended by the Local Audit and Accountability Act 2014, section 45 and Schedule 12.

(6) 2001 c. 24. Section 53F was inserted by the Local Audit and Accountability Act 2014, section 45 and Schedule 12.

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compulsory appointing period”). An invitation may not relate to a financial year which commences before 1st April 2017.

Regulations 14 to 17 deal with cases where an authority wishes to opt in to arrangements during the compulsory appointing period and where an authority ceases to qualify during that period.

Regulations 18 to 20 make provision for the appointment of a local auditor by the specified person, as well as the resignation and removal of the auditor.

Regulations 21 to 23 provide for audit fees. Regulation 24 provides that certain functions are to be exercised by the full authority. Regulation 25 imposes a duty on a smaller authority or local auditor to provide the appointing person with information relevant to the performance of that person’s functions. Regulation 28 and the Schedule make consequential modifications to the Local Audit and Accountability Act 2014, Part 42 of the Companies Act 2006 and other Acts.

An impact assessment of the effect that the Local Audit and Accountability Act 2014, which this instrument helps implement, will have on the costs of business is available from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/349418/2014_FINAL_Local_Audit_IA.pdf. No separate assessment was carried out for this instrument.

STATUTORY INSTRUMENTS

2015 No. 471

LOCAL GOVERNMENT, ENGLAND

**The Local Government (Transparency)
(Descriptions of Information) (England) Order 2015**

Approved by both Houses of Parliament

Made - - - - 7th January 2015

Laid before Parliament 12th January 2015

Coming into force in accordance with article 1

The Secretary of State for Communities and Local Government, after consultation with such associations of authorities to whom section 2 of the Local Government, Planning and Land Act 1980(1) applies as appear to the Secretary of State to be concerned and any such authority with whom consultation appears to the Secretary of State to be desirable, in exercise of the powers conferred by section 3(6) of the Local Government, Planning and Land Act 1980, makes the following Order:

Citation and commencement

1. This Order may be cited as the Local Government (Transparency) (Descriptions of Information) (England) Order 2015 and comes into force on the day after the day on which it is approved by resolution of the second House of Parliament to approve it.

Information to which section 3(4) of the Local Government, Planning and Land Act 1980 applies

2.—(1) Section 3(4) of the Local Government, Planning and Land Act 1980 shall apply to information relating to the meetings of a relevant authority including the agendas, minutes and any other information concerning matters discussed at meetings.

(1) 1980 c.65. Section 2 was amended by the Local Government Act 1985 (c.51), sections 84 and 102 and Schedule 14, paragraph 59, Schedule 16, paragraph 57(1) and Schedule 17; Education Reform Act 1988 (c.40), section 237 and Schedule 13, Part 1; Local Government (Wales) Act 1994 (c.19), section 66(6) and Schedule 16, paragraph 57(1); Local Government etc (Scotland) Act 1994 (c.39), section 180(1) and Schedule 13, paragraph 120(2); Education Act 1996 (c.56), section 582(2) and Schedule 38, Part 1; Greater London Authority Act 1999 (c.29), section 328 and Schedule 29, Part 1, paragraph 28; Local Government Act 1999 (c.29), section 20; Fire and Rescue Services Act 2004 (c.21), section 53(1) and Schedule 1, paragraph 49(1), (2); Local Government and Public Involvement in Health Act 2007 (c.28), sections 136(3) and 209(2), Schedule 7, paragraph 1 and Schedule 13, Part 2, paragraph 36(1), (2); Local Democracy, Economic Development and Construction Act 2009 (c.20), section 119 and Schedule 6, paragraphs 48, 49; Local Government (Wales) Measure 2009 (nawm 2), section 51(1) and Schedule 1, paragraphs 1, 2; Police and Fire Reform (Scotland) Act 2012 (asp 8), section 128(2) and Schedule 8, Part 2; Local Audit and Accountability Act 2014 (c.2), section 38; SSI 2013/119, article 4 and Schedule 1, Part 1, paragraph 7. There are other amendments but none is relevant.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (2) In this article, “relevant authority”(2) means—
- (a) charter trustees;
 - (b) an internal drainage board for an internal drainage district that is wholly in England;
 - (c) a parish council;
 - (d) a port health authority for a port health district that is wholly in England.

Signed by authority of the Secretary of State for Communities and Local Government

Penny Mordaunt
Parliamentary Under Secretary of State
Department for Communities and Local
Government

7th January 2015

(2) See section 2(1A)(c) of the Local Government, Planning and Land Act 1980 and sections 2 and 5 of, and Schedule 2 to, the Local Audit and Accountability Act 2014 for the application of sections 2 and 3 of the Local Government, Planning and Land Act 1980 to a smaller authority, including charter trustees, internal drainage boards and port health authorities.

EXPLANATORY NOTE

(This note is not part of the Order)

Under section 2 of the Local Government, Planning and Land Act 1980 (“the 1980 Act”), the Secretary of State may issue a code of recommended practice on the publication of information by local authorities. Under section 3 of the 1980 Act, the Secretary of State may by regulations require authorities to publish the information specified in such a code, in the manner and form and on the occasions specified in that code. However, the Secretary of State may only require authorities to publish information on occasions recurring more than once a year if the information falls within a description of information to which section 3(4) of the 1980 Act applies. Section 3(4) applies to the descriptions of information listed in section 3(5) of the 1980 Act and also to any further categories to which the Secretary of State has directed by order it should apply.

This Order adds to the descriptions of information about which the Secretary of State may require authorities in England to publish information on occasions recurring more than once a year.

No impact assessment has been produced for this instrument as the Order has no impact on the private, voluntary or public sector.

STATUTORY INSTRUMENTS

2015 No. 494

LOCAL GOVERNMENT, ENGLAND

The Smaller Authorities (Transparency Requirements) (England) Regulations 2015

<i>Made</i>	- - - -	<i>4th March 2015</i>
<i>Laid before Parliament</i>		<i>9th March 2015</i>
<i>Coming into force</i>	- -	<i>1st April 2015</i>

The Secretary of State for Communities and Local Government makes these Regulations in exercise of the powers conferred by section 3(1), (2), (3) and (4) of the Local Government, Planning and Land Act 1980⁽¹⁾.

In accordance with section 3(11) of the Local Government, Planning and Land Act 1980, before making these Regulations the Secretary of State consulted with such associations of authorities to whom section 2 of the Local Government, Planning and Land Act 1980⁽²⁾ applies as appeared to the Secretary of State to be concerned.

The Secretary of State is of the opinion that it is necessary to make these Regulations to ensure that authorities in England to whom section 2 of the Local Government, Planning and Land Act 1980 applies publish information specified in the Transparency code for smaller authorities⁽³⁾ 2014, in the manner and form and on the occasions specified in that Code.

Citation and commencement

1. These Regulations may be cited as the Smaller Authorities (Transparency Requirements) (England) Regulations 2015 and come into force on 1st April 2015.

(1) 1980 c.65.

(2) Section 2(1) was amended by sections 84 and 102 of, and paragraphs 59 of Schedule 14 and Schedule 17 to, the Local Government Act 1985 (c.51); section 237 of, and Part 1 of Schedule 13 to, the Education Reform Act 1988 (c.40); section 328 of, and paragraph 28 of Part 1 of Schedule 29 to, the Greater London Authority Act 1999 (c.29); section 20 of the Local Government Act 1999 (c.27); section 53(1) of, and paragraph 49(1) and (2) of Schedule 1 to, the Fire and Rescue Services Act 2004 (c.21); sections 136(3) and 209(2) of, and paragraph 1 of Schedule 7 and paragraph 36(1) and (2) of Part 2 of Schedule 13 to, the Local Government and Public Involvement in Health Act 2007 (c.28); section 119 and paragraphs 48 and 29 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009 (c.20); and section 38 of the Local Audit and Accountability Act 2014 (c.2). There are other amendments in relation to Scotland and Wales which are not relevant to this instrument.

(3) Issued on 17th December 2014.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Requirement to publish information

2.—(1) An authority to which the Code applies must publish the information specified in the Code in the manner and form and on the occasions specified in the Code.

(2) In this regulation, “the Code” means the “Transparency code for smaller authorities”, issued on 17th December 2014 by the Secretary of State for Communities and Local Government⁽⁴⁾.

Signed by authority of the Secretary of State for Communities and Local Government

Kris Hopkins
Parliamentary Under Secretary of State
Department for Communities and Local
Government

4th March 2015

(4) ISBN 978-1-4098-4439-6.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under section 2 of the Local Government, Planning and Land Act 1980 the Secretary of State may issue a code of recommended practice on publication of information by local authorities. Under section 3 of the 1980 Act, the Secretary of State may by regulations require authorities to publish the information specified in such a code, in the manner and form and on the occasions specified in that code.

These Regulations require authorities in England to which the Transparency code for smaller authorities (“the Code”) issued on 17th December 2014 applies to comply with that Code. The Code can be accessed at <https://www.gov.uk/government/publications/transparency-code-for-smaller-authorities> and copies may be obtained from the Department for Communities and Local Government, 2 Marsham Street, London SW1P 4DF.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen and the impact on the public sector is minimal.

STATUTORY INSTRUMENTS

2014 No. 3224

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Audit (Auditor Panel) Regulations 2014

Made - - - - *5th December 2014*
Laid before Parliament *10th December 2014*
Coming into force - - *1st April 2015*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 10(8) of, and paragraphs 4 and 5(1)(b) of Schedule 4 to, the Local Audit and Accountability Act 2014⁽¹⁾:

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Local Audit (Auditor Panel) Regulations 2014 and come into force on 1st April 2015.

(2) In these Regulations—

“the Act” means the Local Audit and Accountability Act 2014;

“the 1972 Act” means the Local Government Act 1972⁽²⁾;

“the 1989 Act” means the Local Government and Housing Act 1989⁽³⁾.

(3) These Regulations apply to relevant authorities other than health service bodies⁽⁴⁾.

Members of auditor panels

2.—(1) An auditor panel of a relevant authority must have three or more members.

(2) A person may only be appointed as an independent member of an auditor panel if—

(a) the vacancy for an independent member has been advertised by the relevant authority in such manner as it considers is likely to bring the vacancy to the attention of the public; and

(b) the person submitted an application to fill the vacancy to the relevant authority.

(1) 2014 c.2.

(2) 1972 c.70.

(3) 1989 c.42.

(4) See section 2 of, and Schedule 2 to, the Local Audit and Accountability Act 2014 (“the 2014 Act”) in relation to relevant authorities and section 3(9) of that Act for the definition of “health service body”.

(3) If the relevant authority is a local authority operating executive arrangements⁽⁵⁾, the function of appointing members of an auditor panel is not the responsibility of an executive of the authority under those arrangements.

(4) If the relevant authority is a local authority within the meaning of section 101 of the 1972 Act (arrangements for discharge of functions), that section does not apply to the authority's function of appointing members of an auditor panel.

(5) If the relevant authority is the Greater London Authority, the function of appointing members of an auditor panel to fill casual vacancies must be exercised by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.

(6) If the relevant authority is a parish meeting, the function of appointing members of an auditor panel to fill casual vacancies must be exercised by the parish meeting itself (and not by its chairman on behalf of the parish meeting).

Term of office of panel members

3. The term of office of a member of an auditor panel is to be determined by the relevant authority which appoints that panel member.

Removal of panel members on disqualification

4. Where a member of an auditor panel, or its chair, becomes disqualified from being a member of an auditor panel by virtue of regulation 8, the relevant authority which appointed that member must—

- (a) remove the disqualified member or chair from the auditor panel where that member has not already resigned or agreed to resign; and
- (b) appoint a person to fill the vacancy.

Allowances of panel members

5. A relevant authority may pay the members of its auditor panel such allowances as the authority may determine.

Proceedings and validity of proceedings of auditor panels

6.—(1) Subject to paragraph (2), an auditor panel may determine its own proceedings⁽⁶⁾.

(2) In relation to any meeting of an auditor panel—

- (a) the quorum is three, and
- (b) the proceedings of the panel are valid if the majority of members present at the meeting are independent members of the panel.

Functions of auditor panels: further details

7.—(1) In complying with its duties under section 10(1) to (3) of the Act a relevant authority's auditor panel must advise the authority on—

- (a) whether to adopt a policy on the purchasing, from the authority's local auditor, of non-audit services;
- (b) if the authority proposes to adopt such a policy, on its contents, including—

(5) See Part 1A of the Local Government Act 2000 (c.22), inserted by Schedule 2 to the Localism Act 2011 (c.20).

(6) See also paragraph 2(1) of Schedule 4 to the 2014 Act.

- (i) the circumstances in which the authority should ask the auditor panel for advice in connection with the purchasing of non-audit services; and
- (ii) the circumstances in which the authority should or should not purchase non-audit services from the authority's local auditor.

(2) In this regulation “non-audit services” in relation to a relevant authority means services provided by the authority's local auditor to the authority other than in the exercise of the functions of the local auditor under the Act⁽⁷⁾.

Application of local authority enactments to auditor panels: disqualification

8.—(1) This regulation applies where a relevant authority to which this regulation applies has an auditor panel which is—

- (a) a panel appointed as an auditor panel by the authority,
- (b) a panel appointed as an auditor panel by the authority and one or more other relevant authorities, or
- (c) a committee of the authority.

(2) Section 104(1) of the 1972 Act⁽⁸⁾ (disqualification for membership of committees) applies in relation to an auditor panel within paragraph (1)(a) or (c) as if a member of that panel other than an independent member were a member of a committee of the authority.

(3) Section 104(1) of the 1972 Act applies in relation to an auditor panel within paragraph (1)(b) as if a member of that panel appointed by the authority other than as an independent member were a representative of the authority on a joint committee of the authority and another local authority within the meaning of that section.

(4) The relevant authorities to which this regulation applies are—

- (a) county councils in England;
- (b) district councils;
- (c) London borough councils;
- (d) parish councils;
- (e) joint authorities under Part 4 of the Local Government Act 1985;
- (f) the London Fire and Emergency Planning Authority;
- (g) the London Waste and Recycling Board;
- (h) the Common Council;
- (i) the Council of the Isles of Scilly;
- (j) port health authorities in England;
- (k) the Broads Authority;
- (l) National Park authorities in England;
- (m) conservation boards;
- (n) joint waste authorities;
- (o) internal drainage boards in England;
- (p) economic prosperity boards; and
- (q) combined authorities.

⁽⁷⁾ See, in particular, Part 5 of the 2014 Act (conduct of local audit).

⁽⁸⁾ Section 104 is applied, with modifications, by section 104(4) and (5) of the Local Government Act 1972; section 265A of that Act; the Environment Act 1995 (c.25), Schedule 7, paragraph 13(1) and S.I. 1978/1844.

Application of local authority enactments to auditor panels: access to meetings and documents

9.—(1) This regulation applies to an auditor panel of a relevant authority which is—

- (a) a panel appointed as an auditor panel by the authority,
- (b) a panel appointed as an auditor panel by the authority and one or more other relevant authorities, or
- (c) a committee of the authority.

(2) Section 100A of the 1972 Act⁽⁹⁾ (as applied by section 100E(1) of that Act), and section 100I(1) of, and Parts 1 to 3 of Schedule 12A to, that Act apply to an auditor panel to which this regulation applies as if—

- (a) the panel were a committee of a principal council;
- (b) references to a resolution of a committee of a principal council were references to a written decision of the auditor panel;
- (c) references to the resolution being passed were references to the decision being made;
- (d) section 100A(6)(a) imposed a duty to make arrangements for notice of the time and place of a meeting of the panel to be displayed at the principal office of each authority for which the panel is the auditor panel at least five clear days before the meeting or, if the meeting is convened at shorter notice, at the time it is convened; and
- (e) paragraph 11(2)(b) of Schedule 12A included within the definition of “the authority” for the purposes of that Schedule any relevant authority for which the panel is the auditor panel and any other committee or sub-committee of such an authority.

(3) Section 100B of the 1972 Act, as applied by section 100E(1) of that Act, applies to copies of the agenda and reports for a meeting of an auditor panel to which this regulation applies as if—

- (a) the panel were a committee of a principal council;
- (b) subsection (1) of section 100B imposed a duty to make arrangement for copies of the agenda for a meeting of the panel and, subject to subsection (2) of that section, any report for the meeting to be open to inspection by members of the public in accordance with subsection (3) of that section at the principal office of each authority for which the panel is the auditor panel; and
- (c) references to the proper officer, and to the chairman of the meeting, were references to the chair of the panel.

(4) In this regulation “principal council” has the same meaning as in the 1972 Act⁽¹⁰⁾.

Application of local authority enactments to auditor panels: political balance

10.—(1) This regulation applies to a political balance authority which appoints three or more members of the authority to be members of an auditor panel.

(2) In relation to a political balance authority to which this regulation applies whose auditor panel is—

- (a) appointed as an auditor panel by that authority, or
- (b) a committee of the authority to which paragraph 1(2) of Schedule 4 to the Act applies,

⁽⁹⁾ Part 5A (sections 100A to 100K and Schedule 12A) of the Local Government Act 1972 was inserted by Schedule 1 to the Local Government (Access to Information) Act 1985 (c.43). Section 110A was amended by S.I. 2002/715 and S.I. 2014/2095; section 100B was amended by S.I. 2002/715; Schedule 12A was substituted by S.I. 2006/88.

⁽¹⁰⁾ See section 270(1) of the Local Government Act 1972.

the political balance enactments apply to the auditor panel as if the auditor panel were an ordinary committee of the authority.

(3) In relation to a political balance authority to which this regulation applies whose auditor panel is appointed by that authority and one or more other relevant authorities, the political balance enactments apply to the appointments to the auditor panel as if the auditor panel were a body falling within paragraph 2 of Schedule 1 to the 1989 Act⁽¹¹⁾.

(4) In this regulation—

“ordinary committee” has the same meaning as in Schedule 1 to the 1989 Act⁽¹²⁾;

“political balance authority” means—

- (a) a county council in England;
- (b) a district council;
- (c) a London borough council;
- (d) a joint authority under Part 4 of the Local Government Act 1985;
- (e) the London Fire and Emergency Planning Authority;
- (f) a fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
- (g) an economic prosperity board; and
- (h) a combined authority;

“political balance enactments” means—

- (a) sections 15 to 17 and 21 of, and Schedule 1 to, the 1989 Act; and
- (b) the Local Government (Committees and Political Groups) Regulations 1990⁽¹³⁾ so far as applying in relation to the provisions mentioned in paragraph (a).

Signed by authority of the Secretary of State for Communities and Local Government

Kris Hopkins
Parliamentary Under Secretary of State
Department for Communities and Local
Government

5th December 2014

⁽¹¹⁾ Paragraph 2 was amended by paragraph 44 of Schedule 4 to the Police and Magistrates' Courts Act 1994 (c.29); paragraph 2(8) of Schedule 10, paragraph 31(5) of Schedule 10 and Schedule 24 to the Environment Act 1995 (c.25); paragraph 4(7) of Schedule 13 to the Countryside and Rights of Way Act 2000 (c.37); paragraph 81 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009 (c.20); Schedule 22 to the Marine and Coastal Access Act 2009 (c.23).

⁽¹²⁾ See paragraph 4 of Schedule 1 to the Local Government and Housing Act 1989.

⁽¹³⁾ S.I. 1990/1553, relevant amending instruments are S.I. 1991/1398, 1993/1339, 1998/1918, 1999/500, 2010/1142.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about auditor panels established under Part 3 of the Local Audit and Accountability Act 2014 (“the 2014 Act”) by relevant authorities (as to which, see Schedule 2 to that Act). Section 9 of, and Schedule 4 to, the 2014 Act contain provisions about establishment of auditor panels, and section 10 sets out the panel’s functions.

Regulations 2 to 6 make provision about the membership of auditor panels, removal of panel members on disqualification, allowances for panel members and proceedings of panel meetings. Regulation 7 contains more detail about a panel’s functions under section 10(1) to (3) of the 2014 Act. Regulations 8 to 10 apply certain enactments relating to local authorities and local authority committees to auditor panels and appointments to such panels, subject to modifications.

An impact assessment of the effect that the Local Audit and Accountability Act 2014, which this instrument helps implement, will have on the costs of business is available from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/349418/2014_FINAL_Local_Audit_IA.pdf. No separate assessment was carried out for this instrument.

STATUTORY INSTRUMENTS

2014 No. 2845

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Audit (Auditor Panel
Independence) Regulations 2014**

Made - - - - 22nd October 2014

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 46 of, and paragraph 2(9) of Schedule 4 to, the Local Audit and Accountability Act 2014⁽¹⁾; In accordance with section 43(3) and (4) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Local Audit (Auditor Panel Independence) Regulations 2014 and come into force at the end of the period of 21 days beginning with the day on which they are made.

Definition of independence

2. (1) Paragraph 2 of Schedule 4 to the Local Audit and Accountability Act 2014 (constitution of auditor panels) is amended in accordance with paragraphs (2) to (5).

(2) For sub-paragraphs (2) and (3) substitute—

“(2) A member of a relevant authority’s auditor panel, other than a health service body’s auditor panel, is “independent” at any given time if the following conditions are met—

- (a) the panel member has not been a member or officer of the authority within the period of 5 years ending with that time (the “last 5 years”),
- (b) the panel member has not, within the last 5 years, been a member or officer of another relevant authority that is (at the given time) connected with the authority or with which (at the given time) the authority is connected,
- (c) the panel member has not, within the last 5 years, been an officer or employee of an entity, other than a relevant authority, that is (at the given time) connected with the authority,

- (d) the panel member is not a relative or close friend of—
 - (i) a member or officer of the authority,
 - (ii) a member or officer of another relevant authority that is connected with the authority or with which the authority is connected, or
 - (iii) an officer or employee of an entity, other than a relevant authority, that is connected with the authority,
 - (e) the panel member is not the authority’s elected mayor,
 - (f) neither the panel member, nor any body in which the panel member has a beneficial interest, has entered into a contract with the authority—
 - (i) under which goods or services are to be provided or works are to be executed, and
 - (ii) which has not been fully discharged,
 - (g) the panel member is not a current or prospective auditor of the authority, and
 - (h) the panel member has not, within the last 5 years, been—
 - (i) an employee of a person who is (at the given time) a current or prospective auditor of the authority,
 - (ii) a partner in a firm that is (at the given time) a current or prospective auditor of the authority, or
 - (iii) a director of a body corporate that is (at the given time) a current or prospective auditor of the authority.”.
- (3) For sub-paragraphs (4) to (7) substitute—
- “(4) Sub-paragraphs (5) to (6D) modify the application of sub-paragraph (2) in relation to—
- (a) cases where the relevant authority referred to in the opening words of sub-paragraph (2) (the “relevant authority concerned”) is a police and crime commissioner, the Mayor’s Office for Policing and Crime, another functional body or the Greater London Authority, and
 - (b) relevant authorities that are corporations sole (including, but not limited to, corporations sole mentioned in paragraph (a)).
- (5) Where the relevant authority concerned is the police and crime commissioner for an area, references to “the authority” include the chief constable for the area.
- (6) Where the relevant authority concerned is the Mayor’s Office for Policing and Crime, references to “the authority” include the Commissioner of Police of the Metropolis and the Greater London Authority.
- (6A) Where the relevant authority concerned is a functional body other than the Mayor’s Office for Policing and Crime, references to “the authority” include the Greater London Authority.
- (6B) Where the relevant authority concerned is the Greater London Authority, references to “the authority” include a functional body and the Commissioner of Police of the Metropolis.
- (6C) Where a relevant authority is a corporation sole, references to “a member” of the relevant authority are to a holder of that office of corporation sole.
- (6D) Sub-paragraph (6C) applies regardless of whether the relevant authority is—
- (a) the relevant authority concerned,

- (b) a relevant authority treated under any of sub-paragraphs (5) to (6B) as included in a reference to the relevant authority concerned, or
 - (c) a relevant authority that is connected with an authority falling within paragraph (a) or (b), or with which such an authority is connected.
- (7) In sub-paragraph (2)—
- “elected mayor” has the same meaning as in Part 1A of the Local Government Act 2000(2);
 - “officer”, in relation to an entity other than a relevant authority, means a person elected or appointed as, or to, that entity.”.
- (4) In sub-paragraph (8), in the opening words, for “sub-paragraph (2)(c)” substitute “sub-paragraph (2)(d)”.
- (5) After sub-paragraph (8) insert—
- “(8A) For the purposes of sub-paragraph (2)(f) to (h)—
- “body in which the panel member has a beneficial interest” means a body in which the panel member is a partner, or of which the panel member is a director, or in the securities of which the panel member has a beneficial interest;
 - “current or prospective auditor”, in relation to a relevant authority, means—
- (a) the person appointed to act as the authority’s local auditor, or
 - (b) a person who has made a bid, which has not been declined or withdrawn, for a contract of appointment as the authority’s local auditor;
- “director” includes a member of the management committee or other directing body of a registered society, and a member of a limited liability partnership;
 - “registered society” means a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014(3);
 - “securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000(4) and other securities of any description, other than money deposited with a building society.”.
- (6) For the italic cross-heading before paragraph 8 of Schedule 4 to the Local Audit and Accountability Act 2014, substitute “*Connected entities*”.

Signed by authority of the Secretary of State for Communities and Local Government

Kris Hopkins
Parliamentary Under Secretary of State
Department for Communities and Local
Government

22nd October 2014

(2) 2000 c.22; Part 1A was inserted by the Localism Act 2011 (c.20), Schedule 2, paragraph 1.

(3) 2014 c.14; see section 1 for the definition of “registered society”.

(4) 2000 c.8; see section 235 for the definition of “collective investment scheme”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about auditor panels established under Part 3 of the Local Audit and Accountability Act 2014 (“the Act”). Auditor panels give advice on the selection and appointment of an auditor to audit the accounts of relevant authorities (as to which, see section 2 of, and Schedule 2 to, the Act). Schedule 4 to the Act makes provision about auditor panels and paragraph 2 (which relates to relevant authorities which are not health service bodies within the meaning in section 3(9) of the Act) contains provision about members of auditor panels. Panels must consist of a majority of independent members; individuals who have been a member or officer of a relevant authority within 5 years of the time in question cannot be independent members of the audit panel that advises that authority.

These Regulations amend the definition, in paragraph 2 of Schedule 4 to the Act, of who is independent at any given time, by substituting sub-paragraph (2) and making modifications to that sub-paragraph as it applies to police and crime commissioners, the Mayor’s Office for Policing and Crime, other functional bodies of the Greater London Authority (“GLA”) and the GLA. Persons with relevant interests in the relevant authority as provided for by sub-paragraph (2)(f) (providing goods or services to the authority) or sub-paragraph (2)(g) and (h) (being, or being employed by, a current or prospective auditor of the authority) cannot be independent auditor panel members.

An impact assessment of the effect that the Local Audit and Accountability Act 2014, which this instrument helps implement, will have on the costs of business is available from <http://www.parliament.uk/documents/impact-assessments/IA13-11A.pdf>. No separate assessment was carried out for this instrument.

STATUTORY INSTRUMENTS

2015 No. 192

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Audit (Appointing Person) Regulations 2015

Made - - - - 9th February 2015

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 17(1), (2)(b), (3) to (10), 43(2) and 46(1) of the Local Audit and Accountability Act 2014⁽¹⁾.

In accordance with section 43(3) and (4)(g) of that Act a draft of these Regulations was laid before Parliament and approved by a resolution of each House.

PART 1

Preliminary

Citation, commencement and application

1.—(1) These Regulations may be cited as the Local Audit (Appointing Person) Regulations 2015 and come into force on the day after the day on which they are made.

(2) These Regulations apply in relation to principal authorities.

Interpretation

2. In these Regulations—

“the Act” means the Local Audit and Accountability Act 2014, and, unless otherwise provided references to the Act or to any provision of it are to the Act or that provision as it has effect by virtue of these Regulations;

“appointing person” means a person specified by the Secretary of State under regulation 3 to appoint a local auditor⁽²⁾;

“audit contract” means a contract between an appointing person and a local auditor for the carrying out of audit work;

⁽¹⁾ 2014 c. 2.

⁽²⁾ See section 44 of the Local Audit and Accountability Act 2014 (c. 2) for meaning of “local auditor”, “code of audit practice” and “financial year”.

“audit work” means, in relation to an authority, the carrying out of the functions of a local auditor under the Act in relation to the accounts of that authority, in compliance with, or with the relevant part or parts of, the code of audit practice applicable to that authority;

“compulsory appointing period” means the financial year or years for which a relevant appointing person is responsible for appointing a local auditor to conduct the audit of the accounts for any authority which becomes an opted in authority by virtue of regulation 9, which—

- (a) is specified in an invitation published under regulation 8, and
- (b) relates to—
 - (i) a specific financial year, or
 - (ii) a period of consecutive financial years, not exceeding five years;

“full audit authority” has the same meaning as in regulation 2 of the Local Audit (Smaller Authorities) Regulations 2015(3);

“invitation” has the meaning given in regulation 8(5);

“newly established principal authority” means either—

- (a) a principal authority which was not in existence at the time that the relevant appointing person issued an invitation under regulation 8 to a class of principal authorities within which the principal authority now falls; or
- (b) a principal authority which was not a principal authority at the time that the relevant appointing person issued an invitation under regulation 8 to a class of principal authorities, within which the principal authority now falls, but which has subsequently become a principal authority;

“opted in authority” means a principal authority for which the responsibility for the appointment of a local auditor has become that of an appointing person instead of that of the authority by virtue of regulation 9, 10 or 11;

“principal authority” means—

- (a) a relevant authority that is not a smaller authority, or
- (b) a full audit authority; and

“relevant appointing person”, in relation to a principal authority, means the person specified under regulation 3(2) in relation to the class of authorities within which the principal authority falls;

and

“website” means a website which is publicly accessible free of charge.

PART 2

Specification of the appointing person

Specification of a person to appoint local auditors

3.—(1) The Secretary of State may, in accordance with regulation 4, specify a person (an “appointing person”) to appoint a local auditor to audit the accounts of an opted in authority.

(2) The Secretary of State may specify different persons in relation to different classes of principal authorities.

Procedure for specifying an appointing person

4.—(1) The specification of a person must be in writing and may, but need not, specify a date when the specification ends.

- (2) The Secretary of State must publish the relevant details of any appointing person—
 - (a) on a website;
 - (b) in the London Gazette.
- (3) The relevant details are—
 - (a) the appointing person's name;
 - (b) the appointing person's registered address (if any);
 - (c) the appointing person's address for correspondence; and
 - (d) details of the class of principal authorities in relation to which that person is the appointing person, if the class is not all principal authorities.

Ending specification

5.—(1) The Secretary of State may end the specification of an appointing person in accordance with this regulation.

- (2) Before ending the specification, the Secretary of State must—
 - (a) consult such principal authorities as the Secretary of State considers have an interest;
 - (b) consult such associations of principal authorities or relevant authorities as appear to the Secretary of State to have an interest.
- (3) The Secretary of State must—
 - (a) give notice to the appointing person concerned of the ending of specification, giving—
 - (i) the date on which specification is to end,
 - (ii) the reason for ending the specification;
 - (b) publish notice of the ending of the specification—
 - (i) on a website, and
 - (ii) in the London Gazette; and
 - (c) make arrangements for notifying opted in authorities of the ending of the specification.
- (4) The Secretary of State may make arrangements under paragraph (3)(c) by requiring the appointing person to notify opted in authorities.

Consequences of end of specification

6.—(1) If the Secretary of State gives notice to an appointing person under regulation 5(3)(a), the Secretary of State may, either before or after (or both before and after) the specification ends—

- (a) exercise the functions of the appointing person arising by virtue of these Regulations;
 - (b) transfer rights and liabilities of the appointing person arising by virtue of these Regulations to—
 - (i) the Secretary of State; or
 - (ii) another appointing person.
- (2) The Secretary of State may transfer some rights and liabilities under paragraph (1)(b) to the Secretary of State and some to another appointing person.
- (3) The appointing person to whom notice is given under regulation 5(3)(a) must—

- (a) disclose all of the appointing person's rights and liabilities arising by virtue of these Regulations to the Secretary of State;
- (b) co-operate with the Secretary of State and any other appointing person for the purpose of ensuring an audit of an opted in authority is not adversely affected.

Additional functions of appointing person

7. A specified appointing person must—
- (a) keep and maintain a record of which principal authorities are opted in authorities and publish that record on a website;
 - (b) design and implement appropriate systems to—
 - (i) oversee issues of independence of any auditor which it has appointed, arising both at the time of appointment and when undertaking audit work;
 - (ii) monitor compliance by a local auditor against the contractual obligations in an audit contract;
 - (iii) resolve disputes or complaints from—
 - (aa) local auditors, opted in authorities and local government electors relating to audit contracts and the carrying out of audit work by auditors it has appointed;
 - (bb) authorities regarding the refusal of a request to become an opted in authority under regulation 11.

PART 3

Invitation to become an opted in authority

Invitation to principal authorities

8.—(1) Before every compulsory appointing period begins, a relevant appointing person must issue an invitation in accordance with this regulation to all principal authorities which fall within the class of authorities in relation to which the person has been specified under regulation 3(2).

(2) The invitation must be published in such manner as the relevant appointing person thinks is likely to bring it to the attention of the principal authorities concerned.

- (3) The invitation must contain the following information—
- (a) the length of the compulsory appointing period, specifying the financial year or years to which it relates;
 - (b) the closing date for the giving of notice to the appointing person by an authority within the class to accept the invitation (and that date must allow at least 8 weeks for acceptance beginning on the date the invitation is published);
 - (c) an explanation of the procedures by which an authority may accept the invitation and become an opted in authority.

(4) An invitation may not relate to a financial year which commences before 1st April 2017.

(5) In these Regulations “invitation” means an invitation to become an opted in authority for the duration of the compulsory appointing period.

Acceptance of an invitation

9.—(1) A principal authority which is within the class of authorities to whom an invitation has been issued may accept an invitation made by a relevant appointing person under regulation 8 by giving notice of acceptance to the appointing person on or before the closing date mentioned in regulation 8(3)(b).

(2) An authority which gives a notice under paragraph (1) becomes an opted in authority on the date the notice is received by the appointing person.

(3) An authority which has become an opted in authority under this regulation is an opted in authority only for the duration of the compulsory appointing period specified in the invitation.

PART 4

Opted in authorities during compulsory appointing period

Right to become an opted in authority during a compulsory appointing period

10.—(1) During a compulsory appointing period, a newly established principal authority may become an opted in authority in accordance with this regulation.

(2) A newly established principal authority may become an opted in authority by giving notice to the relevant appointing person of its decision to become an opted in authority; and such notice must specify the authority's postal address.

(3) An authority which gives a notice under paragraph (2) becomes an opted in authority on the date the notice is received by the appointing person.

(4) The authority is an opted in authority for the remainder of the compulsory appointing period which is in existence on the date mentioned in paragraph (3).

Right to request to become an opted in authority during a compulsory appointing period

11.—(1) During a compulsory appointing period, any principal authority which could have accepted a relevant appointing person's invitation under regulation 8 but did not, may make a request to the relevant appointing person to become an opted in authority, in accordance with this regulation.

(2) The authority must give notice to the relevant appointing person of its request to become an opted in authority; and such notice must specify the authority's postal address.

(3) The relevant appointing person must—

- (a) consider the authority's request to opt in,
- (b) agree to the request unless the appointing person has reasonable grounds for refusing it;
- (c) give notice to the authority, within four weeks beginning with the date that the request to become an opted in authority was received, giving the decision in relation to the request, and
- (d) provide reasons if the request is refused.

(4) The authority becomes an opted in authority on the date on which the relevant appointing person gives notice to the authority agreeing to its request to become an opted in authority.

(5) The authority is an opted in authority for the remainder of the compulsory appointing period which is in existence on the date mentioned in paragraph (4).

(6) A relevant appointing person may recover its reasonable costs for making arrangements to appoint a local auditor to an authority which becomes an opted in authority under this regulation, from that authority.

Opted in authority ceasing to be principal authority: duty to notify

12.—(1) An opted in authority which ceases to be a principal authority must, as soon as practicable after the day it ceases to be such an authority, give notice of that fact to the relevant appointing person.

(2) An opted in authority which ceases to fall within the class of authority for which the appointing person is the relevant appointing person, must, as soon as practicable after the day it ceases to be such an authority, give notice of that fact to the relevant appointing person.

(3) Paragraph (4) applies where an authority fails to give the notice required by paragraphs (1) or (2).

(4) The relevant appointing person may recover from the authority any reasonable costs incurred in relation to that authority by—

- (a) the appointing person, or
- (b) a local auditor appointed to the authority by the appointing person,

until the date when the authority in fact gives such notice..

PART 5

Appointment of local auditors to opted in authorities

Appointment of local auditors to opted in authorities

13.—(1) An appointing person must appoint a local auditor to each opted in authority to conduct the audit of that authority for the appropriate period.

(2) The appropriate period is—

- (a) for an authority which is an opted in authority by virtue of regulation 8, the compulsory appointing period;
- (b) for an authority which is an opted in authority by virtue of either regulation 10 or 11, the remainder of the compulsory appointing period beginning with the day on which the authority became an opted in authority.

(3) Before appointing a local auditor to an opted in authority, an appointing person must consult the authority about the proposed appointment.

Retention of local auditor by non-qualifying authority

14.—(1) This paragraph applies where an appointing person has appointed a local auditor to audit the accounts of an authority which the appointing person reasonably believed to be an opted in authority for which the appointing person was the relevant appointing person, but at the time of the appointment of the auditor the authority—

- (a) was not a principal authority; or
- (b) did not fall within the class of authorities for which the appointing person is the relevant appointing person.

(2) This paragraph applies where an appointing person has appointed a local auditor to audit the accounts of an opted in authority for which the appointing person was the relevant appointing person, but the authority—

- (a) has ceased to be a principal authority; or
- (b) no longer falls within the class of authorities for which the appointing person is the relevant appointing person.

(3) Where paragraph (1) or (2) applies, the auditor may remain in office for the relevant financial year subject to agreement between the authority and the auditor.

(4) In paragraph (3) “relevant financial year” means the financial year in which the circumstances first fall within paragraph (1)(a) or (b) or paragraph (2)(a) or (b).

Resignation and removal of auditors

15.—(1) The Local Audit (Auditor Resignation and Removal) Regulations 2014(4) do not apply in relation to a local auditor appointed in accordance with these Regulations.

(2) An appointing person may remove a local auditor which it appointed from office before the expiry of the term of that office.

(3) When a local auditor appointed by a relevant appointing person to an opted in authority leaves office, whether through—

- (a) resignation by the auditor from office, or
- (b) removal by the appointing person of the auditor from office,

the relevant appointing person must appoint a new local auditor to that opted in authority as soon as practicable after the auditor leaves office.

(4) Before appointing an auditor under paragraph (3), the appointing person must consult the authority about the proposed appointment.

(5) The opted in authority must, within the period of 28 days beginning with the day on which an appointment under paragraph (3) is notified to the authority by the relevant appointing person, publish a notice that—

- (a) states that the relevant appointing person has made the appointment,
- (b) identifies the local auditor that has been appointed, and
- (c) specifies the period for which the local auditor has been appointed.

(6) The notice must be published—

- (a) if the authority has a website, on its website;
- (b) otherwise, in accordance with paragraph (7).

(7) An authority publishes a notice in accordance with this paragraph if—

- (a) in the case of an authority other than a health service body, it publishes the notice in such manner as it thinks is likely to bring the notice to the attention of persons who live in its area;
- (b) in the case of a clinical commissioning group, it publishes the notice in such manner as it thinks is likely to bring the notice to the attention of—
 - (i) persons who live in the area of the group, and
 - (ii) persons who do not live in the area of the group but for whom the group has responsibility;
- (c) in the case of special trustees for a hospital, they publish the notice in such manner as they think is likely to bring the notice to the attention of persons to whom services are provided at that hospital.

(8) The authority must exclude from the notice information whose disclosure would prejudice commercial confidentiality, unless there is an overriding public interest in favour of its disclosure.

PART 6

Fees for audit

Setting of fee scales for audits

16.—(1) An appointing person must specify, before the start of the financial year to which the scale of fees relates, the scale or scales of fees for the audit of the accounts of opted in authorities in relation to which the person is the relevant appointing person.

(2) A scale of fees must relate to a particular financial year, but may be set for more than one financial year at a time.

(3) An appointing person may vary the scale of fees which it has specified, but must not do so once the financial year to which the scale of fees relates has begun.

(4) Before specifying or varying any scale of fees, an appointing person must consult—

- (a) all opted in authorities;
- (b) such representative associations of principal authorities as appear to the specified person to be concerned, and
- (c) such bodies of accountants as appear to the appointing person to be appropriate.

(5) A scale of fees may take account of the costs or expenses and anticipated costs and expenses of—

- (a) the appointing person in respect of any function imposed by or under the Act;
- (b) anything which is reasonably incidental or supplementary to the functions of the appointing person imposed by or under the Act;
- (c) local auditors which are recoverable from authorities under the Act, specified in regulation 17(3).

(6) The scales of fees applicable to the audit of an authority which became an opted in authority under regulation 10 or 11 must be the scale of fees applicable to other opted in authorities falling within the same class of authorities as the authority.

Setting of fee for audit

17.—(1) Subject to paragraph (2), the fee for the audit of the accounts of an opted in authority must be set in accordance with the appropriate fee scale specified in accordance with regulation 16.

(2) If it appears to an appointing person, on the basis of information supplied by the local auditor which it has appointed—

- (a) that the work involved in a particular audit was substantially more or less than that envisaged by the appropriate scale, or
- (b) any of the provisions mentioned in paragraph (3) apply,

the appointing person may charge a fee which is larger or smaller than that referred to in paragraph (1), as appropriate.

(3) The costs or expenses of the local auditor recoverable from an authority under any of the following provisions of the Act are recoverable as part of the fee for the audit of the accounts of the opted in authority to which the costs or expenses relate—

- (a) section 23(3) (offences relating to auditor's right to documents and information);
- (b) section 26(3) (inspection of documents etc.);
- (c) section 27(7) (right to make objections at audit);

- (d) section 28(7) (declaration that item of account is unlawful);
- (e) section 31(6) (power of auditor to apply for judicial review);
- (f) paragraph 1(5) of Schedule 7 (public interest reports);
- (g) paragraph 2(4) of Schedule 7 (written recommendations); and
- (h) paragraph 3(5) of Schedule 8 (advisory notices).

(4) The appointing person must give notice to the authority concerned of any larger or smaller fee, giving reasons.

Payment of fee

18. An opted in authority must pay to the relevant appointing person the fee set under regulation 17.

PART 7

Miscellaneous

Requirements in relation to certain functions

19.—(1) A principal authority may only exercise the functions in paragraph (2) by the members of the authority meeting as a whole, except where the authority is a corporation sole, in which case the functions must be exercised by the holder of the office.

(2) The functions are—

- (a) deciding to accept an invitation under regulation 9;
- (b) deciding to become an opted in authority under regulation 10; or
- (c) deciding to request to become an opted in authority under regulation 11.

Duty to provide information

20. A principal authority or local auditor appointed by an appointing person must, so far as reasonably practicable, provide the appointing person with such information that it may reasonably require for the purposes of exercising its functions under these Regulations.

Notices

21. A notice that is required under these Regulations to be given to a person or authority must be in writing and may be given by—

- (a) delivering it to that person's or authority's address;
- (b) sending it by post to that person's or authority's address; or
- (c) electronic service in accordance with regulation 22.

Electronic service

22.—(1) This regulation applies in respect of electronic service of a notice on a person or an authority ("the recipient").

(2) Transmission of the notice to the recipient by means of an electronic communication has effect for the purposes of service of the notice on the recipient if, and only if, the conditions in paragraph (3) are met.

- (3) The conditions are that—
- (a) the recipient has stated a willingness to receive notices by means of an electronic communication,
 - (b) the statement has not been withdrawn, and
 - (c) the notice was transmitted to an electronic address specified by the recipient.
- (4) A statement may be limited to notices of a specified description.
- (5) A statement may require a notice to be in a specified electronic form.
- (6) A statement may be modified or withdrawn—
- (a) in a case where the statement was made by being published, by publishing the modification or withdrawal in the same or in a similar manner;
 - (b) in any other case, by giving a notice to the person to whom the statement was made.
- (7) Where a notice is served on a recipient in accordance with this regulation, the notice is, unless the contrary is proved, to be deemed to have been served on that recipient at the time at which the electronic communication is transmitted.
- (8) In this regulation—
- “electronic address” includes any number or address used for the purposes of receiving electronic communications;
 - “electronic communication” means an electronic communication within the meaning of section 15 of the Electronic Communications Act 2000 (general interpretation)(5);
 - “specified” means specified in a statement made for the purposes of paragraph (3)(a).

Modifications to the Local Audit and Accountability Act 2014 and other Acts

- 23.** The Schedule to these Regulations has effect.

Signed by authority of the Secretary of State for Communities and Local Government

9th February 2015

Kris Hopkins
Parliamentary Under Secretary of State
Department for Communities and Local
Government

(5) [2000 c. 7](#). The definition of “electronic communication” in section 15 was amended by Schedule 17 to the Communications Act [2003 \(c. 21\)](#).

SCHEDULE

Regulation 23

Modifications to the Local Audit and Accountability Act 2014 and other Acts

PART 1

General modifications

1. The Act applies subject to the modifications to the Act in the rest of this Schedule.

PART 2

Appointment of local auditor

2. Section 7 applies in relation to an opted in authority as if—
 - (a) for subsection (1) there were substituted—

“(1) The appointing person must appoint a local auditor to audit the accounts of an opted in authority for a financial year not later than 31st December in the preceding financial year.”;
 - (b) in subsection (2)—
 - (i) for “A relevant authority” there were substituted “The appointing person”;
 - (ii) for “its accounts” there were substituted “the accounts”; and
 - (iii) in paragraph (b) for “the authority” there were substituted “the appointing person”;
 - (c) in subsection (3) for “the relevant authority” there were substituted “the appointing person”; and
 - (d) subsection (8) were omitted.

Procedure for appointment

3. Section 8 applies in relation to an opted in authority as if—
 - (a) subsection (1) were omitted;
 - (b) in subsection (2)—
 - (i) for “The relevant authority” there were substituted “An opted in authority”;
 - (ii) for “the appointment is made” there were substituted “the appointment of a local auditor in relation to the authority is notified to the authority by the appointing person”;
 - (iii) in paragraph (a) for “it” there were substituted “the appointing person”;
 - (iv) at the end of paragraph (b) there were inserted “and”; and
 - (v) paragraphs (d) and (e) were omitted;
 - (c) in subsection (3) for “relevant authority” there were substituted “the authority”;
 - (d) in subsection (4) for “a relevant authority” both times it occurs there were substituted “an authority”;
 - (e) in subsection (5) for “The relevant authority” there were substituted “The authority”; and
 - (f) subsection (6) were omitted.

Requirement to have auditor panel

4. Section 9 applies in relation to an opted in authority as if—
- (a) in subsection (1) after “relevant authority” there were inserted “other than an opted in authority”; and
 - (b) after subsection (1) there were inserted—
 - “(1A) An opted in authority may have an auditor panel at any time, but that panel must not be consulted about—
 - (a) whether or not the authority is to become an opted in authority;
 - (b) matters relating to an auditor appointed by an appointing person; or
 - (c) matters relating to an audit carried out by an auditor appointed by an appointing person.”.

Functions of auditor panel

5. Section 10 applies in relation to an opted in authority as if before subsection (1) there were inserted—
- “(A1) This section is subject to section 9.”

Failure of appointing person to appoint local auditor

6. In the event that the appointing person fails to appoint a local auditor to an opted in authority in accordance with Part 3 of the Act, section 12 applies as if—
- (a) for subsection (1) there were substituted—
 - “(1) If an appointing person fails to appoint a local auditor to audit the accounts of an opted in authority, other than a clinical commissioning group, in accordance with this Part, the authority must immediately inform the appointing person and the Secretary of State of that fact.”
 - (b) in subsection (2)—
 - (i) for the words from “relevant authority” to “commissioning group,” there were substituted “an appointing person”;
 - (ii) after “local auditor”, the first time those words appear, there were inserted “to audit the accounts of an opted in authority, other than a clinical commissioning group”;
 - (iii) after paragraph (a) there were inserted—
 - “(aa) “(aa) direct the appointing person to appoint an auditor, or”;
 - (c) after subsection (2) there were inserted—
 - “(2A) Where an appointment is made under subsection (2)(aa)—
 - (a) the appointment takes effect on such terms as the Secretary of State may direct; and
 - (b) the appointing person may recover its reasonable administrative costs of making arrangements to appoint a local auditor for the local authority.”;
 - (d) in subsection (3)(a) “relevant” were omitted;
 - (e) in subsection (4)—
 - (i) “relevant” were omitted both times it occurs;
 - (ii) in paragraph (a), after “authority” there were inserted “and where the Secretary of State intends to direct the appointing person, that person”; and

- (iii) in paragraph (b) after “authority” there were inserted “or the appointing person”; and
- (f) in subsection (5) for “a relevant authority” there were substituted “an authority”.

Failure of principal authority to appoint local auditor

7. In the event that a principal authority which is not an opted in authority fails to appoint a local auditor in accordance with Part 3 of the Act, section 12 applies as if—

- (a) in subsection (1), for “relevant authority” there were substituted “principal authority which is not an opted in authority”;
- (b) in subsection (2)—
 - (i) for “relevant authority” there were substituted “principal authority which is not an opted in authority”;
 - (ii) after paragraph (a) there were inserted—
 - “(aa) “(aa) direct the person specified under regulation 3(2) of the Local Audit (Appointing Person) Regulations 2015 in relation to the class of principal authorities within which the authority falls, to appoint an auditor.”;
- (c) after subsection (2) there were inserted—
 - “(2A) Where an appointment is made under subsection (2)(aa)—
 - (a) the appointment takes effect on such terms as the Secretary of State may direct; and
 - (b) the relevant appointing person may recover its reasonable administrative costs of making arrangements to appoint a local auditor for the authority.”;
- (d) in subsection (3)(a) “relevant” were omitted;
- (e) in subsection (4)—
 - (i) “relevant” were omitted both times it occurs;
 - (ii) in paragraph (a), after “authority” there were inserted “and, where the Secretary of State intends to direct the appointing person, that person”; and
 - (iii) in paragraph (b), after “authority” there were inserted “or the appointing person”; and
- (f) in subsection (5) for “a relevant authority” there were substituted “an authority”.

Modification to Schedule 3 (further provisions about appointment of local auditors)

- 8. Schedule 3 does not apply to opted in authorities.

Modification to Schedule 5 (eligibility and regulation of local auditors)

9. Schedule 5 applies in relation to a local auditor appointed by an appointing person as if after paragraph 4 there were inserted—

- “4A. In section 1213(2) (effect of ineligibility)—
 - (a) omit “and” at the end of paragraph (a);
 - (b) insert “and” at the end of paragraph (b); and
 - (c) after paragraph (b), insert—
 - “(c) “(c) where the local auditor was appointed by an appointing person, give the notice in paragraph (b) to that person.”.”

10. Paragraph 5 of Schedule 5 applies in relation to an appointment by an appointing person, as if—

- (a) in subsection (1) of the inserted text, for “and (5)” there were substituted “, (5) and (5A)”; and
- (b) after subsection (5) of the inserted text, there were inserted—
 - “(5A) This subsection applies if—
 - (a) P is an employee or a member of the appointing person who is responsible for appointing the authority’s local auditor; or
 - (b) P is a partner or employee of a person falling within paragraph (a), or a partnership of which such a person is a partner.”.

11. Paragraph 6 of Schedule 5 applies in relation to a local auditor appointed by an appointing person as if the text of that paragraph were subparagraph (2) and before that paragraph there were inserted—

- “(1) In section 1215 (effect of lack of independence) in subsection (1)—
 - (a) omit “and” at the end of paragraph (a);
 - (b) insert “and” at the end of paragraph (b); and
 - (c) after paragraph (b), insert—
 - “(c) “(c) where the local auditor was appointed by an appointing person, also give the notice in paragraph (b) to the appointing person.”.”

12. Paragraph 7 of Schedule 5 applies in relation to a local auditor appointed by an appointing person as if for the words from “after subsection (5)” to the end of that paragraph there were substituted—

- “in subsection (5)—
 - (a) for “audited person” the first time it occurs substitute “appointing person who appointed the local auditor”; and
 - (b) in paragraph (b) for “audited person” substitute “appointing person”.”.

13. Paragraph 16 of Schedule 5 applies in relation to an opted in authority as if—

- (a) in subsection (1) of the inserted text, after “appointed” there were inserted “by an appointing person”;
- (b) in subsections (2) and (5) of the inserted text, for “relevant authority” there were substituted “appointing person”;
- (c) in subsection (6) of the inserted text for “authority” there were substituted “appointing person”; and
- (d) subsection (7) were omitted.

14. Paragraph 17 of Schedule 5 applies in relation to an opted in authority as if in subsection (1) of the inserted text—

- (a) for “relevant authority” the second time it appears, there were substituted “appointing person who appointed the auditor”; and
- (b) after “section 1248” there were inserted “, and must ensure that the authority is either not required to pay a fee for the first audit, or is refunded any fee paid”.

Modification to Schedule 6 (codes of audit practice and guidance)

15. Schedule 6 applies where an appointing person has been specified under regulation 3 as if there were inserted after paragraph 1(5)(e)—

“(ea) “(ea) a person specified under regulation 3 of the Local Audit (Appointing Person) Regulations 2015.”.

Modification to Schedule 11 (disclosure of information)

16. Schedule 11 applies where an appointing person has been specified under regulation 3 as if the following were inserted after paragraph 1(3)(c)—

“(ca) “(ca) a person specified under regulation 3 of the Local Audit (Appointing Person) Regulations 2015.”.

PART 3

Modification to the Anti-terrorism, Crime and Security Act 2001

17. Paragraph 53F of Schedule 4 to the Anti-terrorism, Crime and Security Act 2001(6) applies where an appointing person has been specified under regulation 3 as if after “2014” there were inserted the words “as it has effect by virtue of the Local Audit (Appointing Person) Regulations 2015.”

Modification to the National Health Service Act 2006

18. Paragraph 17(5) of Schedule 1A to the National Health Service Act 2006(7) applies in relation to an opted in authority as if after “2014” there were inserted the words “as it has effect by virtue of the Local Audit (Appointing Person) Regulations 2015”.

19. Paragraph 4 of Schedule 15 to that Act applies in relation to an opted in authority as if after “2014” there were inserted the words “as it has effect by virtue of the Local Audit (Smaller Authorities) Regulations 2015”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Local Audit and Accountability Act 2014 (c. 2) makes provision about the accounts of local and certain other public authorities and the auditing of those accounts. These Regulations make provision for the appointment of a local auditor by a person specified by the Secretary of State (“an appointing person”) to audit the accounts of those authorities that choose to opt in to such arrangements.

(6) 2001 c. 24. Paragraph 53F was inserted by the Local Audit and Accountability Act 2014, section 45 and Schedule 12.

(7) 2006 c. 41. Paragraph 17 of Schedule 1A and paragraph 4 of Schedule 15 were amended by the Local Audit and Accountability Act 2014, section 45 and Schedule 12

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulations 3 to 7 provide for specification of the appointing person and that person's functions. An appointing person may be appointed in relation to all authorities or specified classes

Regulations 8 to 10 provide for the appointing person to issue an invitation to all authorities for which the person is the appointing person, to opt into the arrangements for the period specified in the invitation ("the compulsory appointing period"). An invitation may not relate to a financial year which commences before 1st April 2017.

Regulations 11 and 12 deal with cases where an authority wishes to opt in to the arrangements during the compulsory appointing period.

Regulations 13 to 15 make provision for the appointment of a local auditor by the appointing person, as well as the resignation and removal of the auditor.

Regulations 16 to 18 provide for audit fees. Regulation 19 provides that certain functions are to be exercised by the full council or authority. Regulation 20 imposes a duty on a principal authority or local auditor to provide the appointing person with information relevant to the performance of that person's functions. Regulation 23 and the Schedule make consequential modifications to the Local Audit and Accountability Act 2014, Part 42 of the Companies Act 2006 and other Acts.

An impact assessment of the effect that the Local Audit and Accountability Act 2014, which this instrument helps implement, will have on the costs of business is available from <http://www.parliament.uk/documents/impact-assessments/IA13-11A.pdf>. No separate assessment was carried out for this instrument.

STATUTORY INSTRUMENTS

2014 No. 1710

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Audit (Auditor Resignation
and Removal) Regulations 2014**

<i>Made</i>	- - - -	<i>2nd July 2014</i>
<i>Laid before Parliament</i>		<i>4th July 2014</i>
<i>Coming into force</i>	- -	<i>1st April 2015</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 16 and 43(2) of the Local Audit and Accountability Act 2014⁽¹⁾:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Audit (Auditor Resignation and Removal) Regulations 2014 and come into force on 1st April 2015.

(2) In these Regulations—

“the Act” means the Local Audit and Accountability Act 2014;

“the 2006 Act” means the Companies Act 2006⁽²⁾;

“major local audit” has the same meaning as in regulation 12 of the Local Audit (Professional Qualifications and Major Local Audit) Regulations 2014⁽³⁾;

“supervisory body” has the same meaning as in the 2006 Act⁽⁴⁾.

(3) A relevant authority publishes a statement in accordance with this paragraph if—

(a) in the case of an authority other than a health service body, it publishes the statement in such manner as it thinks is likely to bring the statement to the attention of persons who live in the area;

(b) in the case of a clinical commissioning group, it publishes the statement in such manner as it thinks is likely to bring the statement to the attention of—

(i) persons who live in the area of the group; and

(1) [2014 c.2](#) (“the 2014 Act”).

(2) [2006 c.46](#) (“the 2006 Act”).

(3) [S.I. 2014/1627](#).

(4) As to the recognition of supervisory bodies under the 2006 Act see Schedule 10 to that Act, applied to local audit by paragraph 1 of Schedule 5 to the 2014 Act and modified in its application to local audit by paragraphs 2 and 28 of that Schedule.

- (ii) persons who do not live in the area of the group but for whom the group is responsible;
- (c) in the case of special trustees for a hospital, they publish the statement in such manner as they think is likely to bring the statement to the attention of persons to whom services are provided at that hospital.

Application of these Regulations to policing bodies

- 2.—(1) Paragraph (2) applies to the resignation or removal of a local auditor of the accounts of—
- (a) a chief constable for an area in England;
 - (b) the Commissioner of Police of the Metropolis.
- (2) A relevant authority specified in paragraph (1) may not remove the local auditor of the accounts of that authority from that office.
- (3) Anything that must or may be done under these Regulations by or in relation to a relevant authority in respect of a local auditor of the accounts of—
- (a) a chief constable for an area in England must or may be done by or in relation to the police and crime commissioner for that area;
 - (b) the Commissioner of Police of the Metropolis must or may be done by or in relation to the functional body⁽⁵⁾ that is the Mayor’s Office for Policing and Crime.
- (4) These Regulations have effect in relation to a police and crime commissioner and the Mayor’s Office for Policing and Crime (“specified relevant authorities”) subject to the following modifications—
- (a) the duty on the local auditor of the specified relevant authority under regulation 3(1) includes a duty, at the same time, to give a copy of—
 - (i) the notice of resignation; and
 - (ii) the statement referred to in regulation 3(2),
 to the chief constable for the area, or the Commissioner of Police of the Metropolis, as the case may be;
 - (b) the duty on the specified relevant authority under regulation 3(4)(a) includes a duty, at the same time, to give a copy of the notice to the chief constable for the area or the Commissioner of Police of the Metropolis, as the case may be;
 - (c) the duty on the auditor panel of the specified relevant authority under regulation 4(1) (c) includes a duty, within the period of three months beginning with the date the local auditor’s resignation takes effect, to give a copy of the statement to the chief constable for the area or the Commissioner of Police of the Metropolis, as the case may be;
 - (d) the duty on the specified relevant authority under regulation 6(1) includes a duty, at the same time, to give a copy of the notice to the chief constable for the area or the Commissioner of Police of the Metropolis, as the case may be;
 - (e) the duty on the specified relevant authority under regulation 6(3) includes a duty, as soon as practicable after receiving the local auditor’s response under regulation 6(2), to give a copy of the local auditor’s response to the chief constable for the area or the Commissioner of Police of the Metropolis, as the case may be;
 - (f) the duty on the auditor panel of the specified relevant authority under regulation 6(4) includes a duty, at the same time, to send a copy of the panel’s advice to the chief constable for the area or the Commissioner of Police of the Metropolis, as the case may be.

(5) See section 44(1) of the 2014 Act for the definition of “functional body”.

- (g) the duty on the specified relevant authority under regulation 7(5)(a) to give a copy of the statement referred to in regulation 7(4) to the authority's auditor panel includes a duty, at the same time, to give a copy of that statement to the chief constable for the area or the Commissioner of Police of the Metropolis, as the case may be.

Resignation of local auditor

3.—(1) A local auditor resigning from that office other than in compliance with section 1215(1) of the 2006 Act⁽⁶⁾ must give notice of resignation in writing to the relevant authority.

(2) A notice of resignation under paragraph (1) is not effective unless accompanied by a statement in writing of—

- (a) the reasons for the local auditor ceasing to hold office;
- (b) any matters connected with the local auditor ceasing to hold office that the local auditor considers need to be brought to the attention of the relevant authority or the relevant authority's auditor panel.

(3) An effective notice of resignation under paragraph (1) takes effect—

- (a) where—
 - (i) the resignation arises as a result of rules and practices designed to ensure local audit work is conducted properly and with integrity⁽⁷⁾, and
 - (ii) the notice specifies a date on which the resignation takes effect which is a date less than 28 days after the date of the notice,

on the date specified in the notice;

- (b) in any other case, 28 days after the date of the notice.

(4) The relevant authority must, as soon as is practicable after receiving—

- (a) notice in writing under section 1215(1) of the 2006 Act; or
- (b) an effective notice of resignation under paragraph (1),

give a copy of the notice (and, where applicable, the statement referred to in paragraph (2)) to the authority's auditor panel.

(5) The relevant authority must, within the period of 28 days beginning with the date on which the authority receives the statement referred to in paragraph (2)—

- (a) send a response to the local auditor and a copy of the response to the relevant authority's auditor panel; and
- (b) publish the statement and the response—
 - (i) if the relevant authority has a website, on its website;
 - (ii) otherwise, in accordance with regulation 1(3).

(6) A relevant authority must exclude from the statement and response published under paragraph (5) information whose disclosure would prejudice commercial confidentiality, unless there is an overriding public interest in favour of disclosure.

⁽⁶⁾ Section 1215(1) of the 2006 Act applies to local audit by virtue of paragraphs 1, 2 and 6 of Schedule 5 to the 2014 Act and provides that a local auditor must resign from office with immediate effect if it becomes prohibited from acting by section 1214 of the Act (as substituted by paragraphs 1 and 5 of Schedule 5 to the 2014 Act).

⁽⁷⁾ See paragraph 9(1)(a) of Schedule 10 to the 2006 Act, applied with modifications by paragraphs 1, 2 and 28 of Schedule 10 to the 2014 Act.

Role of the auditor panel in connection with a resignation of a local auditor

4.—(1) Where a local auditor resigns from office the relevant authority's auditor panel must, within the period of three months beginning with the date on which the resignation takes effect—

- (a) investigate the circumstances connected with the local auditor ceasing to hold office;
- (b) consider whether any action is required to be taken by the relevant authority to address any matters raised by the resignation; and
- (c) give a statement to the relevant authority containing—
 - (i) the results of the panel's investigations under sub-paragraph (a); and
 - (ii) the panel's recommendations in relation to any action to be taken by the authority.

(2) The relevant authority must, within the period of 28 days beginning with the date on which the authority receives the statement, publish it—

- (a) if the relevant authority has a website, on its website;
- (b) otherwise, in accordance with regulation 1(3).

(3) A relevant authority must exclude from the statement published under paragraph (2) information whose disclosure would prejudice commercial confidentiality, unless there is an overriding public interest in favour of disclosure.

Removal of local auditor

5.—(1) A relevant authority may remove its local auditor from that office before the expiry of the term of that office.

(2) If the relevant authority is a local authority operating executive arrangements⁽⁸⁾, the function of removing a local auditor from office is not the responsibility of an executive of the authority under those arrangements.

(3) If the relevant authority is a local authority within the meaning of section 101 of the Local Government Act 1972⁽⁹⁾ (arrangements for discharge of functions), that section does not apply to the authority's function of removing a local auditor from office.

(4) If the relevant authority is the Greater London Authority, the local auditor must be removed by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.

(5) If a parish meeting is removing a local auditor from office the local auditor must be removed by the parish meeting itself (and not by its chairman on behalf of the parish meeting).

Procedure for removal of local auditor from office

6.—(1) Not less than 28 days before the relevant authority is to make a decision on removing a local auditor from office, the relevant authority must give notice in writing of the proposal to—

- (a) each of its members (if it has members);
- (b) the relevant authority's auditor panel; and
- (c) the local auditor.

(2) Any response from the local auditor to the notice under paragraph (1) must be—

- (a) made in writing;
- (b) sent to the relevant authority so as to be received by it within the period of 14 days beginning with the date on which the local auditor receives notice under that paragraph.

⁽⁸⁾ See Part 1A of the Local Government Act 2000 (c.22), inserted by Schedule 2 to the Localism Act 2011 (c.20).

⁽⁹⁾ 1972 c.70.

(3) The relevant authority must, as soon as is practicable after receiving a response under paragraph (2), give a copy of the response to the relevant authority's auditor panel.

(4) The auditor panel must, before the relevant authority makes a decision on the proposal to remove a local auditor from office, provide written advice to the authority on the proposal.

(5) If the local auditor has made a response under paragraph (2) the advice under paragraph (4) must include advice in relation to that response.

(6) Where the proposal and advice are to be considered at a meeting of the relevant authority—

- (a) the local auditor or a representative of the local auditor is entitled to attend and speak at that meeting; and
- (b) a member of the authority's auditor panel is entitled to attend and speak at that meeting.

Steps to be taken after decision to remove local auditor

7.—(1) Where a relevant authority decides to remove a local auditor from office, it must—

- (a) notify the local auditor of the decision; and
- (b) within the period of 28 days beginning with the date of the decision publish a statement—
 - (i) if the relevant authority has a website, on its website;
 - (ii) otherwise, in accordance with regulation 1(3).

(2) The statement referred to in paragraph (1)(b) must contain—

- (a) any response, or a summary of the response, received from the local auditor under regulation 6(2);
- (b) the advice, or a summary of the advice, received from the authority's auditor panel under regulation 6(4); and
- (c) if the relevant authority has not followed the advice referred to in sub-paragraph (b), its reasons for not doing so.

(3) A relevant authority must exclude from the statement published under paragraph (1)(b) information whose disclosure would prejudice commercial confidentiality, unless there is an overriding public interest in favour of disclosure.

(4) Where, within the period of 14 days beginning with the date on which the local auditor ceases to hold office—

- (a) a relevant authority receives from the auditor a written statement of matters connected with its removal from office, and
- (b) the auditor considers the statement needs to be brought to the attention of the relevant authority or the relevant authority's auditor panel,

the authority must comply with paragraph (5).

(5) The relevant authority must—

- (a) give a copy of the statement referred to in paragraph (4) to the authority's auditor panel and, within the period of 14 days of receiving that statement—
 - (i) in the case of a major local audit of a relevant authority, to the Secretary of State or, where the Secretary of State has designated a body in an order under section 1252 of the 2006 Act (10), to that body; or
 - (ii) in any other case, to the supervisory body by which the local auditor is recognised; and

(10) Section 1252 of the 2006 Act applies to local audit by virtue of paragraph 1 of Schedule 5 to the 2014 Act and is modified in its application to local audit by paragraphs 2 and 21 of that Schedule.

- (b) publish the statement—
 - (i) if the relevant authority has a website, on its website;
 - (ii) otherwise, in accordance with regulation 1(3).

Notification on local auditor ceasing to hold office

8.—(1) The relevant authority must, not later than the end of the period of 14 days beginning with the date on which the local auditor ceases to hold office, notify—

- (a) in the case of a major local audit of a relevant authority, the Secretary of State or, where the Secretary of State has designated a body in an order under section 1252 of the 2006 Act, that body;
- (b) in any other case, the supervisory body by which the local auditor is recognised,

that the auditor has ceased to hold office as the authority’s local auditor.

(2) Where a local auditor resigns from office other than in compliance with section 1215(1) of the 2006 Act the notification under paragraph (1) must be accompanied by a copy of the statement required by regulation 3(2).

Appointment of a local auditor following removal or resignation

9.—(1) Where a local auditor resigns or is removed from office, the relevant authority must, within three months of the date on which the local auditor ceases to hold office, appoint a replacement local auditor to audit its accounts.

(2) If a relevant authority fails to comply with paragraph (1) it must immediately inform the Secretary of State of that fact.

(3) A clinical commissioning group which fails to comply with paragraph (1) must also immediately inform the National Health Service Commissioning Board of that fact.

- (4) Where a relevant authority fails to comply with paragraph (1) the Secretary of State may—
 - (a) direct the authority to appoint the auditor named in the direction; or
 - (b) appoint a local auditor on behalf of the authority.

(5) Section 12(3), (4) and (5) of the Act applies to a direction given or appointment made by the Secretary of State under paragraph (3) with the following modifications—

- (a) the reference in subsection (3) of section 12 to subsection (2)(b) of that section is to be read as a reference to paragraph (4)(b) of this regulation;
- (b) references to subsection (2) of section 12 are to be read as references to paragraph (4) of this regulation;
- (c) the reference in subsection (5) of section 12 to subsection (4) of that section is to be read as a reference to that subsection as applied by this paragraph.

Signed by authority of the Secretary of State for Communities and Local Government

2nd July 2014

Brandon Lewis
Parliamentary Under Secretary of State
Department for Communities and Local
Government

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about the resignation and removal of a local auditor appointed under Part 3 of the Local Audit and Accountability Act 2014 (“the Act”). Local auditors audit the accounts of relevant authorities (as to which, see section 2 of, and Schedule 2 to, the Act). Most relevant authorities are required to have an auditor panel to advise on the selection and appointment of its local auditor (see section 9 of, and Schedule 4 to, the Act in relation to auditor panels).

Regulation 2 makes provision about the application of the Regulations in relation to relevant authorities that are policing bodies (by virtue of section 9(2) of the Act those authorities are not required to have an auditor panel). Regulation 3 sets out requirements on an auditor when resigning from office as a relevant authority’s local auditor and steps that must be taken by the authority in question. Regulation 4 requires the auditor panel of the authority to investigate following the resignation of a local auditor; the panel’s statement is required to be published.

Regulations 5 to 7 make provision about the removal of a local auditor from office, including the way in which such a decision must be taken, the process the relevant authority must follow prior to removal of the auditor and the steps it must take after that removal. Regulation 8 requires a relevant authority to notify certain bodies that the local auditor has ceased to hold office. Regulation 9 requires a relevant authority to appoint a new local auditor within three months and contains provision enabling the Secretary of State to appoint, or direct the authority to appoint, a replacement auditor where the authority has failed to do so.

An impact assessment of the effect that the Local Audit and Accountability Act 2014, which this instrument helps implement, will have on the costs of business is available from <http://www.parliament.uk/documents/impact-assessments/IA13-11A.pdf>. No separate assessment was carried out for this instrument.



Department for
Communities and
Local Government

Transparency code for smaller authorities



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Part 1: Introduction

Policy context

1. This Code is issued to meet the Government's desire to place more power into citizens' hands to increase democratic accountability. Transparency gives local people the tools and information they need to hold local public bodies to account.
2. The Local Audit and Accountability Act 2014 sets out a new audit framework for local public authorities which are currently covered by the Audit Commission regime. Under the new audit framework smaller authorities, including parish councils, internal drainage boards, charter trustees and port health authorities, with an annual turnover not exceeding £25,000 will be exempt from routine external audit. In place of routine audit, these smaller authorities will be subject to the new transparency requirements laid out in this Code. This will enable local electors and ratepayers to access relevant information about the authorities' accounts and governance.
3. The Government considers that publication of the items in this Code will provide the local electorate and ratepayers with a clear picture of the activities of these smaller authorities. Most of this information is already produced by the majority of smaller authorities with a turnover not exceeding £25,000, and the Government therefore considers that compliance with this Code will not place a significant burden on these authorities.

Application

4. This Code is issued by the Secretary of State for Communities and Local Government in exercise of his powers under section 2 of the Local Government, Planning and Land Act 1980 ("the 1980 Act"), as amended by section 38 of the Local Audit and Accountability Act 2014, to issue a code of recommended practice as to the publication of information by local authorities about the discharge of their functions and other matters which he considers to be related.
5. This Code does not replace or supersede the existing legal framework for access to and re-use of public sector information provided by the Freedom of Information Act 2000 (as amended by the Protection of Freedoms Act 2012), Environmental Information Regulations 2004, the Re-use of Public Sector Information Regulations 2005 and Infrastructure for Spatial Information in the European Community (INSPIRE) Regulations 2009.
6. This Code applies to the following types of authorities in England with an annual turnover not exceeding £25,000: parish councils, internal drainage boards, charter trustees and port health authorities ("smaller authorities").

Turnover is defined as the higher of an authority's gross income for the year and its gross expenditure for the year.¹

Data protection

7. The Government believes that local transparency can be implemented in a way that complies with the Data Protection Act 1998. Where smaller authorities are disclosing information which potentially engages the Data Protection Act 1998, they must ensure that the publication of that information is compliant with the provisions of that Act. The Data Protection Act 1998 does not restrict or inhibit information being published naming councillors, members or senior local authority officers who have taken certain decisions, because of the public interest in the scrutiny of such senior individuals and decision makers. The Data Protection Act 1998 also does not automatically prohibit information being published naming the suppliers with whom the authority has contracts, including sole traders, because of the public interest in accountability and transparency in the spending of public money.
8. This Code complements existing provisions relating to public access to the decision-making process of smaller authorities. Smaller authorities should ensure that they continue to comply with any such provisions, and any subsequent legislation regarding local authority minutes, notices and agendas. Where information would otherwise fall within one of the exemptions from disclosure under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, or Infrastructure for Spatial Information in the European Community (INSPIRE) Regulations 2009 then it is in the discretion of the smaller authority whether or not to rely on that exemption or publish the data.²

Commercial confidentiality

9. The Government has not seen any evidence that publishing details about contracts entered into by smaller authorities would prejudice procurement exercises or the interests of commercial organisations, or breach commercial confidentiality unless specific confidentiality clauses are included in contracts. Smaller authorities should expect to publish details of contracts newly entered into – commercial confidentiality should not, in itself, be a reason for smaller authorities to not follow the provisions of this Code. Therefore, smaller authorities should consider inserting clauses in new contracts allowing for the disclosure of data in compliance with this Code.

¹ Where authorities are maintaining their accounts on a receipts and payments basis, 'expenditure' should be read as 'payments' and 'income' should be read as 'receipts'.

² The most relevant exemptions under the Freedom of Information Act 2000 are those relating to law enforcement, for example information which may prejudice a current fraud investigation, (section 31), personal data (section 40) and information provided in confidence (section 41).

Part 2: Information which should be published

10. Smaller authorities should publish:
 - a. all items of expenditure above £100 (see paragraphs 13 - 15);
 - b. end of year accounts (see paragraphs 16 and 17),
 - c. annual governance statement (see paragraphs 18 and 19),
 - d. internal audit report (see paragraphs 20 – 22),
 - e. list of councillor or member responsibilities (see paragraph 23), and
 - f. the details of public land and building assets (see paragraphs 24 - 27),
 - g. Minutes, agendas and meeting papers of formal meetings (see paragraphs 29 and 30).

Part 2.1: Information to be published annually

11. The data and information in this Part (2.1) must be published:
 - on the first occasion, not later than 1 July 2015, and
 - thereafter, not less than annually and not later than 1 July in the year immediately following the accounting year to which it relates.
12. This is particularly important to enable local Government electors, council tax payers and ratepayers to scrutinise financial information so that they are able to exercise their rights to question and make objections to the auditor.

All items of expenditure above £100

13. Smaller authorities should publish the details of each individual item of expenditure above £100. Publishing a complete list of expenditure transactions will also meet this requirement. Expenditure information should be published for each individual spending transaction above £100³ rather than each item bought.⁴
14. For each individual item of expenditure above £100 the following information must be published:
 - a. date the expenditure was incurred,
 - b. summary of the purpose of the expenditure,⁵
 - c. amount³, and
 - d. Value Added Tax that cannot be recovered.

³ The threshold should be, where possible, the net amount excluding recoverable Value Added Tax

⁴ For example, it is sufficient to group all items in a stationary order as one item of expenditure.

⁵ This could be the descriptor that authorities use in their accounting system providing it gives a clear sense of why the expenditure was incurred or what it purchased or secured for the local authority.

15. Copies of all books, deeds, contracts, bills, vouchers, receipts and other related documents do not need to be published, but should remain available for inspection during the specified inspection period set out under regulation 14 of the Accounts and Audit (England) Regulations 2011⁶, or under any equivalent regulations made under section 32 of the Local Audit and Accountability Act 2014. The right to inspect can be exercised on giving reasonable notice.

End of year accounts

16. Smaller authorities should publish their statement of accounts according to the format included in the Annual Return form. Publication of the relevant page of the completed Annual Return form will meet this requirement. The statement of accounts must be approved and signed by the Responsible Financial Officer and the Chairman of the meeting approving the statement of accounts.
17. The statement of accounts should be accompanied by:
 - a. a copy of the bank reconciliation for the relevant financial year,
 - b. an explanation of any significant variances (e.g. more than 10-15 percent, in line with proper practices) in the statement of accounts for the relevant year and previous year, and
 - c. an explanation of any differences between 'balances carried forward' and 'total cash and short term investments', if applicable.

Annual governance statement

18. Smaller authorities should publish their annual governance statement according to the format included in the Annual Return form. Publication of the relevant page of the completed Annual Return form will meet this requirement. The annual governance statement should be signed by the Chairman and Clerk of the smaller authority.
19. Where the governance statement contains any negative responses, these should be explained fully, including how any weaknesses will be addressed. As referred to paragraphs 7 and 8, when publishing this information smaller authorities should consider whether the Data Protection Act 1998 imposes any restrictions or constraints on such publication and whether any of the information would fall within an exemption under the Freedom of Information Act 2000 and therefore could, or should, be withheld from publication.

6 S.I. 2011/817.

Internal audit report

20. Smaller authorities should publish their annual internal audit report according to the format included in the Annual Return form. Publication of the relevant page of the completed Annual Return form will meet this requirement. The internal audit report should be signed by the person who carried out the internal audit.
21. Where the internal audit report contains any negative response to the internal controls objectives, these should be explained fully, including how any weaknesses will be addressed. As referred to paragraphs 7 and 8, when publishing this information smaller authorities should consider whether the Data Protection Act 1998 imposes any restrictions or constraints on such publication and whether any of the information would fall within an exemption under the Freedom of Information Act 2000 and therefore could, or should, be withheld from publication.
22. Where the response to any internal controls objectives is 'not covered', an explanation of when the most recent internal audit work was completed in this area and when it is next planned should be provided. If coverage is not required, an explanation stating why coverage is not needed should be provided.

List of councillor or member responsibilities

23. Smaller authorities should publish a list of councillor or member responsibilities. The list should include the following information:
 - a. names of all councillors or members of the authority,
 - b. committee or board membership and function (if Chairman or Vice-Chairman) of each councillor or member, and
 - c. representation on external local public bodies (if nominated to represent the authority or board) of each councillor or member.

Details of public land and building assets

24. Parish councils and port health authorities should publish details of all public land and building assets. Where this information is included in the authority's asset and liabilities register, this register may be published in its entirety or as an edited version displaying only public land and building assets.
25. Internal drainage boards should only publish the details of registered land and buildings that have a market value and which appear in their Fixed Assets Register.
26. When publishing the required data, parish councils, port health authorities and internal drainage boards should publish the following information in relation to each land and building asset:
 - a. description (what it is, including size/acreage),

- b. location⁷ (address or description of location),
- c. owner/custodian, e.g. the authority or board manages the land or asset on behalf of a local charity,
- d. date of acquisition (if known),
- e. cost of acquisition (or proxy value), and
- f. present use.

27. Charter trustees will not be required to publish any land or asset information since they are not permitted to own either land or buildings under the Charter Trustees Order (1974) and therefore will not hold any relevant information.

Part 2.2: Information to be published more frequently than annually

28. The data and information referred to in this Part (2.2) must be published:
- not later than the occasions specified in Paragraphs 29 and 30

Minutes, agendas and papers of formal meetings

29. Smaller authorities should publish the draft minutes from all formal meetings (i.e. full council or board, committee and sub-committee meetings) not later than one month after the meeting has taken place. These minutes should be signed either at the meeting they were taken or at the next meeting.
30. Smaller authorities should also publish meeting agendas, which are as full and informative as possible, and associated meeting papers not later than three clear days before the meeting to which they relate is taking place.

⁷ For example, street number, street name, postal town and postcode; or map reference using Ordinance Survey grid reference

Part 3: Method of publication

31. Public data should be as accurate as possible at first publication. While errors may occur, the publication of information should not be unduly delayed to rectify mistakes. Instead, publication should be used to help address any imperfections and deficiencies. The best way to achieve this is by having robust information management processes in place. Where errors in public data are discovered, or files are changed for other reasons (such as omissions), smaller authorities should publish revised information making it clear where and how there has been an amendment.
32. The data and information specified in this Code must be published on a website which is publicly accessible free of charge. For example, one way that this requirement could be achieved could be by publishing the data on the smaller authority's website or that of the billing authority in its area (district or London borough or unitary council).

Ben Stoneman
A Senior Civil Servant in the Department for Communities and Local Government

Department for Communities and Local Government
17 December 2014

Annex A: Transparency Code for Smaller Authorities

Parish councils, internal drainage boards, charter trustees and port health authorities with an annual turnover not exceeding £25,000 should publish:

Information title	Information which should be published
All items of expenditure above £100	Annual publication no later than 1 July in the year immediately following the accounting year to which it relates. Publish details of each individual item of expenditure. Copies of all books, deeds, contracts, bills, vouchers, receipts and other related documents do not need to be published but should remain available for inspection. For each individual item of expenditure the following information must be published: <ol style="list-style-type: none"> a. date the expenditure was incurred, b. summary of the purpose of the expenditure, c. amount, and d. Value Added Tax that cannot be recovered.
End of year accounts	Annual publication no later than 1 July in the year immediately following the accounting year to which it relates. Publish signed statement of accounts according to the format included in the Annual Return form. It should be accompanied by: <ol style="list-style-type: none"> a. a copy of the bank reconciliation for the relevant financial year, b. an explanation of any significant variances (e.g. more than 10-15 percent) in the statement of accounts for the relevant year and previous year, and c. an explanation of any differences between 'balances carried forward' and 'total cash and short term investments', if applicable.
Annual governance statement	Annual publication no later than 1 July in the year immediately following the accounting year to which it relates. Publish signed annual governance statement according to the format included in the Annual Return form. Explain any negative responses to governance statements, including how any weaknesses will be addressed.
Internal audit report	Annual publication no later than 1 July in the year immediately following the accounting year to which it relates. Publish signed internal audit report according to the format included in the Annual Return form. Explain any negative response to the internal controls objectives, including how any weaknesses will be addressed. Explain any 'not covered' responses to internal controls objectives.

<p>List of councillor or member responsibilities</p>	<p>Annual publication of councillor or member responsibilities no later than 1 July in the year immediately following the accounting year to which it relates, including:</p> <ul style="list-style-type: none"> a) names of all councillors or members, b) committee or board membership and function (if Chairman or Vice-Chairman), and c) representation on external local public bodies (if nominated to represent the authority or board).
<p>Location of public land and building assets</p>	<p>Annual publication no later than 1 July in the year immediately following the accounting year to which it relates. Parish councils and port health authorities to publish details of all public land and building assets – either in its full asset and liabilities register or as an edited version. Internal drainage boards to only publish details of registered land and buildings that have a market value and appear in Fixed Assets Register.</p> <p>The following information must be published:</p> <ul style="list-style-type: none"> a) description (what it is, including size/acreage), b) location (address⁷ or description of location), c) owner / custodian, e.g. the authority manages the land or asset on behalf of a local charity, d) date of acquisition (if known), e) cost of acquisition (or proxy value), and f) present use.
<p>Minutes, agendas and papers of formal meetings</p>	<p>Publication of draft minutes from all formal meetings not later than one month after the meeting has taken place.</p> <p>Publication of meeting agendas and associated meeting papers not later than three clear days before the meeting to which they relate is taking place.</p>

Annex B: Proposed timeline for smaller authorities' publication of information

December 2014	Transparency Code for Smaller Authorities issued as recommended practice
By end March 2015	Subject to Parliamentary approval Regulations to come into force to require compliance with Transparency Code for Smaller Authorities
Spring 2015	Proposed new burdens funding for smaller authorities to assist compliance with the Code
July 2015	Publication by smaller authorities of first annual set of data completed
April 2015 -	Publication of draft minutes from all formal meetings, not later than one month after each meeting, and of meeting agendas and associated meeting papers not later than three clear days before the meeting takes place
July 2016	Publication of second annual set of data completed



National Audit Office

Code of Audit Practice



National Audit Office

Code of Audit Practice

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This document is available on our website at: www.nao.org.uk/consultation-code-audit-practice

If you have any enquiries regarding this document, email: LACG@nao.gsi.gov.uk or write to us at:

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Preface

The Code of Audit Practice

The Local Audit and Accountability Act 2014 (the Act) requires the Comptroller and Auditor General (C&AG) to prepare one or more codes of audit practice prescribing the way local auditors are to carry out their functions. This responsibility is important both nationally and locally in supporting auditors and underpinning a consistent, high-quality approach to the audit of local public bodies.

Any code prepared under the Act must “*embody what the C&AG considers to be the best professional practice with respect to the standards, procedures and techniques to be adopted by local auditors*”. Auditors of bodies covered by the Act are required to comply with a code prepared by the C&AG and approved by Parliament.

Our approach

The C&AG has taken the opportunity to prepare a single code covering the audit of different types of local public body. This reflects the fact that the core statutory responsibilities placed on the auditors of the different types of local public body covered by the Code are essentially the same. In addition, a single code has practical benefits and helps promote consistency of approach. Where differences exist in what the auditors of different types of local public body are required to do, we have highlighted these within the Code or will address them in our detailed guidance to auditors.

We have taken a principles-based, rather than a rules-based, approach to developing the Code. This is in line with predecessor codes and has allowed us to prepare a concise, high-level code applicable to the audit of all local public bodies within the local audit model established by the Act, providing a clear framework for the auditor to meet their statutory duties. A principles-based approach also helps to ensure that the Code does not quickly become out of date as the regulatory environment evolves.

A principles-based code allows the auditor to adopt a flexible approach that is responsive to sector developments and to the specific circumstances faced by the audited body. As is the case at present, it follows that the amount of work required to perform a good quality audit may increase or decrease in response to those circumstances. This is something on which the audited body is likely to have a view and we would expect auditors to be discussing their audit approach with the audited body. Ultimately, though, this must be a matter for the auditor’s independent, professional judgement.

The Code provides the basis for a professional audit consistent with the auditor's statutory responsibilities. As stated previously, it relies upon the auditor using their judgement to design an audit approach that meets their responsibilities. What the Code cannot do is provide a guarantee as to the quality of the auditor's judgements or that significant failure or wrongdoing will not take place at an audited body.

Properly applied, though, the Code supports an audit approach that will allow the auditor to consider and report on issues of public interest that arise during the course of their work. This, in turn, is predicated on the audited body meeting its statutory responsibilities to provide the auditor with the facilities and information the auditor reasonably requires for the purposes of their functions.

Application of the Code

The Code relates to the audit of relevant bodies as set out in Schedule 2 and Schedule 13(3)(1) to the Act. Additionally, Schedule 6 to the Act extends this duty to cover the audit of NHS foundation trusts. Appendix One provides a list of the different types of body to which the Code applied at the time it was published following Parliament's approval – this is provided for information and does not form part of the Code.

The C&AG must keep the Code under review and obtain Parliament's approval for any amendments. The C&AG must use reasonable endeavours to ensure that the Code is replaced with a new code before the end of 5 years from the date this Code was published.

Guidance to auditors

The Code will be supplemented by detailed guidance to auditors provided by the National Audit Office (NAO) on the C&AG's behalf, to which auditors are required, under the Act, to have regard. Key components of this guidance package, which are normally published on the NAO's website, will include:

- planning local NHS audits;
- planning local government audits;
- the auditor's work on value-for-money arrangements;
- smaller authority assurance engagements;
- the auditor's additional duties and powers;
- auditor reporting; and
- dealing with technical queries.

The NAO will provide additional ad hoc guidance to auditors as required, for example on emerging regime-wide issues. This will be informed by the NAO's regular engagement with auditors and other stakeholders.

Contents of the Code

The Code comprises the following sections:

- Chapter One – Status of the Code, application and general principles
- Chapter Two – Audit of the financial statements
- Chapter Three – The auditor's work on value-for-money arrangements
- Chapter Four – Reporting the results of the auditor's work
- Chapter Five – The auditor's additional powers and duties
- Chapter Six – Smaller authority assurance engagements
- Schedule 1 – The auditor's statutory responsibilities
- Schedule 2 – Audit report: Inclusion of additional matters by exception

Additional material, provided for information only:

- Preface
- Appendix One – Types of local public body covered by the Code
- Glossary

The Comptroller and Auditor General and the National Audit Office

The C&AG is an Officer of the House of Commons and is the head of the NAO. The NAO scrutinises public spending on behalf of Parliament.

The NAO's audit of central government has two main aims. By reporting the results of its audits to Parliament, the NAO holds government departments and bodies to account for the way they use public money, thereby safeguarding the interests of taxpayers. In addition, the NAO's work aims to help public service managers improve performance and service delivery.

The specific powers and duties of the C&AG and of the NAO are laid down in legislation, in particular the National Audit Act 1983, the Government Resources and Accounts Act 2000 and the Budget Responsibility and National Audit Act 2011.

Chapter One

Status of the Code, application and general principles

1.1 This chapter covers the status of the Code, provides details on its application and sets out principles which should underpin the conduct and work of the auditor in discharging their statutory duties.

Status of the Code

1.2 The Comptroller and Auditor General is required to prepare the Code of Audit Practice (the Code) under paragraph 1 of Schedule 6 to the Local Audit and Accountability Act 2014 (the Act) and to lay it before Parliament under paragraph 2 of that schedule. The Code is required to be approved by both Houses of Parliament. The Code, the first to be produced by the Comptroller and Auditor General under the Act, comes into effect on 1 April 2015.

Application of the Code

1.3 The Code applies to the audit of relevant bodies as set out in Schedule 2 and Schedule 13(3)(1) to the Act. Additionally, Schedule 6 to the Act extends the duty to prepare the Code to cover the audit of NHS foundation trusts. Auditors of these bodies are required to comply with the Code.

1.4 The Code applies to the audit of local public bodies' accounts for the financial year 2015-16 onwards and until the Code is replaced. Accordingly, this Code supersedes the following:

- *Code of Audit Practice 2010, for local government bodies*, which was published by the Audit Commission in March 2010 and which remains in force for audits of 2014-15 accounts under paragraph 8 of Schedule 6 to the Act.
- *Code of Audit Practice 2010, for local NHS bodies*, which was published by the Audit Commission in March 2010 and which remains in force for audits of 2014-15 accounts under paragraph 8 of Schedule 6 to the Act.
- *Audit Code for NHS Foundation Trusts*, which was published by Monitor in December 2014 and which remains in force for audits of 2014-15 accounts.

1.5 The auditor should use their professional judgement to apply the principles and requirements set out in the Code to the particular circumstances that exist at different audited bodies.

Principles

Wider scope

1.6 The audit of a public sector organisation is wider in scope than that of a private sector body. Special accountabilities attach to the use of public money and the conduct of public business. It is not part of the auditor's responsibilities to question the merits of policy, but the auditor does have wider duties (depending upon the relevant legislation) to scrutinise and report not only upon the truth and fairness of the financial statements but on aspects of public stewardship and the use to which resources have been put. The auditor carries out this work on behalf of the public and in the public interest.

1.7 The auditor does not act as a substitute for the audited body's own responsibility for putting in place proper arrangements in support of the proper conduct of public business, and for ensuring that public money is safeguarded, properly accounted for and used with due regard to value for money.

Integrity, objectivity and independence

1.8 The auditor should carry out their work with integrity, objectivity and independence, and in accordance with the ethical framework applicable to auditors, including the ethical standards for auditors set by the Financial Reporting Council, and any additional requirements set out by the auditor's recognised supervisory body, or any other body charged with oversight of the auditor's independence. The auditor should be, and should be seen to be, impartial and independent. Accordingly, the auditor should not carry out any other work for an audited body if that work would impair their independence in carrying out any of their statutory duties, or might reasonably be perceived as doing so.

Transparency and public reporting

1.9 The auditor has a range of means at their disposal, set out in the relevant legislation, by which their findings may be reported publicly. The auditor should report on a timely basis without fear or favour, using their professional judgement on the most appropriate and effective means of reporting.

Professionalism and proportionality

1.10 The auditor should carry out their work in compliance with the requirements of the Code which itself requires compliance, where applicable, with relevant professional standards issued by the Financial Reporting Council and relevant quality control standards. The auditor's work should be risk-based and proportionate. It should be designed to meet the auditor's statutory responsibilities, applying the auditor's professional judgement to tailor their work to the circumstances in place at the audited body and the audit risks to which they give rise. The auditor should conduct their work economically, efficiently and effectively, and in as timely a way as possible.

1.11 In carrying out their work, the auditor should exercise professional scepticism. They should obtain and document such information and explanations as they consider necessary to provide sufficient, appropriate evidence in support of their judgements. The auditor should meet the requirements of legislation, the Code and, where applicable, professional standards while also having regard to guidance issued by the NAO, on behalf of the Comptroller and Auditor General, under paragraph 9 of Schedule 6 to the Act.

1.12 There may be circumstances in which it appears to the Comptroller and Auditor General that aspects of the Code need to be applied in a certain way in order to meet the specific circumstances of certain bodies, for example because of the nature of their business or the relatively small amounts of public money that they control. In such circumstances, the NAO will issue guidance on behalf of the Comptroller and Auditor General setting out how auditors should meet their responsibilities under the Code.

Coordination and integration

1.13 Local public bodies increasingly operate, commission and deliver services in a range of partnerships and other forms of joint working or contracts with other public, private or third sector bodies. In meeting their statutory duties, therefore, the auditor should consider how best to obtain assurance over such arrangements, working effectively with other auditors where appropriate.

1.14 The auditor should, likewise, be mindful of the activities of inspectorates and other bodies and take account of them where relevant to prevent duplication and ensure that the demands on audited bodies are managed effectively. In so doing, the auditor should be informed by the reported results of inspectorates and other bodies in relation to corporate or service performance. The auditor is not required to carry out procedures to assess the quality of, or re-perform, the work of inspectorates and other bodies, except where it would be unreasonable not to do so, for example, to provide assurance in accordance with auditing standards issued by the Financial Reporting Council in support of the audit opinion on the financial statements.

1.15 The auditor should adopt an integrated approach, where the knowledge gathered and work carried out in support of each of the auditor's statutory and reporting obligations informs the auditor's judgements and conclusions as a whole.

1.16 From time to time the NAO may request information from the local auditor to assist the NAO in the performance of its functions.¹

Constructive approach

1.17 The auditor should adopt a constructive and positive approach to their work with the audited body. The auditor should share and discuss their audit plan at an early stage with the audited body. The auditor should build effective coordination arrangements with internal audit, using the work of internal audit where, in the auditor's judgement and in line with professional standards, this is appropriate. The auditor should consider carefully the practical and resource implications for the audited body when framing recommendations arising from their work.

Data security and confidentiality

1.18 The auditor and their staff should familiarise themselves and comply with statutory and other relevant requirements relating to the security, transfer, holding, disclosure and disposal of information, particularly personal information received or obtained during the course of their audit work.

¹ Schedule 11, paragraph 2(1)(b) and Schedule 11, paragraph 2(1)(d)(i), Local Audit and Accountability Act 2014.

Chapter Two

Audit of the financial statements

2.1 This chapter addresses the auditor's statutory duties in respect of the audit of the financial statements. *Schedule 1 The auditor's statutory responsibilities* summarises the statutory duties of auditors of the different types of principal body covered by the Code.

2.2 The auditor of a body that meets the qualifying conditions of a smaller authority should apply modified procedures as set out in Chapter Six of the Code, unless the body chooses to be treated as a full audit authority in accordance with regulations made under section 5 of the Act.

Responsibilities of the audited body

2.3 The specific responsibilities of different types of audited body regarding the production and reporting of financial statements and other information vary depending on relevant legislation, regulations and any other requirements that may be placed upon them. However, all audited bodies are expected to have effective corporate governance arrangements to deliver their objectives. To this end, the publication of the financial statements is an essential means by which the audited body accounts for its stewardship and use of the public money at its disposal.

2.4 The precise form and content of the audited body's financial statements, and any additional schedules or returns for consolidation purposes, should reflect the requirements of the relevant accounting and reporting framework in place for that particular type of audited body and any additional guidance issued in support of the accounting and reporting framework.

2.5 The audited body may also be required to prepare schedules or returns to facilitate the preparation of consolidated accounts such as HM Treasury's Whole of Government Accounts or the Department of Health's Consolidated Group Accounts.

Responsibilities of the auditor

2.6 To meet their duties in respect of the audit of the financial statements, the auditor should comply with auditing standards currently in force, as may be amended from time to time, having regard to any other relevant guidance and advice issued by the Financial Reporting Council, and the NAO on behalf of the Comptroller and Auditor General.

2.7 The auditor should undertake work to support the provision of their audit report to the audited body. In respect of their audit of the financial statements, the auditor's report should include the following components:

Opinion on the audited body's financial statements

- whether the financial statements give a true and fair view of the financial position of the audited body and its expenditure and income for the period in question; and
- whether the financial statements have been prepared properly in accordance with the relevant accounting and reporting framework as set out in legislation, applicable accounting standards or other direction.

Opinion on other matters

- whether other information published together with the audited financial statements is consistent with the financial statements; and
- where required, whether the part of the remuneration report to be audited has been properly prepared in accordance with the relevant accounting and reporting framework.

Opinion on regularity

- where required² – in all material respects the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions in the financial statements conform to the authorities which govern them.

2.8 Other information published together with the audited financial statements covers material that the audited body chooses or is required to provide alongside its financial statements. For example, the governance statement, a strategic report, a directors' report or an annual report or equivalent. In reading the information given with the financial statements, the auditor should take into account their knowledge of the audited body, including that gained through work in relation to the body's arrangements for securing value for money through economy, efficiency and effectiveness in the use of its resources.

² Auditors of Clinical Commissioning Groups are required to provide an opinion on regularity as part of their audit of the financial statements.

2.9 The auditor will report to the audited body by exception in respect of the governance statement, and other accompanying material as required, in accordance with relevant guidance prepared by the NAO on behalf of the Comptroller and Auditor General.

2.10 The auditor's report should address any additional reporting requirements set out in applicable auditing standards or as required by the relevant government department or regulatory body.

2.11 Where the audited body is required to produce schedules or returns to facilitate the preparation of consolidated accounts, the auditor should, having regard to any relevant guidance or instructions prepared by the NAO on behalf of the Comptroller and Auditor General, examine and report on the consistency of the schedules or returns with the body's audited financial statements for the relevant reporting period.

2.12 The auditors of bodies that administer pension funds are also required to give a separate opinion on the part of the administering authority's financial statements that relates to the accounts of the pension fund. In doing so, the auditor should have regard to relevant guidance issued by the NAO on behalf of the Comptroller and Auditor General.

Chapter Three

The auditor's work on value-for-money arrangements

3.1 This chapter addresses the auditor's statutory duties in respect of the audited body's arrangements to secure value for money through the economic, efficient and effective use of its resources. *Schedule 1 The auditor's statutory responsibilities* summarises the statutory duties of auditors of the different types of principal body addressed by this Code. The auditor of a body that meets the qualifying conditions of a smaller authority should apply modified procedures as set out in Chapter Six of this Code, unless the body chooses to be treated as a full audit authority in accordance with regulations made under section 5 of the Act.

Responsibilities of the audited body

3.2 Local public bodies are required to maintain an effective system of internal control that supports the achievement of their policies, aims and objectives while safeguarding and securing value for money from the public funds and other resources at their disposal.

3.3 As part of the material published with its financial statements, the audited body is required to bring together commentary on its governance framework and how this has operated during the period in a governance statement.

3.4 In preparing its governance statement, the audited body will tailor the content to reflect its own individual circumstances, consistent with the requirements of the relevant accounting and reporting framework and having regard to any guidance issued in support of that framework. While this introduces variation in the detail of what should go into the governance statements for different types of audited body, for most local bodies there is a requirement to provide commentary on their arrangements for securing value for money from their use of resources.

Responsibilities of the auditor

3.5 Auditors of the different types of local public body covered by the Code have a consistent statutory responsibility in respect of the audited body's use of resources – to satisfy themselves that the audited body:

...has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.³

3.6 In practice, this means that the auditor should, having regard to relevant guidance issued by the NAO on behalf of the Comptroller and Auditor General, undertake sufficient work to be able to satisfy themselves as to whether, in the auditor's view, the audited body has put arrangements in place that support the achievement of value for money. In carrying out this work, the auditor is not required to satisfy themselves that the audited body has achieved value for money during the reporting period. However, should evidence of poor value for money come to the auditor's attention during the course of the audit, the auditor should consider the implications of this for their work.

3.7 The auditor's work should be underpinned by consideration of what arrangements the audited body is expected to have in place. This should be based on the relevant governance code or framework for the type of local public body being audited, together with any other relevant guidance or requirements.

3.8 The auditor should take into account their knowledge of the relevant local sector as a whole, and the audited body specifically, to identify any risks that, in the auditor's judgement, have the potential to cause the auditor to reach an inappropriate conclusion on the audited body's arrangements. An understanding of the sector includes the relevant regulatory framework, which may influence the auditor's assessment of risk.

3.9 In conducting the above work, the auditor's conclusion should be informed by:

- the audited body's governance statement and any additional reporting by the body on the arrangements it has in place to manage risks to the achievement of value for money through the economic, efficient and effective use of its resources;
- evidence that the audited body's arrangements were in place during the reporting period;
- evidence obtained from the auditor's other work – including previous work on value-for-money arrangements, work completed as part of the audit of the financial statements, and the audited body's response to this work;
- the work of inspectorates and other bodies – where the scope and results are relevant to the auditor's value-for-money responsibilities. The auditor is not required to quality assure or re-perform the work of others and may use such work to the extent that, in their judgement, it is appropriate to do so; and
- any other evidence source that the auditor regards as necessary to facilitate the performance of their statutory duties.

³ Section 20(1)(c) Local Audit and Accountability Act 2014 and Schedule 10(1)(d) National Health Service Act 2006.

3.10 Ultimately, it is a matter for the auditor's judgement on the extent of work necessary to support their conclusion on value-for-money arrangements.

3.11 The auditor should document the results of their consideration. Where the auditor identifies risks that have the potential to cause the auditor to reach an inappropriate conclusion, the auditor should document their planned response, informed by discussion of these risks with the audited body.

3.12 The auditor should document the results of their work conducted in response to identified risks. Where appropriate, the auditor should update their planned work to reflect emerging risks or findings. The auditor should document any changes to their planned work.

3.13 In reviewing the audited body's value-for-money arrangements, it is not part of the auditor's function to question the merits of the audited body's policy decisions. However, the auditor may examine the arrangements by which policy decisions are reached and consider the effects of the implementation of policy. In making recommendations, the auditor should avoid any perception that they have any role in the decision-making arrangements of the audited body.

3.14 The auditor's work should be designed to provide the auditor with sufficient assurance to enable them to report as appropriate to:

- audited bodies other than health service bodies – providing a conclusion that in all significant respects, the audited body has (or has not) put in place proper arrangements to secure value for money through economic, efficient and effective use of its resources for the relevant period; or
- health service bodies, including NHS foundation trusts – reporting by exception if the auditor concludes that they are not satisfied that the audited body has put in place proper arrangements to secure value for money in the use of its resources for the relevant period.

3.15 Where required, the auditor should report their conclusion on the audited body's arrangements having regard to specific reporting criteria.

3.16 The NAO, on behalf of the Comptroller and Auditor General, will specify detailed reporting requirements for the auditor's work on value-for-money arrangements in guidance to auditors.

Chapter Four

Reporting the results of the auditor's work

4.1 This chapter addresses the auditor's statutory duties for reporting the results of their work as summarised within *Schedule 1 The auditor's statutory responsibilities*. The auditor of a body that meets the qualifying conditions of a smaller authority should apply modified procedures as set out in Chapter Six of the Code, unless the body chooses to be treated as a full audit authority in accordance with regulations made under section 5 of the Act.

4.2 The auditor should report the results of their work using a range of outputs at the appropriate point in the audit process as set out below:

Planning the audit

- audit planning report – sets out how the auditor intends to carry out their duties in respect of the accounts in accordance with auditing standards. In addition to planned work on the audit of the financial statements, the audit planning report should encompass the auditor's planned work to meet their duties in respect of the audited body's arrangements to secure value for money through the economic, efficient and effective use of its resources. The responsibility for establishing the overall audit strategy and the audit plan rests solely with the auditor. The auditor should discuss their risk assessment and planned approach as set out in the audit planning report with management and with those charged with governance.

Completion of audit fieldwork

- report to those charged with governance – the auditor should report to those charged with governance:
 - the results of their audit of the financial statements, consistent with the requirements of auditing standards;
 - the results of their work in respect of the audited body's arrangements to secure value for money through the economic, efficient and effective use of its resources; and
 - the results of any additional work undertaken in accordance with their statutory powers and duties.

Conclusion of the audit

- audit report – the audit report should cover the following:
 - the results of the auditor’s work on the financial statements as set out at paragraphs 2.6 to 2.12 of the Code; and
 - the results of the auditor’s work on the audited body’s value-for-money arrangements as set out at paragraphs 3.5 and 3.16 of the Code.

The audit report should also include, by exception, any report by the auditor on a range of additional matters as appropriate. *Schedule 2 Audit report – Inclusion of additional matters by exception* sets out these additional matters and the types of audited body to which each applies.

The partner or director who is the relevant engagement lead should sign the audit report with his or her name as well as the name of the firm of auditors.

- statement on consolidation schedules – the auditor should provide a statement on whether any schedules or returns the audited body is required to produce for the purposes of preparing consolidated accounts are consistent with the audited body’s financial statements for the relevant reporting period. The auditor’s statement should refer to any modification of the auditor’s opinion on the financial statements.
- annual audit letter – the annual audit letter should provide a clear, readily understandable commentary on the results of the auditor’s work and highlight any issues that the auditor wishes to draw to the attention of the public.

The requirement to issue an annual audit letter does not apply to the audit of foundation trusts, where separate arrangements are in place governing public availability of information with regard to performance and accountability.

- audit completion certificate – the auditor should certify the completion of the audit. The effect of the certificate is to close the audit. This marks the point when the auditor’s responsibilities in respect of the audit of the period covered by the certificate have been discharged. There may be occasions when the auditor is able to issue the audit report, but cannot certify completion of the audit as certain non-material issues remain outstanding. In such circumstances, the auditor should consider whether to issue their audit report ahead of certifying closure of the audit. Where the auditor intends to take this action in respect of an NHS foundation trust, the auditor should notify Monitor in advance.

Any stage during the audit

4.3 The auditor may progress the actions and outputs identified below at any stage during their work:

- communication on specific elements of the auditor's work – the auditor should maintain regular communication with the audited body to ensure that emerging findings are raised on a timely basis in the form, and at the level within the audited body, that the auditor judges appropriate.
- reports in the public interest – the auditor should 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:
 - when preparing and issuing reports in the public interest, the auditor should tailor their approach to the urgency and significance of their concerns. The auditor should make a report during the audit if they consider the matter is sufficiently important to be brought to the attention of the audited body or the public as a matter of urgency;
 - if the auditor issues a report in the public interest, this should be referred to in the auditor's report and, where one is required, the annual audit letter.
- written recommendations – the auditor should consider whether to use the powers the Act provides to make written recommendations to the audited body which need to be considered by the body and responded to publicly. Where the auditor considers it necessary to make such recommendations, these can be made during or at the end of the audit and can be included, where relevant, within other written outputs from the audit or they may be the subject of a specific report to the audited body. The power to make such recommendations under the Act does not apply to the auditors of NHS foundation trusts.
- referral of matters arising – the auditor of an NHS 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, NHS England or Monitor as appropriate. The auditor should still consider the need for a report in the public interest in respect of matters so referred.

Chapter Five

The auditor's additional powers and duties

5.1 This chapter addresses the auditor's use of certain additional powers and duties as summarised below. These powers and duties apply to the different types of bodies covered by the Code other than health service bodies.

Power or Duty	Legislation
To give electors the opportunity to raise questions about the accounts and consider and decide upon objections received in relation to the accounts	Sections 26 and 27 Local Audit and Accountability Act 2014
To apply to the court for a declaration that an item of account is contrary to law	Section 28 Local Audit and Accountability Act 2014
To consider whether to issue and, if appropriate, to issue an advisory notice or to make an application for judicial review	Sections 29 and 31, Schedule 8 Local Audit and Accountability Act 2014

5.2 In exercising any of the above powers and duties, including when performing a smaller authority assurance engagement as specified at Chapter Six of the Code, the auditor should tailor their approach to the particular circumstances of the matters under consideration.

5.3 Where any representations are made to the auditor or information is provided that is relevant to the audit or smaller authority assurance engagement, or relevant matters otherwise come to their attention, the auditor should consider whether the matter needs investigation and action under these additional powers and duties or whether it can be considered more effectively within planned work programmes and reporting arrangements under the auditor's other audit or smaller authority assurance engagement responsibilities.

5.4 In considering whether to exercise any of their additional powers and duties, and in determining the time and resource to be spent on dealing with matters that come to their attention, the auditor should consider the relevant requirements of the Act and:

- the significance of the subject matter;
- whether there is wider public interest in the issues raised;
- whether the substance of the matter has been considered previously by the body's auditor;
- whether the substance of the matter falls within the scope of work conducted by an inspectorate or other body;
- the costs of dealing with the matter, bearing in mind that these are borne by the taxpayer; and
- in the case of objections, the rights of both those subject to objection and of the objector.

Chapter Six

Smaller authority assurance engagements

6.1 This chapter addresses the auditor's statutory duties in respect of the audit of the accounts of smaller authorities as set out in the Act and in relevant regulations made by the Secretary of State. Under the Act and supporting regulations, an audit means carrying out the assurance engagement functions of a local auditor in relation to the accounts of the smaller authority:

- in compliance with the relevant parts of this Code; and
- in accordance with any procedures specified in guidance issued by the National Audit Office on behalf of the Comptroller and Auditor General.

6.2 A smaller authority is one whose annual income or annual expenditure is below a financial threshold as prescribed in relevant regulations. The NAO, on behalf of the Comptroller and Auditor General, will provide details of relevant thresholds in guidance to auditors.

Responsibilities of the smaller authority

6.3 A smaller authority is responsible for putting in place arrangements to ensure the proper conduct of their financial affairs and to monitor the adequacy and effectiveness of those arrangements in practice. A smaller authority should maintain proper accounting records and control systems and operate an adequate system of internal audit of those accounting records and control systems.

6.4 A smaller authority should prepare and publish financial statements and related information within an annual return in accordance with proper practices specified by the Secretary of State.

Responsibilities of the auditor (smaller authority assurance engagements)

6.5 Unless the smaller authority is exempt under regulations, or chooses to be treated as a full audit authority in accordance with regulations, the auditor of a smaller authority should undertake a smaller authority assurance engagement. The auditor should meet their responsibility under this engagement by performing specified procedures as set out in guidance to auditors provided by the NAO on behalf of the Comptroller and Auditor General.

Responsibilities of the auditor (additional powers and duties)

6.6 When conducting a smaller authority assurance engagement, or performing work as a consequence of questions or objections from a local elector, the auditor should follow the requirements of Chapter Five – The auditor’s additional powers and duties together with the following elements of paragraph 4.3 of the Code:

- communication on specific elements of the auditor’s work;
- reports in the public interest; and
- written recommendations.

Schedule 1

The auditor's statutory responsibilities

Schedule 1 aims to provide an accessible view of auditors' responsibilities. To achieve this, the schedule summarises (rather than reproduces) relevant sections of the Act. The schedule is not intended to be a substitute for consideration of the detailed requirements of the Act itself.

Schedule 1

The auditor's statutory responsibilities

Audited bodies other than health service bodies

Statute

Audit scope

To be satisfied that the accounts comply with the requirements of the enactments that apply to them

Section 20(1)(a) Local Audit and Accountability Act 2014

To be satisfied that proper practices have been observed in the preparation of the statement of accounts and that the statement presents a true and fair view

Section 20(1)(b) Local Audit and Accountability Act 2014

To be satisfied that the audited body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources

Section 20(1)(c) Local Audit and Accountability Act 2014

Reporting

To express an opinion on the accounts

Section 20(2)(b) Local Audit and Accountability Act 2014

To certify completion of the audit

Section 20(2)(a) Local Audit and Accountability Act 2014

Where appropriate, to give an opinion on the part of the financial statements that relates to a pension fund maintained by the authority under regulations under section 1 of the Public Service Pensions Act 2013

Section 20(3) Local Audit and Accountability Act 2014

To consider the issue of a report in the public interest

Section 24, Schedule 7 paragraph 1(1) Local Audit and Accountability Act 2014

To consider whether to make a written recommendation to the audited body, copied to the Secretary of State

Section 24, Schedule 7 paragraph 2 Local Audit and Accountability Act 2014

Additional powers and duties

To give electors the opportunity to raise questions about the accounts and consider and decide upon objections received in relation to the accounts

Sections 26 and 27 Local Audit and Accountability Act 2014

To apply to the court for a declaration that an item of account is contrary to law

Section 28 Local Audit and Accountability Act 2014

To consider whether to issue and, if appropriate, to issue an advisory notice or to make an application for judicial review

Sections 29 and 31, Schedule 8 Local Audit and Accountability Act 2014

To comply with the Code of Audit Practice prepared by the Comptroller and Auditor General and approved by Parliament

Section 20(5) Local Audit and Accountability Act 2014

To have regard to any guidance to auditors issued by the Comptroller and Auditor General

Section 20(6) Local Audit and Accountability Act 2014

Schedule 1 *continued*

The auditor's statutory responsibilities

Clinical Commissioning Groups**Statute****Audit scope**

To be satisfied that the accounts present a true and fair view, and comply with the requirements of the enactments that apply to them

Section 21(1)(a) Local Audit and Accountability Act 2014

To be satisfied that proper practices have been observed in the preparation of the accounts

Section 21(1)(b) Local Audit and Accountability Act 2014

To be satisfied that the group has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources

Section 21(1)(c) Local Audit and Accountability Act 2014

To be satisfied that money provided by Parliament has been expended for the purposes intended by Parliament

Section 21(1)(d) Local Audit and Accountability Act 2014

To be satisfied that resources authorised by Parliament to be used have been used for the purposes in relation to which the use was authorised

Section 21(1)(e) Local Audit and Accountability Act 2014

To be satisfied that the financial transactions of the group are in accordance with any authority which is relevant to the transactions

Section 21(1)(f) Local Audit and Accountability Act 2014

Reporting

To express an opinion on the accounts that includes the auditor's view on whether the accounts: (i) present a true and fair view and comply with statutory requirements (ii) have been prepared in accordance with proper practices

Section 21(4) and (5) Local Audit and Accountability Act 2014

The auditor's opinion must include their view on the regularity of the body's income and expenditure i.e. that money provided by Parliament has been expended for the purposes intended by Parliament; resources authorised by Parliament to be used have been used for the purposes in relation to which the use was authorised; and that the financial transactions of the group are in accordance with any authority which is relevant to the transactions

The auditor's opinion on the audited body's arrangements to secure economy, efficiency and effectiveness in the use of resources should only be provided if the auditor is not satisfied with the arrangements in place

To certify completion of the audit

Section 21(4)(a) Local Audit and Accountability Act 2014

Where appropriate, to give an opinion on the part of the financial statements that relates to a pension fund maintained by the authority under regulations under section 1 of the Public Service Pensions Act 2013

Section 20(3) Local Audit and Accountability Act 2014

To consider the issue of a report in the public interest

Section 24, Schedule 7(1)(1) Local Audit and Accountability Act 2014

To consider whether to make a written recommendation to the audited body, copied to the Secretary of State

Section 24, Schedule 7(2) Local Audit and Accountability Act 2014

To refer the matter to the Secretary of State and NHS England if the auditor believes that the audited body or an officer of the audited body is:

Section 30 Local Audit and Accountability Act 2014

- about to make, or has made, a decision which involves or would involve the body incurring unlawful expenditure;
 - about to take, or has begun to take, a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency
-

Schedule 1 *continued*

The auditor's statutory responsibilities

Clinical Commissioning Groups *continued***Statute****Additional duties**

To comply with the Code of Audit Practice prepared by the Comptroller and Auditor General and approved by Parliament

Section 20(5) Local Audit and Accountability Act 2014

To have regard to any guidance to auditors issued by the Comptroller and Auditor General

Section 20(6) Local Audit and Accountability Act 2014

Hospital Special Trustees, NHS Trusts, NHS Trust Trustees**Statute****Audit scope**

To be satisfied that the accounts present a true and fair view, and comply with the requirements of the enactments that apply to them

Section 21(3)(a) Local Audit and Accountability Act 2014

To be satisfied that proper practices have been observed in the preparation of the accounts

Section 21(3)(b) Local Audit and Accountability Act 2014

To be satisfied that the audited body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources

Section 21(3)(c) Local Audit and Accountability Act 2014

Reporting

To express an opinion on the accounts that includes the auditor's view on whether the accounts: (i) present a true and fair view and comply with statutory requirements (ii) have been prepared in accordance with proper practices.

Section 21(4) and (5) Local Audit and Accountability Act 2014

The auditor's opinion on the audited body's arrangements to secure economy, efficiency and effectiveness in the use of resources should only be provided if the auditor is not satisfied with the arrangements in place

To certify completion of the audit

Section 21(4)(a) Local Audit and Accountability Act 2014

Where appropriate, to give an opinion on the part of the financial statements that relates to a pension fund maintained by the authority under regulations under section 1 of the Public Service Pensions Act 2013

Section 20(3) Local Audit and Accountability Act 2014

To consider the issue of a report in the public interest

Section 24, Schedule 7(1)(1) Local Audit and Accountability Act 2014

To consider whether to make a written recommendation to the audited body, copied to the Secretary of State

Section 24, Schedule 7(2) Local Audit and Accountability Act 2014

To refer the matter to the Secretary of State if the auditor believes that the audited body or an officer of the audited body is:

Section 30 Local Audit and Accountability Act 2014

- about to make, or has made, a decision which involves or would involve the body incurring unlawful expenditure;
- about to take, or has begun to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency

Additional duties

To comply with the Code of Audit Practice prepared by the Comptroller and Auditor General and approved by Parliament

Section 20(5) Local Audit and Accountability Act 2014

To have regard to any guidance to auditors issued by the Comptroller and Auditor General

Section 20(6) Local Audit and Accountability Act 2014

Schedule 1 *continued*

The auditor's statutory responsibilities

NHS foundation trusts**Statute****Audit scope**

To be satisfied that the accounts comply with the directions provided	Schedule 10(1)(a) National Health Service Act 2006
To be satisfied that the accounts comply with the requirements of all other provisions contained in, or having effect under, any enactment which is applicable to the accounts	Schedule 10(1)(b) National Health Service Act 2006
To be satisfied that proper practices have been observed in compiling the accounts	Schedule 10(1)(c) National Health Service Act 2006
To be satisfied that proper arrangements have been made for securing economy, efficiency and effectiveness in the use of resources	Schedule 10(1)(d) National Health Service Act 2006

Reporting

To express an opinion on the accounts	Schedule 10(4)(1)(b) National Health Service Act 2006
To certify completion of the audit	Schedule 10(4)(1)(a) National Health Service Act 2006
To consider the issue of a report in the public interest	Schedule 10(3) National Health Service Act 2006
To report to the regulator if the auditor has reason to believe that the audited body (or a director or officer of the audited body) is: <ul style="list-style-type: none"> ● about to make, or has made, a decision which involves or would involve unlawful expenditure; ● 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 	Schedule 10(6) National Health Service Act 2006

Additional duties

To comply with the Code of Audit Practice prepared by the Comptroller and Auditor General and approved by Parliament	Section 20(5) Local Audit and Accountability Act 2014
To have regard to guidance to auditors issued by the Comptroller and Auditor General	Section 20(6) Local Audit and Accountability Act 2014

Schedule 2

Audit report: Inclusion of additional matters by exception

Schedule 2 aims to provide an accessible view of auditors' responsibilities. To achieve this, the schedule summarises (rather than reproduces) relevant sections of the Act. The schedule is not intended to be a substitute for consideration of the detailed requirements of the Act itself.

Schedule 2

Audit report: Inclusion of additional matters by exception

Auditor reports by exception	Type of audited body		
	Audited bodies other than health service bodies	Health service bodies other than NHS foundation trusts	NHS foundation trusts
Matters reported in the public interest	✓	✓	✓
Written recommendations made to the audited body under Section 24 of the Local Audit and Accountability Act	✓	✓	N/A
Application to the court for a declaration that an item of account is contrary to law under Section 28 of the Local Audit and Accountability Act 2014	✓	N/A	N/A
Issue of an advisory notice under Section 29 of the Local Audit and Accountability Act 2014	✓	N/A	N/A
Application for judicial review under Section 31 of the Local Audit and Accountability Act 2014	✓	N/A	N/A
Referral to the Secretary of State/NHS England under Section 30 of the Local Audit and Accountability Act 2014	N/A	✓	N/A
Referral to the regulator under Schedule 10 of the National Health Service Act 2006	N/A	N/A	✓

Appendix One

Types of local public body covered by the Code

As at April 2015, auditors of the following types of local public body should comply with the Code:

- 1 A county council in England
- 2 A district council
- 3 A London borough council
- 4 A parish council
- 5 A joint authority established under Part 4 of the Local Government Act 1985
- 6 A Passenger Transport Executive
- 7 The Greater London Authority (GLA)
- 8 A functional body of the GLA
- 9 The London Pensions Fund Authority
- 10 The London Waste and Recycling Board
- 11 The Common Council (to the extent that it exercises functions in relation to –
(a) the collection fund of the Common Council (b) the City Fund or (c) a pension fund maintained and administered by the Common Council under regulations under section 1 of the Public Service Pensions Act 2013)
- 12 A parish meeting
- 13 The Council of the Isles of Scilly
- 14 Charter Trustees
- 15 A port health authority for a port health district that is wholly in England
- 16 The Broads Authority

- 17 A National Park authority for a National Park in England
- 18 A conservation board established by order of the Secretary of State under section 86 of the Countryside and Rights of Way Act 2000
- 19 A police and crime commissioner for a police area in England
- 20 A chief constable for an area in England
- 21 The Commissioner of Police for the Metropolis
- 22 A fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies
- 23 A clinical commissioning group
- 24 Special trustees for a hospital
- 25 An authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007 (joint waste authorities)
- 26 An internal drainage board for an internal drainage district that is wholly in England
- 27 An economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009
- 28 A combined authority
- 29 Any person or body exercising functions in relation to an area wholly in England or partly in England and partly in Wales – (a) which was originally subject to audit provisions contained in an enactment passed before the Audit Commission Act 1998, and (b) to which the audit provisions of that Act applied by virtue of paragraph 4(1) or 7 of Schedule 4 to that Act immediately before the repeal of section 2(1) of that Act by this Act
- 30 An NHS foundation trust
- 31 An NHS trust
- 32 A trustee for an NHS trust (appointed under paragraph 10 of schedule 4 to the NHS Act 2006)

The auditor of any local public body not listed above which, by enactment, is required to comply with the Code.

Glossary

Term	Definition
Accounting standards	Accounting standards are authoritative statements of how transactions and balances are to be recognised, measured, presented and disclosed in financial statements.
Annual report	The annual report describes the aims and achievements of an audited body during a particular year. Health bodies are required to publish an annual report alongside their financial statements. While not required to do so, local government bodies often provide an annual report alongside their financial statements.
Auditing standards	Standards, issued by the Financial Reporting Council, which auditors are required to comply with when conducting an audit of the financial statements.
Auditor	A firm appointed to audit a body covered by the provisions of the Local Audit and Accountability Act 2014.
Code (the)	The Code of Audit Practice issued by the Comptroller and Auditor General and approved by Parliament.
Consolidated accounts	Financial statements of a group in which the assets, liabilities, reserves, income, expenses and cash flows of the parent and its subsidiaries are presented as those of a single economic entity.
Corporate governance	The system of structures, rights, duties, and obligations by which organisations are directed and controlled.
Engagement lead	This is the person who has primary responsibility for the audit – often referred to as the key audit partner.
Ethical standards	Standards, issued by the Financial Reporting Council, that auditors are required to comply with when conducting an audit of the financial statements.
Financial statements	Statements that audited bodies are required to prepare setting out what they spend and receive and what they own and owe. For the purpose of providing the auditor's opinion, the Code interprets relevant references in the Act to the 'statement of accounts' and the 'accounts' in respect of the general duties of auditors as equivalent to 'financial statements'.
Full audit authority	A relevant authority not subject to the 'smaller authority assurance' arrangements set out in Chapter Six of the Code.

Term	Definition
Governance statement	Audited bodies are required to prepare a governance statement alongside their financial statements. It brings together in one place an audited body's disclosures about its governance framework, including risk management and internal control, and how this has operated during the year.
Have regard to	The Code requires the auditor to 'have regard to' guidance provided by the National Audit Office on behalf of the Comptroller and Auditor General. This means that the auditor is expected to comply with this guidance or provide a reasonable explanation within audit documentation as to why they have not done so.
Inspectorates and other bodies	Bodies that have responsibilities for the inspection, regulation or oversight of audited bodies – for example, Her Majesty's Inspectorate of Constabulary and the Care Quality Commission. This also includes bodies that perform external challenge or improvement activities.
Principal body	A body that is covered by the Code and does not meet the criteria of a smaller authority – as prescribed in the Local Audit and Accountability Act 2014, which is subject to amendment in regulations by the Secretary of State.
Professional standards	In the context of the Code, professional standards comprise auditing standards, ethical standards and quality standards – these are defined in this glossary.
Quality control standards	International Standard on Quality Control 1 issued by the International Auditing and Assurance Standards Board (IAASB) or any other relevant standards with which auditors are required to comply.
Recognised supervisory body	Professional accountancy bodies recognised by the Financial Reporting Council as responsible for licensing, registering and monitoring the work of the auditor and for supervising the conduct of their members.
Regulations	Secondary legislation made by the Secretary of State using powers conferred by an Act of Parliament.
Remuneration report	A remuneration report provides details of senior managers' salary, pension and other benefits.
Report by exception	Reporting only when information or the results of the auditor's work are materially inconsistent with their understanding of the body or the requirements placed on the body.
Should	The Code of Audit Practice has been approved by Parliament. It has the status of secondary legislation and auditors' compliance with the Code is mandatory. The use 'should' highlights a specific requirement placed on the auditor within the Code.

Term	Definition
Significance	The concept of 'significance' applies to the auditor's wider responsibilities that are not addressed by the auditor's assessment of materiality for the audit of the financial statements. A matter is significant if, in the auditor's professional view, it is reasonable to conclude that the matter would be of interest to the audited body or the wider public. Significance has both qualitative and quantitative aspects.
Smaller authority	<p>Defined in the Local Audit and Accountability Act 2014, the key condition is met for an authority in a financial year if the higher of the authority's gross income and gross expenditure for the year does not exceed £6.5 million.</p> <p>This threshold is subject to amendment in regulations by the Secretary of State.</p>
Those charged with governance	The persons with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process.
Value-for-money arrangements	<p>Arrangements that an audited body puts in place to support the achievement of value for money, i.e. making the best use of its resources through:</p> <ul style="list-style-type: none"> ● Economy – minimising the cost of resources used or required. ● Efficiency – obtaining an optimal relationship between the resources used and the outputs/impacts achieved. ● Effectiveness – achieving alignment between intended and actual outcomes.
Whole of Government Accounts	The Whole of Government Accounts (WGA) are the consolidated financial statements for the whole of the UK public sector, showing what the UK government spends and receives, and what it owns and owes.



National Audit Office



National Audit Office

Council accounts: a guide to your rights

As a local resident you have legal rights to inspect your council's accounts and related documents.



National Audit Office

Council accounts: a guide to your rights

This guide covers your rights under the Audit Commission Act 1998, as transitionally saved, which continue to apply for the audit of 2014-15 accounts.

We will publish a new guide in autumn 2015 covering similar rights under the Local Audit and Accountability Act 2014 for the audit of accounts for 2015-16 onwards.

References throughout this document to the Audit Commission Act 1998, and to regulations made under the Act, should be read as references to the legislation as transitionally saved.

This document is available on our website at: www.nao.org.uk/code-audit-practice

If you have any enquiries regarding this document, email: LACG@nao.gsi.gov.uk or write to us at:

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Summary

Councils and their accounts

Councils spend public money. The money comes from national and local taxes – as well as charges to service users. Councils must tell local residents and taxpayers how their money is spent. They do this by publishing yearly accounts and details of their spending.

Council accounts are the financial statements that most organisations must produce at the end of the year. These include a balance sheet and summary of income and expenditure along with supporting notes that give more details. The term also includes related documents used to make up the council's accounts and any report by the external auditor.

Your rights and the law

The Audit Commission Act 1998 governed and prescribed the work of the Audit Commission and of the auditors it appointed to councils and other local public bodies. The Audit Commission Act, and Accounts and Audit (England) Regulations 2011 issued under section 27 of the Act, also cover the duties, responsibilities and rights of councils, other organisations and the public concerning the accounts being audited.

The Audit Commission was abolished, with effect from 31 March 2015, through the Local Audit and Accountability Act 2014. However, the Audit Commission Act 1998 continues to apply to the audit of council accounts up to and including the financial year ended 31 March 2015. For accounts for the year ended 31 March 2016, the provisions of the Local Audit and Accountability Act 2014 will apply. We will update this guide with details of revised arrangements in summer 2015.

As a local resident, or an interested party, you have legal rights to inspect a council's accounts and related documents. If you are a local government elector for the area to which the accounts relate you can also:

- ask questions about the accounts; and
- object to them.

You do not have to pay directly for exercising your rights. However, any resulting costs incurred by the council form part of its running costs. Therefore, indirectly, local residents pay for the cost of you exercising your rights through their council tax.

About this guide

This guide:

- explains how to use your rights responsibly;
- explains what the law says about council accounts and your rights; and
- gives sources of advice and information for concerns about your council that don't relate to the accounts.

Part One shows you how to inspect, ask questions, and object to accounts. To ask the external auditor a question or make an objection about accounts, you need to know:

- who the council's external auditor is;
- your legal rights;
- when you can exercise them;
- what an external auditor can and cannot do; and
- the costs involved.

You may want to know something about your council which is not related to their accounts. Part Two gives contact details for bodies that may be able to help you.

If you just want information about your council's income or spending, first ask your council. Most local authorities publish spending details on their websites. If you do not have internet access, you can ask your council to send you a copy of what they publish. You might want to tell someone your view of how the council runs its services. You can tell the council or the external auditor about these issues at any time.

In this guide we refer to 'council accounts' throughout. But your rights also apply to certain other local public bodies, such as fire and rescue authorities, police and crime commissioners and chief constables. These are set out in schedule 2 of the Audit Commission Act 1998.

Please note, that none of your rights described in this guide apply to the accounts of any NHS body.

Part One

Inspecting accounts

You must read and inspect the accounts and ask relevant questions before objecting. Objecting to your council's accounts is a serious matter.

Q: What can I inspect?

A: You can inspect your council's accounts, any related documents, and any report the auditor made in that financial year.

The law says you may inspect the accounts to be audited and all books, deeds, contracts, bills, vouchers and receipts relating to them for that financial year. You can copy all, or part, of these accounts and related documents.

Q: Are there limits to what I can inspect?

A: Yes. The law limits what you can inspect or copy.

Your inspection must be about the accounts, or relate to an item in the accounts. You cannot, for example, inspect or copy documents unrelated to the accounts, or that include personal information about staff.

An exception to this is if the information relates to senior employees' salary and benefits. A senior employee is someone earning more than £150,000 a year, or someone earning at least £50,000 a year and holding a senior management position in the council.

Q: When can I inspect the accounts?

A: By the end of June, councils will usually have finished preparing accounts for the previous financial year ending on 31 March. Councils must then tell the public, by advertising on their website and in at least one local newspaper, that the accounts and related documents are available to inspect. You have 20 working days to inspect the accounts. This is called the 'inspection period'.

A council must publish the advertisement at least 14 days before the inspection period begins. The notice must show the dates, times and places where you can view and copy the accounts and related documents.

Parish councils can advertise the inspection period by putting up a notice in a public place instead of advertising in a newspaper or on their website.

Q: Where can I inspect the accounts?

A: Council accounts are important and valuable documents and must be safeguarded. You will usually have to inspect them at the council offices.

You can ask the council to send you copies of documents, but you may have to pay. Councils may also charge you for copying any documents.

Some parish councils do not have an office and so usually arrange for inspection in a local public place. You should not expect to go to anyone's home to inspect the accounts. The council will arrange a suitable place for you to inspect the accounts if they do not have an office.

Q: Can anyone help me to inspect the accounts?

A: Yes. You can ask someone to help you or appoint a representative.

You can ask another person to go with you to inspect the accounts. You can also ask someone to represent you and inspect the accounts for you. This person does not have to live in the area covered by your council. You must tell the council in good time that someone will go with you or represent you.

Q: What if I am denied my inspection rights?

A: If you disagree with a council about your inspection rights or cannot access the documents you want to inspect, first try to resolve this with the council.

Nobody should try to stop you from inspecting and copying documents, but you must always act reasonably.

Acting reasonably includes agreeing a time to inspect documents that suits the council as well as you.

Acting reasonably also means being responsible and specific about what you want to inspect. A council may consider a request to see 'everything' as unreasonable, and reject it.

Q: Can the external auditor help me to use my rights to inspect the accounts?

A: No. Your right to inspect the accounts is personal, which means the external auditor cannot get involved.

The auditor has no role in enforcing inspection rights. You can ask your local Citizens Advice Bureau for help, or a solicitor to enforce your rights. If this does not work, you may go through the courts.

Inspection rights are covered by [section 14](#) and [section 15](#) of the Audit Commission Act 1998, and the [Accounts and Audit \(England\) Regulations 2011](#).

Asking questions about accounts

Q: Who can ask questions about the accounts?

A: Anybody can ask a question, but only local electors can ask questions formally. You must first ask your council about the accounts. If you are a local elector, you can also ask the external auditor.

Your right to ask questions of the external auditor is enshrined in law. There is no corresponding duty on the external auditor to answer questions. This is because the law does not want to interfere with the external auditors' independence, or their freedom to exercise discretion in how they do their work.

Q: Who can answer questions about the accounts?

A: Give your council the opportunity to explain anything in the accounts that you are unsure about.

If you are not satisfied with the council's explanation, you can ask the external auditor to explain points in the accounts. The law limits the time available for you to ask questions. So let the external auditor know your concern as soon as possible.

Q: How can I find out who the external auditor is?

A: In this guide 'the external auditor' is the auditor appointed to the council by the Audit Commission or by Public Sector Audit Appointments Ltd (PSAA).

To find out who the auditor is you can:

- ask your council;
- look at the PSAA website; or
- email PSAA at auditorappointments@psaa.co.uk

The Local Government Association set up PSAA to manage the Commission's audit contracts after the closure of the Commission on 31 March 2015.

Q: When can I ask the external auditor questions about the accounts?

A: The advertisement or notice that tells you the accounts are available to inspect will also give the date the auditor sets on or after which you may ask them questions. There is a time limit for asking questions.

You can ask someone to represent you when asking the external auditor questions. Inspect the accounts fully, before you ask the external auditor any questions, so you know what they contain.

You can ask the external auditor questions about the accounts from the date set until the audit is complete and closed. Once the audit is closed you cannot ask the auditor questions about that year's accounts.

You may ask your council questions about their accounts for any year, at any time.

Q: What questions can I ask about the accounts?

A: You can ask the external auditor questions about an item in the accounts for the financial year being audited. However, your right to ask the external auditor questions is limited. The external auditor can only answer 'what' questions, not 'why' questions.

The external auditor cannot answer questions about the council's policies, finances, procedures or anything else that is not relevant to an item in the accounts.

Q: Can the external auditor answer questions about my view of the accounts?

A: No. Your questions must always be about facts, not opinions.

To avoid misunderstandings, we recommend that you always put your questions in writing.

Q: Can the external auditor raise my question with the council for me?

A: No. The external auditor cannot ask the council questions for you or give you the council's answers.

The external auditor acts independently of electors and the council when auditing the accounts. So the external auditor will not ask the council questions on your behalf.

For questions that are not about the accounts, the external auditor will suggest that you ask the council for the information you want.

Q: Will the external auditor answer my question about whether something in the accounts is lawful?

A: The fact that you disagree with something your council has done, or intends to do, does not necessarily mean it is unreasonable or unlawful. The auditor considers the legality of items of account brought to their attention but does not have to answer questions about whether something the council has done, or an item in its accounts, is lawful.

When thinking about asking questions, remember that councils can decide the best way to do things within the law. An external auditor can only question a council's policies, or decisions, if they are unlawful.

Asking the auditor questions about the accounts is covered by section 15 of the Audit Commission Act 1998 and in Chapter 5 of the 2010 Code of Audit Practice which is available on the Audit Commission's archived website, www.gov.uk/government/organisations/audit-commission.

Objecting to accounts

You have inspected the accounts and asked your questions. Now you may wish to object to the accounts or an item in them that you consider unlawful.

Q: What is an objection to the accounts?

A: A local government elector can ask the external auditor to apply to the High Court for a declaration that an item of account is unlawful, or to issue an immediate report in the public interest.

You can only object to a specific item in the accounts.

You must tell the external auditor which item in the accounts you object to and why you think the item is unlawful, or why you think that a public interest report should be made about it.

You must provide the external auditor with the evidence you have to support your objection.

Disagreeing with income or spending does not make it unlawful. An unlawful item of account is one, for example, that records spending or income that the council:

- spent or received without powers to do so;
- took from, or added to, the wrong fund or account; or
- spent on something that they had the power to spend on, but the decision to spend the money was wholly unreasonable or irrational.

'Unreasonable' has a special meaning in law in this context. A council acts 'unreasonably' when its actions are so wholly unreasonable that no reasonable person could have made that decision. This is sometimes called acting 'irrationally'.

Q: How do I object to the accounts?

A: To object to the council's accounts you must send the external auditor a written notice of an objection and a copy to the council.

The notice must include:

- why you are objecting to the accounts;
- details of any item in the accounts that you think is unlawful;
- details of any matter you think the external auditor should make a public interest report about; and
- what you would like the external auditor to do (see the next question).

Other than it must be in writing, there is no set format for objecting.

You can ask someone to represent you and deal with your objection. This person does not have to live in the area covered by your council.

Q: What can I ask the external auditor to do about my objection?

A: You must say which power or powers you would like the external auditor to consider using to deal with your objection. You can only ask the external auditor to act within the powers available under the Audit Commission Act 1998.

You can ask the external auditor to do either or both of the following:

- Issue a **report in the public interest**.
- **Apply to the courts for a declaration** that an item of account is against the law.

Each of these options is explained below.

Q: What does it mean if an external auditor issues a public interest report?

A: The external auditor can report 'in the public interest'.

On receipt of a public interest report, the council must call a public meeting to consider the external auditor's report and any recommendations in it.

The council must consider and respond publicly within a short time-frame of receiving a public interest report, usually a month.

The external auditor can send the public interest report to anyone they see fit, including the media and other local or national public bodies.

Reporting in the public interest is covered by section 8 of the Audit Commission Act 1998 and Chapter 4 of the 2010 Code of Audit Practice which is available on the Audit Commission's archived website together with previously published public interest reports, www.gov.uk/government/organisations/audit-commission.

Q: What does it mean for an external auditor to apply to the court for an item of account to be declared unlawful?

A: If the external auditor thinks that income or expenditure in the accounts may be unlawful, they can apply to the court for a judge to give a declaration to that effect.

If the court agrees with the external auditor, it can make this declaration and can order the council to correct the accounts.

When deciding whether to apply for a judge's declaration, the external auditor must consider several matters. These include weighing the possible public interest benefits of going to court against the likely costs.

Making a declaration is covered by section 17 of the Audit Commission Act 1998 and Chapter 5 of the 2010 Code of Audit Practice which is available on the Audit Commission's archived website, www.gov.uk/government/organisations/audit-commission.

Q: What do I do with my written objection?

A: Send it direct to the external auditor.

Also send a copy of your written objection to the council. If you do not, the external auditor will not be able to act on it. You must give the council proper notice by either leaving a copy of your objection at, or posting it to, their main office, or any other office where they accept documents.

If your objection has personal or sensitive information (for example, about you, or someone in the council) mark it as 'Private and Confidential – for the attention of the Chief Executive' (or the Clerk, in parish and town councils).

You cannot use the objection process to make a personal complaint or claim against a council.

Q: What will the external auditor do with my written objection?

A: The external auditor will first consider whether your objection meets the statutory requirements.

Before the external auditor can deal with your objection, they must confirm:

- you are a local elector of the area the accounts relate to; and
- the objection relates to an item in the year of account for which the audit is still open.

The external auditor will look at your objection. Neither the auditor nor the court can challenge a council's decision if it is lawful.

The external auditor must decide whether your objection is valid or not. If not, this may mean they won't take any further action. If that happens, the external auditor usually gives brief reasons for their decision.

Q: What happens next?

A: If your objection meets the requirements, the external auditor will decide how to deal with it.

The external auditor will decide if the matter you raised needs investigation and action under their specific powers. If the matter does not warrant the exercise of special powers, it may still be a matter that the auditor may wish to consider as part of their routine planned audit work.

The external auditor will look objectively at the evidence that an item of account may be unlawful. Disagreeing with something your council has done, or intends to do, does not necessarily mean it is unlawful or unreasonable.

Q: How does the auditor consider my objection?

A: In everything they do, external auditors must follow the 2010 Code of Audit Practice which is available on the Audit Commission's archived website, www.gov.uk/government/organisations/audit-commission. Under the Code, the external auditor must take a balanced approach in spending time and money examining an objection.

The external auditor will consider:

- how significant the matter is;
- whether there is wider public interest in the issues you raised;
- whether they, or another external auditor, have previously considered the matter;
- the costs of dealing with the matter; and
- your rights, and the council's, individual councillors' and council officers' rights.

The auditor will usually write to you to say how they have dealt with your objection and the outcome.

Q: Can I appeal against the external auditor's decision about my objection?

A: Yes, in certain circumstances, but you may have to pay a lot of money to do so.

When the external auditor decides on your objection, including a decision not to take any action, they will usually explain their decision in a 'statement of reasons'.

If your objection is that an item in the accounts is unlawful and the external auditor has not given reasons for deciding not to take action, you can ask the external auditor for the reasons in writing.

If you have asked the auditor to issue a report in the public interest and they decide not to do so, you cannot appeal that decision.

If you have asked the external auditor to apply to the court for a declaration that the item of account is unlawful and you disagree with the external auditor's decision not to do so, you can appeal but you will have to take the matter to court yourself.

You must file your appeal in the Administrative Court section of the High Court. The time limit for doing so is a matter of weeks and you should get legal advice as soon as possible.

An appeal can be expensive. **We strongly recommend that you take legal advice on the strengths of your case and the financial risk involved before filing an appeal.**

You may, if your appeal is not upheld, have to pay all of your costs associated with the appeal, and may also be ordered to pay the external auditor's and council's legal costs.

Your right to object to the accounts is covered by [section 16](#) (but see also [section 8](#) and [section 17](#)) of the Audit Commission Act 1998.

Q: Other than the legal power(s) I have asked the external auditor to use, does the auditor have any other powers to investigate my objection?

A: Yes.

You cannot ask statutorily for the auditor to use these powers, but the external auditor can also consider whether to do any or all of the following:

- Make a **written recommendation** which the council must consider and respond to publicly.
- Issue an **advisory notice**.
- Apply for a **judicial review** of the council's actions.

These three actions are explained below.

Q: What does it mean if an external auditor issues a written recommendation?

A: The external auditor has legal powers to make written recommendations to the council about any matter related to the audit of the accounts.

The external auditor's written recommendations can be in a separate report or within other reports that they produce.

The council must consider and respond to these recommendations.

Statutory recommendations are covered by section 11 of the Audit Commission Act 1998 and Chapter 5 of the 2010 Code of Audit Practice which is available on the Audit Commission's archived website, www.gov.uk/government/organisations/audit-commission.

Q: What does it mean if the external auditor issues an advisory notice?

A: The external auditor can issue an advisory notice if he or she has reason to believe a council or an officer of the council:

- is about to make, or has made, a decision that involves, or would involve, the body incurring unlawful expenditure;
- is about to take, or has begun to take, a course of action which, if continued to its conclusion, would be unlawful and likely to cause a loss or deficiency; or
- is about to enter an item of account, the entry of which is unlawful.

The effect of the advisory notice is to provide the council with some time for officers and members to reconsider their proposed actions and get professional advice. If they have not done so already, the council can ask for a second opinion.

Issuing an advisory notice is covered in sections 19A – 19C of the Audit Commission Act 1998.

Q: What does it mean if the external auditor applies for judicial review?

A: If matters are serious enough, and other special powers are inadequate or considered inappropriate, the external auditor can decide to apply to the court for judicial review.

Only a judge can decide whether a council's decision, or failure to decide something it should have, is unlawful.

The external auditor can apply for judicial review on any council decision, or council failure to act, which it is reasonable to believe would affect the council's accounts.

Judicial review is covered by section 24 of the Audit Commission Act 1998.

Q: How much will this cost and who pays?

A: Unless you appeal or get your own legal advice, there will be no direct cost to you. However, the auditor and the council will spend time answering questions or considering objections. The council pays for the auditor's time, which can sometimes be significant.

Councils generally meet their own and the external auditor's costs of dealing with questions and objections. However, you are responsible for paying all costs that you incur, even if the external auditor agrees to do what you have asked them to do.

You may also have to pay the external auditor's and the council's costs. For example, if you appeal to the courts against an external auditor's decision and lose the case.

Ultimately it is local taxpayers in the community that pay most of the costs of questions and objections through the council tax.

Please consider the financial effect on you and your community when deciding whether and how you use any of the rights covered by this guide.

Part Two

Concerns about something other than accounts

If you work for a council and suspect fraud

The Public Interest Disclosure Act 1998 (PIDA) is popularly known as a ‘whistleblowers’ protection act. The Act provides a right of redress in the event of victimisation or dismissal if workers raise their concerns in the ways specified in the legislation.

Whistleblowers can claim PIDA protection by disclosing their concerns either to their employer or, if they prefer, to another organisation authorised to receive disclosures (a ‘prescribed person’). The Comptroller and Auditor General is a ‘prescribed person’ under the Act to whom workers can make disclosures about the proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services. The Comptroller and Auditor General has a confidential public interest disclosure line for public service employees where they cannot, or do not want to, report to their employer.

Prescribed person status does not convey any powers to such persons to investigate matters that are disclosed to them, beyond such powers as they may already have as part of their core statutory functions.

Contact the National Audit Office’s dedicated Whistleblowers’ Hotline on 020 7798 7999.

Complaints

If you think something has gone wrong at your council, you should contact them. You can do this by writing to:

- the Chief Executive (or in parish and town councils, the Clerk); or
- your local councillor.

Most councils have a complaints handling system, which deals with nearly all complaints. Occasionally there are issues that someone else needs to deal with. Here are some suggestions to help you.

Public Sector Audit Appointments Limited

Contact Public Sector Audit Appointments Limited if you are unhappy with how the external auditor has handled your question or objection about a council's accounts.

Email: auditorappointments@psaa.co.uk

Local Government Ombudsman

Contact the ombudsman if you:

- think the way your council has gone about something is wrong;
- think the impact of a decision they have made is unfair; or
- are dissatisfied with how the council has dealt with your complaint.

The Ombudsman cannot deal with complaints about parish and town councils.

Phone: 0300 061 0614

Fax: 024 7682 0001

Website: [Local Government Ombudsman](#)

Fraud

Contact the council's internal auditor if you think the council has committed fraud or used money improperly. Your council will give you the internal auditor's name and address. If you have evidence of fraud, you should also contact the police.

Freedom of information

Your council is covered by the requirements of Freedom of Information legislation, so you can ask to see anything you want to see at any time. Your council will tell you if there is a reason why you may not see any information. If you need help getting information, the Information Commissioner may be able to help you.

Information Commissioner's Office

Helplines: 0303 123 1113 or 01625 545745

Website: [Information Commissioner](#)

Standards committees

Complain to the council's standards committee, if your council has one, if you think a councillor's behaviour is below the high standards expected. Standards committees publish their own information on how to make a complaint. They only deal with complaints about members (councillors) and not about officers or other employees.

If your complaint is about a parish or town councillor, contact the standards committee of the council that collects your council tax.

You can make a complaint about a member of other local public bodies such as fire authorities, national park authorities and passenger transport authorities. These local public bodies often have their own standards committees. If they do not have a committee or you cannot find the committee's address, send your complaint to the main office of the local public body.

Personal claims

Contact your local Citizens Advice Bureau, local law centre or a solicitor if you have a personal claim against the council. The Law Society has a list of solicitors in your area.



National Audit Office

Joint Practitioners' Advisory Group

Legal Definition of Proper Practices, as referenced in the Regulations and Practitioners' Guide

As a consequence of the new local audit regime, which is being implemented by the [Local Audit and Accountability Act 2014](#) and by reason of an amendment to the [Local Government Act 2003](#), set out in [paragraph 50\(3\) of Schedule 12 to the 2014 Act](#), all relevant authorities, as defined in [Schedule 2 to the 2014 Act](#) (other than health bodies), will now be subject to [section 21 of the 2003 Act](#) in relation to Accounting Practice. This includes Internal Drainage Boards.

**P J CAMAMILE
CHIEF EXECUTIVE, WATER MANAGEMENT ALLIANCE**

30 JUNE 2015