



Department for  
Communities and  
Local Government

# Future of Local Audit

Consultation on secondary legislation

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# About this Consultation

<b>Topic of this consultation:</b>	The consultation sets out draft regulations relating to the Local Audit and Accountability Bill currently before Parliament. The proposed regulations set out some further detail of how the new system will work.
<b>Scope of this consultation:</b>	This consultation seeks views on the draft regulations and asks some policy questions on developing further regulations.
<b>Geographical scope:</b>	England
<b>Impact Assessment:</b>	A comprehensive Impact Assessment (for the local audit provisions) was published alongside the Local Audit and Accountability Bill <sup>1</sup> . This Impact Assessment will be updated once the Bill is enacted by Parliament.

## Basic Information

<b>To:</b>	We would welcome comments from organisations affected by the changes to the audit of local public bodies, and any other bodies or individuals. This document is available on the .gov website ( <a href="http://www.gov.uk">www.gov.uk</a> ) and we will be drawing it to the attention of public bodies currently audited by the Audit Commission, relevant professional bodies and those involved in regulating audit in England.
<b>Body/bodies responsible for the consultation:</b>	This consultation is being run by the Department for Communities and Local Government.
<b>Duration:</b>	This consultation will run for four weeks from 25 November until 20 December.
<b>Enquiries:</b>	Please contact <a href="mailto:foia@communities.gsi.gov.uk">foia@communities.gsi.gov.uk</a>
<b>How to respond:</b>	The consultation document is interactive and we are keen that the majority of people respond using the comments section for debate or online form. Any email responses should be sent to: <a href="mailto:foia@communities.gsi.gov.uk">foia@communities.gsi.gov.uk</a> Or by post to: Future of Local Audit Team Department for Communities and Local Government

<sup>1</sup> See <https://www.gov.uk/government/publications/local-audit-and-accountability-bill-local-audit-impact-assessment>

	<p>Zone 3/J5, Eland House  Bressenden Place  London, SW1E 5DU</p>
<p><b>Additional ways to become involved:</b></p>	<p>Should a particular group want to meet and discuss the proposed changes, this may be arranged by emailing the address above</p>
<p><b>After the consultation:</b></p>	<p>DCLG will analyse consultation responses and publish a summary of responses in 3 months from the close of the consultation.</p>
<p><b>Compliance with the Code of Practice on Consultation:</b></p>	<p>This consultation document and process adhere to the Government's consultation principles, that can be found at:  <a href="https://www.gov.uk/government/publications/consultation-principles-guidance">https://www.gov.uk/government/publications/consultation-principles-guidance</a></p>

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# Section 1

## 1. Introduction

*“The Audit Commission was born of good intentions, but in a different age. Local government has changed since the 1980s, in part due to the reforming legislation of that decade which helped stamp out corruption and jobs for the boys, but by the end of the century the Audit Commission was no longer the protector of the public purse under the new regime. It had become a top-down regulator of local government, micro-managing local services and imposing excessive and questionable red tape.”*

Secretary of State for Communities and Local Government, 28 October 2013

### Background

- 1.1** On 13 August 2010, the Secretary of State for Communities and Local Government announced the Government’s plans to disband the Audit Commission and re-focus local public audit - allowing local public bodies to appoint their own auditors from an open and competitive market, with appropriate safeguards to ensure the continuation of high standards of local public audit, whilst ensuring that local people will be able to hold local public bodies to account for local spending decisions.
- 1.2** Since the Secretary of State’s announcement in 2010, the Government has consulted widely and worked with a range of partners and bodies affected by these changes to develop and refine our proposals. Organisations involved in this process have included the Audit Commission, the National Audit Office, the Financial Reporting Council, accountancy professional bodies, local government, other local public bodies and Government departments with an interest, as well as interested members of the public.
- 1.3** Our reforms will achieve **£730 million** of savings over **five years** (2012-2017- the duration of the outsourced Audit Commission audit contracts) and an estimated **£1.2 billion**<sup>1</sup> over **10 years**. This is a result of ending top down inspection and assessment (Comprehensive Area Assessment); outsourcing the Commission’s in-house audit practice to the private sector (achieving a 40% reduction in audit fees) and cutting other costs, such as spend on consultants within the Commission, and abolishing the Audit Commission itself.

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<sup>1</sup> Impact Assessment published alongside the Local Audit and Accountability Bill uses updated cost data and forecasts to 2019/2020; costs updated to reflect 2011/12 prices (increasing nominal savings) and represent a net present value figure. Savings from: ending routine assessment/inspections, reduction in running costs, reductions in direct audit costs from outsourcing the in-house practice and closure of the Audit Commission.

**1.4** The Government introduced the Local Audit and Accountability Bill (the Bill) into Parliament on 9 May 2013. The Bill sets out our vision for the new local audit framework, and contains additional measures which are complementary to our existing initiatives to increase transparency and enable local scrutiny of public bodies. The Bill makes specific provisions for, and in connection with:

- the abolition of the Audit Commission and the existing audit regime for local public bodies;
- the transfer of the Audit Commission's residual functions to other bodies;
- the establishment of a new local audit framework, making provisions associated with the accounts of local public bodies and the arrangements for the auditing of those accounts;
- the processes involved in the appointment, functions and regulations of local public auditors, including their resignation or removal;
- aligning the regulatory framework for local public audit with that of private sector audits, with the Financial Reporting Council and accountancy professional bodies regulating and monitoring the quality of audit;
- the National Audit Office taking on the responsibility for preparing the code of audit practice and guidance, setting out what functions auditors need to undertake in relation to local public audit;
- economy, efficiency and effectiveness examinations by the Comptroller and Auditor General of groups of English local public bodies;
- the publication of information by smaller authorities;
- the transfer of the National Fraud Initiative, the Audit Commission's data matching powers and other counter fraud tools to another body;
- directions to comply with codes of practice on local authority publicity;
- council tax referendums; and
- other connected purposes.

**1.5** The Bill successfully completed its passage through the House of Lords on 24 July 2013. The amended Bill was presented to the House of Commons on 29 August, where it is currently being considered.

**1.6** More background on the policy and its development can be found in the papers that accompany the passage of the Local Audit and Accountability Bill at <http://services.parliament.uk/bills/2013-14/localauditandaccountability.html> .

### **What does the consultation cover?**

**1.7** If the Local Audit and Accountability Bill is enacted (subject to the will of Parliament), to give effect to the new local audit arrangements many

of the provisions contained in the Bill will require secondary legislation. This document sets out our proposals for the regulations regarding:

- i) **Part 2:** Modification of the Act in relation to smaller authorities (Clause 5, Part 1),
- ii) **Part 3:** Appointment of Auditors
  - o Constitution of auditor panels (Schedule 4, Para 2(9));
  - o Constitution of auditor panels (Schedule 4 Para 4);
  - o Application of local authority enactments to auditor panels (Schedule 4 Para 5); and
  - o Functions of auditor panels (Clause 10(8));
- iii) **Part 4:** Eligibility and Regulations of Auditors;
  - o Appropriate qualifications (Schedule 5, Para 8);
  - o Definition of "major local audits" (Schedule 5).

**1.8** Although regulations have not yet been drafted in connection to Part 5 of the Bill, this document also includes policy questions on Account and Audit regulations and regulations on the consideration of Public Interest Reports and written recommendations.

### **Who are we consulting?**

**1.9** This consultation document seeks the views of all organisations affected by these changes (those organisations are listed in Schedule 2 of the Bill) and other interested parties about the content of a large subset of the proposed regulations. Your contribution will help us to refine those regulations following the enactment of the Bill, should it be the will of Parliament.

**1.10** We propose a further consultation in the summer of 2014 which will discuss the detail of the remaining regulations.

### **Timing and how to get involved**

**1.11** This consultation runs for a period of 4 weeks, with responses invited by 20 December 2013. Please use the on-line consultation portal at <http://localaudit.readandcomment.com/> . The on-line portal will allow interested parties to comment broadly on specific sections, questions or the actual draft regulations. Each section has a dedicated message board, which will enable interested parties to share their views and engage in an on-line dialogue should they wish. Alternatively, you can email your response to:- [foia@communities.gsi.gov.uk](mailto:foia@communities.gsi.gov.uk)

**1.12** Or, send a written submission to:

The Future of Local Audit Team  
The Department for Communities and Local Government  
Zone 3/J5, Eland House  
Bressenden Place  
LONDON SW1E 5DU



- 1.13** Please use the title “Response to the future of local audit consultation – secondary legislation”. It would also be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.
- 1.14** Following this period, we will consider the responses received and where necessary, make any appropriate changes to the final regulations, which we intend to lay before Parliament later in 2014. Before then, it is also our intention to publish a summary of the responses received.
- 1.15** We outline in the following sections the draft regulations and provide summary notes.

# Section 2

## 2. Smaller Authorities' Regulations

- 2.1** **Clause 5** of the Bill enables the Secretary of State to make provision in regulations for the audit of smaller authorities, defined as those with an annual income and expenditure not exceeding £6.5 million.
- 2.2** Proposed regulations under these powers will:
- i) enable a person, specified by the Secretary of State, to appoint auditors to smaller authorities. This will facilitate the development of a sector-led body, as proposed by the National Association of Local Councils and the Society of Local Council Clerks; and
  - ii) enable the creation of a less onerous framework, mirroring the current “limited assurance” arrangements in line with the smaller amounts of public money these authorities control.
- 2.3** The draft regulations cover core provisions relating to the specification of a “person” to appoint auditors to smaller authorities. These are summarised below, together with the Government’s policy intentions for regulations to exempt smaller authorities with an income and expenditure below £25,000 from routine audit.

### **Draft regulations for a specified person to appoint auditors to smaller authorities**

- 2.4** The draft regulations set out how the Secretary of State will confer duties on a specified person to appoint auditors and to set fees. These duties are required in order to create a legally-binding arrangement between the three parties: the specified person, the auditor firm and the smaller authority to whom the specified person appoints an auditor. The only contractual relationship that will exist will be between the specified person and the auditor firm.

#### ***Interpretation and opting for full code audit (regulations 2 and 3)***

- 2.5** There are currently no smaller health service authorities. In the event that any should materialise, they would not be treated as smaller authorities under the regulations.
- 2.6** The specific person will not be required to appoint a local auditor to a smaller authority which opts to prepare accounts as a principal authority and undergo full code audit. The decision to account and undergo audit as a principal authority will be made in full council, and such authorities will be required to notify the specified person.

***Specification procedure (regulations 4 and 5)***

- 2.7 The Secretary of State may specify a “person” to appoint auditors to smaller authorities. The process will be in writing and the Secretary of State must publish the contact details for the specified person. The period of specification may be indefinite or subject to an expiry date.

***Procedure for determining role of specified person in auditor appointment (regulation 6)***

- 2.8 The specified person will be under a duty to appoint auditors to opted-in authorities. It must write to smaller authorities to ask them if they wish to use the specified person to appoint a local auditor, setting out fee scales, the proposed length of the contract of appointment for local auditors and a deadline for a response. The specified person must allow a minimum of eight weeks for a response from the smaller authority. It will write to smaller authorities once in relation to each contract period only. Smaller authorities are deemed to be opted-in at the point the offer is made.

***Procedures for opting-out and opting-in (regulations 7 and 8)***

- 2.9 An authority’s decision to opt-in or opt-out will apply to the whole of the proposed contract period. This will enable the specified person to set out contracts for audit service. It will give sufficient clarity to auditor firms regarding the size and composition of contracts to enable them to price their bids competitively. It will also ensure a predictable income to the specified person for the duration of any given contract so that they may manage those contracts effectively.
- 2.10 Authorities which do not opt-out in writing by the deadline will be automatically opted-in. An authority’s decision to opt-out must be made in full council. This provision safeguards against the situation where a smaller authority fails to make the necessary arrangements. Without such provision, the specified person would be unable to act on their behalf.
- 2.11 An authority which opts-out will be able to request in writing to opt-in during a contract period. The specified person must consider such a request and give its reasons for any decision to refuse in writing. The default presumption will be that the specified person would accept the authority’s request unless there were reasonable grounds for not doing so. The specified person would appoint an auditor to the authority for the remaining contract period on the fee scale applicable to opted-in authorities. The specified person may recover reasonable administrative costs from the authority.

- Q1. The Government does not intend to provide for smaller authorities to opt-out during a contract period, for the reasons given above. However, we would welcome comments on any circumstances under which a smaller authority should be able to opt-out of the specified person's regime once the deadline for opting-out of a contract period has expired.**
- Q2. We would like to understand if there are any circumstances in which the specified person should be able to forcibly opt-out a smaller authority. If this is allowed in any circumstances, what safeguards should there be to ensure that the authority is treated fairly and has sufficient time to appoint its own auditor in compliance with the law?**

***Authorities ceasing to qualify as a smaller authority (regulation 9)***

- 2.12** Authorities which become aware that they will exceed the £6.5 million threshold for qualification as a smaller authority for a third consecutive year must notify the specified person as soon as practicable. In the event that such an authority fails to notify the specified person, the authority is liable for any costs incurred by the auditor appointed to it by the specified person.

***Functions of specified person, fees and payments of fees (regulations 10-12)***

- 2.13** The specified person will:
- i) appoint auditors to all opted-in authorities, set fee scales, and keep a record of authorities which are opted-in and opted-out;
  - ii) consult each authority on its proposed auditor in order to ensure that there is no issue regarding the auditor's independence from the authority;
  - iii) be required to have appropriate systems in place to set performance standards and monitor contract compliance; and
  - iv) have a duty to consult representative bodies of smaller authorities and accountancy representative bodies before setting fee scales. Fees will be set in relation to the whole period of a proposed contract of appointment for auditors. Fees may take account of relevant auditor expenses, the functions conferred on the specified person and incidental, and supplementary and related functions, such as supporting the production of guidance.

**2.14** Opted-in authorities must:

- i) provide information to the auditor / specified person to ensure that the specified person may determine fees payable; and
- ii) pay the determined fees to the specified person. The specified person will be able to vary fees, on the basis of evidence supplied by the auditor, if the audit work is significantly greater or less than envisaged in the relevant fee scale.

**Q3. Should the specified person be required to publish the record of the names of opted-in and opted-out authorities, and, for opted-in authorities, to publish the names of the appointed auditors?**

***Ending specification and consequences of this (regulations 13 and 14)***

**2.15** The Secretary of State may end the specified person's specification and the specified person may request de-specification. Before de-specifying the specified person, the Secretary of State must consult opted-in authorities and relevant representative bodies. The Secretary of State must notify the specified person in writing of de-specification, setting out his reasons for de-specification and a date for the specification to end, and must publish a notice of de-specification. The Secretary of State must make arrangements for notifying opted-in authorities, and can require the specified person to do so.

**2.16** In the event of de-specification, the Secretary of State will be able to exercise any functions of the specified person in the meantime and to transfer the specified person's rights and liabilities to the Secretary of State or to another specified person. This will ensure that any outstanding contracts continue to operate effectively on behalf of smaller authorities. This regulation is required because there would be no means of enforcing any contract novation on a third party (the auditor firms) in the absence of such provision.

**2.17** In the event of a decision to de-specify, the specified person will be under a duty to disclose all relevant rights and liabilities and to co-operate with the Secretary of State and any other specified person to ensure that the audits are not adversely affected.

***Functions of auditor panels in relation to opted-out authorities (regulation 15)***

**2.18** Smaller authorities which opt-in to the specified person's auditor appointment regime will not be required to appoint an auditor panel. The regulations will clarify that an auditor panel will have no functions in relation to an auditor appointed by the specified person after an authority has opted-in. This situation may arise where an authority

opts-out of the specified person's auditor appointment regime for one contract period and therefore appoints an auditor panel, and then opts-in for a subsequent contract period.

***Modification of the Local Audit and Accountability Act 2014  
(regulation 16 and Schedule 1)***

- 2.19** The Schedule modifies and disapplies various provisions in the Bill for opted-in authorities. It currently covers modifications to the first 11 clauses and Schedule 3 to the Bill only. A consultation in May 2014 will look at the rest of the Bill based on comments on this consultation.

**Q4.** In the event that a smaller authority opts-out of the specified person's appointment regime but then fails to appoint an auditor, should the Secretary of State be able to order that the authority is opted-in and require the specified person to appoint an auditor?

**Q5.** Do you have any observations on the draft regulations for smaller authorities?

**Statement on exemption policy**

- 2.20** Clause 5(6) allows regulations to make provision to exempt specified smaller authorities from specified audit requirements, and to set out where the exemption will not apply.
- 2.21** The policy intention is to specify exempt authorities by reference to the higher of the authority's gross income and gross expenditure in a given year. The threshold will be £25,000. The threshold will apply in a given year, i.e. the three-year smoothing provision for the £6.5 million threshold set out in clause 6(1) will not be applied to this threshold. The smaller authority will be responsible for correctly classifying itself.
- 2.22** The exemption will apply to the ("limited assurance") form of audit that will be set out in the Code of Audit Practice that the Comptroller and Auditor General will prepare in relation to smaller authorities.
- 2.23** The Government will take a risk-based approach to the proposed exemption to ensure that the circumstances which trigger audit are appropriate and proportionate to risk. The exemption will not apply where:
- i) a smaller authority is newly established, for the first three years;
  - ii) a public interest report has been made in the previous year; or
  - iii) an item in the accounts has been declared unlawful in the previous year.

- 2.24** Smaller authorities which would otherwise qualify for the exemption may choose to have an audit.
- 2.25** All smaller authorities, including those which are exempt, will be required to appoint a local auditor (or have an auditor appointed on their behalf by the specified person). This is to ensure that local government electors will be able to ask questions of the auditor, raise an objection to an item of account, etc.
- 2.26** The regulations may also set out the process that will underpin the exemption. This is likely to place a duty on the:
- i) smaller authority to apply in writing to its appointed local auditor for the exemption;
  - ii) smaller authority to supply its appointed local auditor with the necessary information for the local auditor to determine whether or not the authority qualifies for the exemption;
  - iii) appointed local auditor to certify in writing that the authority qualifies for the exemption (or not), subject to the supply of appropriate information from the smaller authority; and
  - iv) smaller authority to display the certificate publicly with the notice setting out arrangements for electors to inspect documents.

**Q6. Are these the right criteria for suspension and the right process for exemption?**

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STATUTORY INSTRUMENTS

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**2014 No. \*\*\*\***

**LOCAL GOVERNMENT**

**The Local Audit (Smaller Authorities) Regulations 2014**

<i>Made</i>	- - - -	<i>2014</i>
<i>Laid before Parliament</i>		<i>2014</i>
<i>Coming into force</i>	- -	<i>2014</i>

The Secretary of State, in exercise of the powers conferred by sections 5(1) to (3), (4)(a) and (b), (5)(a), (7) and 6(4) of the Local Audit and Accountability Act 2014<sup>(a)</sup>, makes the following Regulations:

**Citation, commencement [and application?]**

**1.**—(1) These Regulations may be cited as the Local Audit (Smaller Authorities) Regulations 2014 and come into force on \*\*\*\*.

(2) Regulations 1, 2, 3(1), and (3) 4, 5, 6(1) to (4), 9(1), 10(1)(c) to (e), 13 and 14 apply to all smaller authorities, other than health service bodies.

(3) Regulations 6(5), (6), 7, 8(5) to (9), 9(2), 10(1)(a), (b), 11, 12, 15, 16 apply to opted in authorities.

(4) Regulations 6(7), 7(4), 8(1) to (4), (10) and 15 apply to opted out authorities.

(5) Regulation 3(2) applies to full audit authorities.

**Interpretation**

**2.** In these Regulations—

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

“full audit authority” means a smaller authority, other than a health service body, which has decided to [prepare accounts and be audited under the regime for relevant authorities which are not smaller authorities in accordance with regulation 3];

“opted in authority” means a smaller authority other than—

- (a) a health service body,
- (b) an opted out authority, or
- (c) a full audit authority;

“opted out authority” means a smaller authority which has decided not to use the specified person to appoint its local auditor in accordance with regulation 7, other than—

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<sup>(a)</sup> 2014 c.



- (a) a health service body, or
- (b) a full audit authority.

#### **Procedure for deciding to be subject to full audit**

**3.**—(1) A smaller authority may decide to prepare accounts and be audited under the regime for authorities which are not smaller authorities in accordance with this regulation.

(2) The authority must inform the specified person in writing of its decision as soon as practicable, specifying the date of the decision.

(3) This regulation is subject to Schedule 3 to the Act [and provision made under it].

#### **Appointment of specified person to appoint auditors**

**4.**—(1) The Secretary of State may, in accordance with regulation 5, specify a person to appoint local auditors to audit the accounts of opted in authorities.

(2) [The person appointed must be a [legal person][body corporate]].

#### **Procedure for specifying a person to appoint local auditors**

**5.**—(1) The specification must be in writing.

(2) The specification may be of infinite duration or subject to an expiry date.

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

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

(4) Relevant details are—

- (a) the person's name;
- (b) its registered address;
- (c) its address for correspondence.

#### **Procedure for determining role of specified person in auditor appointment**

**6.**—(1) The specified person is responsible for appointing a local auditor to opted in authorities only.

(2) The specified person must serve by post a written offer on all smaller authorities other than health service bodies, setting out the relevant details, asking if they wish to use the specified person to appoint a local auditor.

(3) The relevant details are—

- (a) the length of contract proposed for the appointment of local auditors;
- (b) the proposed scale or scales of fees for audit for authorities;
- (c) the date by which written notice from authorities giving their response must be received (and that date must allow at least 8 weeks for a response from the date of receipt of the notice).

(4) Where the specified person proposes to appoint local auditors for more than one financial year, it must—

- (a) send a written offer in respect of that period of appointment, and
- (b) only send a subsequent written offer in respect of the next proposed period of appointment.

(5) In relation to each written offer made by the specified person under paragraph (2), all authorities other than full audit authorities are opted in authorities at the point at which the offer is made, whether as regards a first or a subsequent written offer.

(6) An opted in authority may decide not to use the specified person to appoint a local auditor (decide to “opt out”) in accordance with regulation 7.

(7) An opted out authority may request that the specified person appoint a local auditor (decide to “opt in”) in accordance with regulation 8.

### **Procedure for opting out**

**7.**—(1) An opted in authority may, in accordance with this regulation, decide it does not want to use the specified person to appoint a local auditor (decide to “opt out”).

(2) An opted in authority must inform the specified person by written notice of its decision to opt out—

- (a) before the date referred to in regulation 6(3)(c),
- (b) specifying the date of the decision to opt out,
- (c) confirming that the decision complied with the required procedure under Schedule 3.

(3) The specified person is entitled to rely on the authority’s confirmation under paragraph 7(2)(c).

(4) An opted in authority becomes an opted out authority on the date on which the specified person receives valid notice under paragraph (2).

(5) The decision to opt out only relates to the written offer to which it was a response, and lasts for the duration of the contract between the specified person and local auditors (subject to the specified person agreeing to a request by the authority to opt in by way of regulation 8).

### **Right to request to opt in**

**8.**—(1) An opted out authority may, in accordance with this regulation, decide to request that the specified person appoint its local auditor (decide to request to “opt in”).

(2) An opted out authority must inform the specified person by written notice of its decision to request to opt in—

- (a) specifying the date of the decision to request to opt in,
- (b) confirming that the decision complied with the required procedure under Schedule 3.

(3) The specified person is entitled to rely on the authority’s confirmation under paragraph 8(2)(b).

(4) The 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) notify the authority of the decision in relation to the request as soon as practicable, and
- (d) provide reasons if the specified person has refused the request.

(5) An opted out authority becomes an opted in authority on the date on which the specified person agrees to the authority’s request to opt in.

(6) An authority who becomes an opted in authority by virtue of this regulation must have a local auditor appointed to it by the specified person.

(7) The local auditor appointed to an authority under paragraph (5) must be appointed for the remaining period of the contract between the specified person.

(8) The scale of fees applicable to the audit must be the scale of fees applicable to other opted in authorities.

(9) The specified person may recover its reasonable administrative costs for making arrangements to appoint a local auditor to an authority under this regulation from the authority concerned.

(10) This regulation is subject to Schedule 3 to the Act [and provision made under it].

### **Authority ceasing to qualify as a smaller authority**

**9.**—(1) A relevant authority, which was a smaller authority, which becomes aware that it will not qualify as a smaller authority for a financial year, must notify the specified person as soon as practicable after becoming so aware.

(2) An opted in authority which fails to notify the specified person as required by paragraph (1) is liable to pay to the specified person an amount equal to any costs incurred by a local auditor appointed to the authority by the specified person.

### **Functions of specified person [*not an exhaustive list, a drafting marker*]**

**10.**—(1) The specified person has the following functions—

- (a) to appoint an auditor to each opted in authority in accordance with [the requirements in] regulation[ ];
- (b) to consult each opted in authority in respect of the local auditor which the specified person proposes to appoint to audit the accounts of that authority;
- (c) to keep a record of which smaller authorities are opted in and which are opted out authorities[, and to publish that record];
- (d) to design and implement appropriate systems to—
  - (i) set what is an acceptable standard of performance for a local auditor;
  - (ii) monitor compliance by a local auditor against the contractual obligation to carry out an audit of the accounts of an opted in authority;
- (e) to specify a scale or scales of fees in respect of the audit of the accounts of opted in authorities in accordance with regulation 11.

### **Fees for audit**

**11.**—(1) The specified person must specify a scale or scales of fees in respect of the audit of the accounts of opted in authorities.

(2) Before specifying a scale or scales of fees, the 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.

(3) A scale or scales of fees may take account of the costs [and anticipated costs] of—

- (a) functions of the specified person imposed by or under the Act;
- (b) functions of the specified person which are incidental and supplementary to the functions mentioned in paragraph (a);
- (c) activities which are closely related to the functions of the specified person in paragraphs (a) and (b), [such as][including] supporting the production of relevant guidance;
- (d) costs and expenses which auditors can recover under the Act [from authorities][from the specified person].

(4) A scale or scales of fees must be set in relation to the proposed period for contracts of appointment between the specified person and local auditors.

(5) For the purpose of determining the fee payable for an audit, an opted in authority whose accounts are being audited must—

- (a) complete a statement containing such information as the specified person may require and submit it to the auditor, and
- (b) provide the specified person with such further information as it may at any time require.

(6) The auditor must send the statement mentioned in paragraph 11(5)(a) to the specified person on the conclusion of the audit with a certificate that the statement is correct to the best of the auditor's knowledge and belief.

### **Payment of fee**

**12.—**(1) Subject to paragraph (2), an opted in authority must pay to the specified person the fee applicable for the audit in accordance with the appropriate fee scale.

(2) If it appears to the specified person, on the basis of evidence supplied by the auditor, that the work involved in a particular audit was substantially more or less than that envisaged by the appropriate scale, the specified person may charge a fee which is larger or smaller than that referred to in paragraph (1).

### **Ending specification**

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

(2) The specified person may make a written request that its specification be ended.

(3) Before ending the specification of the specified person, the Secretary of State must—

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

(4) The Secretary of State must—

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

(5) The Secretary of State may make arrangements under paragraph 13(4)(c) by requiring the specified person to notify opted in authorities.

### **Consequences of end of specification**

**14.—**(1) If the Secretary of State gives notice in writing to the specified person under regulation 13(4)(a), the Secretary of State may, 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 14(1)(b) to the Secretary of State and some to another specified person.

(3) The specified person on whom notice is served under regulation 13(4)(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 audits of opted in authorities are not adversely affected.

### **Functions of auditor panels**

**15.—**(1) *[Drafting marker – need to make provision re. auditor panel functions when an authority goes from being an opted out authority which has an auditor panel to an opted in*

*authority, or vice versa – we need to clarify that the panel will have no functions in relation to an auditor appointed by the specified person during any period when there is a time of overlap between the two auditors, e.g when an authority-appointed auditor is dealing with objections or legal proceedings for the previous financial year.]*

#### **Modification of the Local Audit and Accountability Act 2014**

**16.** The Act applies to an opted in authority subject to the modifications set out in the Schedule to these Regulations.

## **SCHEDULE**

Regulation 16

*[To be completed]*

#### **Modification of the Local Audit and Accountability Act 2014**

**1.**—(1) Part 2 (basic concepts and requirements) is modified as follows.

(2) In section 4—

- (a) in subsection (1)(b), omit “by that authority”;
- (b) [the reference to Schedule 3 is to Schedule 3 [as modified by these Regulations]].

**2.**—(1) Part 3 (appointment etc of local auditors) is modified as follows.

(2) In section 7—

- (a) references to relevant authority or authority are to be construed as references to the specified person;
- (b) in subsections (1) and (2) for “its accounts” substitute “the accounts of each opted in authority”;
- (c) [the reference to Schedule 3 is to Schedule 3 [as modified by these Regulations]].

(3) In section 8—

- (a) subsection (1) is omitted;
- (b) references to a relevant authority are to be construed as references to an opted in authority;
- (c) in subsection (2)—
  - (i) after “appointment is made” is inserted “by the specified person”;
  - (ii) in paragraph (a), omit “it” and insert “the specified person”;
  - (iii) omit paragraphs (c) and (d);
- (d) in subsection (4)—
  - (i) in paragraph (a) the words from “in the case” to “health service body,” are omitted;
  - (ii) paragraphs (b) and (c) are omitted;
- (e) [in subsection (6) the reference to Schedule 3 is to Schedule 3 [as modified by these Regulations]].

(4) Section 9 and Schedule 4 are omitted.

(5) In section 10—

- (a) references to a relevant authority’s auditor panel or to an auditor panel are to be construed as references to the specified person;
- (b) in subsection (1) for “the authority” substitute “an opted in authority”;
- (c) subsections (2) to (4) are omitted;
- (d) in subsection (5)—

- (i) omit “or (4)”;
- (ii) in paragraph (a) for “A relevant authority” substitute “An opted in authority”;
- (e) in subsection (6), for “advise the authority” substitute “advise the opted in authority”;
- (f) in subsection (8), omit paragraph (c);
- (g) in subsection (9), for “relevant authority” substitute “opted in authority”;
- (h) in subsection (10)—
  - (i) at the beginning, for “A relevant authority” substitute “An opted in authority”;
  - (ii) in paragraph (a), omit “in the case of a relevant authority other than a health service body,”;
  - (iii) omit paragraphs (b) and (c);
- (i) omit subsection (13).
- (6) In section 11—
  - (a) references to a relevant authority’s auditor panel or to an auditor panel are to be construed as references to the specified person;
  - (b) in subsection (1), for “A relevant authority other than a health service body” substitute “An opted in authority”;
  - (c) in subsection (2), omit “, other than the auditor panel of a health service body,”;
  - (d) omit subsections (6) and (7);

**3.**—(1) The modifications to Schedule 3 (further provisions about appointment of local auditors) are as follows. [*Sch 3 will be amended so that it applies to all the decisions which are to be made by full council or full Board etc, as indicated in these Regulations*]

# Section 3

## 3. Independent Auditor Panels and the Resignation and Removal of Auditors

### **Auditor panel and auditor panel independence regulations**

- 3.1** Under the new framework, relevant authorities will be required to have an independent auditor panel to oversee and advise on the maintenance of an independent relationship between the relevant authority and their auditor.
- 3.2** The Bill sets out the need to have a panel, the requirement for a majority of independent members and independent chair, and the core functions of the panel. **Clause 10 and Schedule 4** give the Secretary of State the power to make further provision in regulations about the constitution and operation of independent auditor panels.
- 3.3** Proposed regulations under these powers will:
- i) add to the definition of “independence” for auditor panel members, to ensure it addresses any commercial links between an individual and a relevant authority or any links between an individual and the appointed or prospective audit firm. The regulations also deal with the independence of members of entities connected to an relevant authority and, in the case of the GLA, of members of functional bodies (such as Transport for London);
  - ii) require panels to have a minimum of three members, and that at least three members (and a majority of independent members) need to be present for the panel to be quorate. The regulations also make clear that a relevant authority may choose to pay their panel members, if necessary;
  - iii) require that independent members of the panel are appointed via an open process, similar to that required for the appointment of the “independent person” in the local government standards regime. Relevant authorities will also be required to put in place a policy around the removal or resignation of panel members;
  - iv) give the auditor panel one additional function, to advise the relevant authority on the adoption of and content of any policy in relation to awarding “non-audit” work to their appointed auditor; and
  - v) apply three existing local authority enactments to auditor panels – these address public access to meetings, political balance amongst any councillors serving on auditor panels, and the application of the local government standards regime to auditor panels.

- 3.4** The approach set out in the draft regulations reflects the Government's aim to implement auditor panels in way that protects independence, while minimising any bureaucratic burden on relevant authorities and providing them with as much flexibility as possible in developing local arrangements.
- 3.5** The approach also reflects the provision at clause 10 that enables the Secretary of State to issue further guidance on the operation of auditor panels. The Government believes that certain detailed matters, such as the appropriate skills and experience of independent panel members and the panel's precise role in the appointment process, are better set out in guidance. The Government intends to work closely with the sector in developing any guidance to ensure it is both helpful and addresses key issues around auditor independence.

### **Auditor resignation and removal**

- 3.6** **Clause 16** of the Bill gives the Secretary of State the power to make regulations on the resignation or removal of an auditor, including the processes that need to be followed by the relevant authority, the auditor and the independent auditor panel.
- 3.7** Although resignation or removal of an auditor is expected to be a very rare occurrence, a process needs to be in place that is transparent, fair and provides for appointment of a replacement auditor in a timely manner.
- 3.8** These draft regulations set out the process to be followed in the case of a relevant authority wishing to remove its auditor, or an auditor themselves wishing to resign:
- i) in the case of removal, a relevant authority must give 28 days notice to the auditor of any proposal to remove them. The auditor will be able to respond to that proposal, and any response will be shared with the independent auditor panel. The auditor panel will then advise the relevant authority on the proposal, taking into account any response from the local auditor. The relevant authority must take that advice into account. The auditor, and a member of the auditor panel are entitled to attend and speak at any meeting of the relevant authority taking the decision on their removal. If they go ahead with the removal of the auditor, the relevant authority must publish a notice of that decision. That notice will include the auditor's response, the advice of the panel and, if the relevant authority has not followed that advice, the reasons why. The relevant authority must then give written notice of the removal to the recognised supervisory body;
  - ii) in the case of a resignation the auditor will be required to give 28 days written notice of resignation, including a statement on the circumstances of their resignation, to the relevant authority, who must forward it to the auditor panel. Within 28 days of receiving



the resignation notice, the relevant authority must respond in writing to the auditor's notice. The auditor's notice and relevant authority's response must then be published by the relevant authority and sent to the auditor panel. The auditor must notify the recognised supervisory body on their departure. Following a resignation, the regulations require that the auditor panel must investigate the circumstances leading to the resignation and issue a statement, which the relevant authority must publish, giving a view on the circumstances of the resignation and explaining any action it considers required of the relevant authority to address issues raised; and

- iii) in both cases, the relevant authority will be required to make a new appointment within three months of the departure of the previous auditor. This is intended to give the relevant authority sufficient time to make the appointment, whilst ensuring that a replacement auditor is in place as soon as possible.

- Q7. Do you have any comments on the draft regulations about auditor panels and/or the resignation and removal of auditors?**
- Q8. On the resignation and removal of an auditor, does three months give a reasonable period for relevant authorities to make a new appointment?**

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STATUTORY INSTRUMENTS

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**2014 No. \*\*\*\***

**LOCAL GOVERNMENT**

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

<i>Made</i>	- - - -	<i>2014</i>
<i>Laid before Parliament</i>		<i>2014</i>
<i>Coming into force</i>	- -	<i>2014</i>

The Secretary of State, in exercise of the powers conferred by section 10 of, and Schedule 4 to, the Local Audit and Accountability Act 2014<sup>(1)</sup>, makes the following Regulations:

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Local Audit (Auditor Panel) Regulations 2014 and shall come into force on \*\*\*\*.

(2) In these Regulations, “the Act” means the Local Audit and Accountability Act 2014.

(3) In these Regulations a “relevant authority” means a relevant authority other than a health service body.

**Members of auditor panels**

**2.**—(1) The following provisions apply to an auditor panel of a relevant authority.

(2) An auditor panel must have a minimum of three members.

(3) A person may not be appointed as an independent member of the auditor panel unless—

- (a) the vacancy for an independent person has been advertised in such manner as the relevant authority considers is likely to bring it to the attention of the public,
- (b) the person has submitted an application to fill the vacancy to the relevant authority, and
- (c) the person’s appointment has been approved by a majority of the members of the relevant authority.

(4) The relevant authority must adopt a set of rules with regard to the removal or resignation of members of an auditor panel, or of its chair, and may from time to time revise any of those rules.

**Allowances of auditor panel members**

**3.** The relevant authority may pay the members of the panel such allowances or expenses as the relevant authority may determine.

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<sup>(1)</sup> 2014 (c. X)

### **Proceedings of auditor panels**

4. At any meeting of the auditor panel the quorum shall be three, and a majority of those present at the meeting must be independent members of the panel.

### **Further functions of auditor panels: non-audit services**

5.—(1) The auditor panel must advise the relevant authority on whether to adopt a policy about the purchasing, from the authority's local auditor, of services ("non-audit services") that are not part of the carrying out of that local auditor's functions under the Act, and on the contents of any such policy.

(2) Where the relevant authority proposes to adopt such a policy, the auditor panel must advise on the contents of such a policy and make a recommendation as to whether it should be adopted.

(3) The policy may include, in particular, the circumstances or manner in which the relevant authority will or will not purchase non-audit services from the authority's local auditor, and the circumstances or manner in which the authority will ask the auditor panel for advice.

### **Application of local authority enactments to auditor panels**

6.—(1) The following enactments shall apply to a relevant authority's auditor panel in so far as they apply to the relevant authority itself—

- (a) sections 100A and 100E of, and Schedule 12A to, the Local Government Act 1972<sup>(2)</sup> (access to meetings of certain authorities, committees and sub-committees);
- (b) section 15 of the Local Government and Housing Act 1989<sup>(3)</sup> (duty to allocate seats to political groups), if the auditor panel has two or more members who are not independent;
- (c) Chapter 7 of Part 1 of the Localism Act 2011<sup>(4)</sup> (standards) and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012<sup>(5)</sup>.

(2) The enactments mentioned in paragraph (1)(a) shall also apply to the auditor panel of any relevant authority to which the Public Bodies (Admission to Meetings) Act 1960<sup>(6)</sup> applies.

(3) Section 104 of the Local Government Act 1972 (disqualification for membership of committees and joint committees) shall apply to any relevant authority's auditor panel, except that a person shall not be disqualified from membership of the panel only by virtue of being an officer of the relevant authority or an officer or employee of an entity connected with the authority.

(4) The enactments mentioned in paragraphs (1) to (3) shall apply as if—

- (a) the functions of the panel were functions of the relevant authority;
- (b) the panel were a committee of the relevant authority appointed for the purpose of discharging those functions;
- (c) any independent member of the panel were serving on such a committee and entitled to vote on any question that falls to be decided at a meeting of the committee; and
- (d) any other member of the panel were serving on such a committee in their capacity as a member of the relevant authority.

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

Date

Parliamentary Under Secretary of State  
Department for Communities and Local Government

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<sup>(2)</sup> 1972 (c. 70).  
<sup>(3)</sup> 1989 (c. 42).  
<sup>(4)</sup> 2011 (c. 20).  
<sup>(5)</sup> S.I. 2012 / 1464.  
<sup>(6)</sup> 1960 (c. 67).

## **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 by “relevant authorities” (see Schedule 2 to the Act).

Regulations 2 to 5 make provision about members of auditor panels, allowances payable to members, proceedings of meetings of panels, and functions. Regulation 7 applies certain local government enactments to auditors panels as if they were committees of the relevant authority.

No impact assessment has been prepared in relation to these Regulations because no impact on the private or voluntary sectors is foreseen.

*Draft Regulations prepared for the purposes of consulting on provisions to the Local Audit and Accountability Bill.*

*Draft Regulations laid before Parliament under section \*\*\* of the Local Audit and Accountability Act 2014, for approval by resolution of each House of Parliament.*

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D R A F T   S T A T U T O R Y   I N S T R U M E N T S

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**2014 No. \*\*\*\***

**LOCAL GOVERNMENT**

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

*Made* - - - - 2014

*Laid before Parliament* 2014

*Coming into force in accordance with regulation 1*

The Secretary of State, in exercise of the powers conferred by paragraph 2(9) of Schedule 4 to the Local Audit and Accountability Act 2014<sup>(1)</sup>, makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Local Audit (Auditor Panel Independence) Regulations 2014 and shall come into force on the day after the day on which they are made.

(2) In these Regulations a “relevant authority” means a relevant authority other than a health service body.

**Definition of independence**

2.—(1) Paragraph 2 of Schedule 4 (further provisions about auditor panels) to the Local Audit and Accountability Act 2014 is amended as follows.

(2) After sub-paragraph (2)(b) omit “and”.

(3) After sub-paragraph (2)(c) insert—

“, and

(d) the panel member has no relevant interest in the authority.”

(4) After sub-paragraph (8) insert—

“(8A) For the purposes of sub-paragraph (2)(d), a person has a relevant interest in the relevant authority if at any given time—

(a) any contract has been made between the person (or a body in which the person has a beneficial interest) and the relevant authority—

(i) under which goods or services are to be provided or works are to be executed,  
and

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<sup>(1)</sup> 2014 (c. X).

- (ii) which has not been fully discharged;
- (b) the person—
  - (i) is a person (“a current auditor”) who is appointed to act as the relevant authority’s local auditor,
  - (ii) is a person (“a prospective auditor”) who has made a bid, which has not been declined or withdrawn, for a contract of appointment as the relevant authority’s local auditor,
  - (iii) is an employee of a current or prospective auditor or a partner in a current or prospective auditor that is a firm, or
  - (iv) has, within the period of five years ending with that time, been an employee of a current or prospective auditor or a partner in a current or prospective auditor that is a firm;
- (c) the person is, or has been within the period of five years ending with that time, a member or officer of an entity connected with the relevant authority, where that entity is itself a relevant authority;
- (d) the relevant authority is itself an entity connected with another relevant authority and the person is, or has been within the period of five years ending with that time, a member or officer of that other relevant authority;
- (e) in the case of a functional body’s auditor panel, the person is, or has been within the period of five years ending with that time, a member or officer of the Greater London Authority; or
- (f) in the case of the Greater London Authority’s auditor panel, the person is, or has been within the period of five years ending with that time, a member or officer of a functional body.”

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

Parliamentary Under Secretary of State  
Department for Communities and Local Government

Date

### **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. Auditor panels need a majority of independent members. Members and officers of the relevant authority, and certain other people, cannot be independent.

These Regulations apply to “relevant authorities” (see Schedule 2 to the Act) other than health service bodies, in respect of which separate provision is made under Schedule 4 to the Act.

Regulation 2 amends the definition in paragraph 2 of Schedule 4 to the Act of who is independent, by inserting new sub-paragraphs (2)(c)(d) and (8A). People with certain “relevant interests” in the relevant authority, as set out in new sub-paragraph (8A), cannot be independent panel members.

No impact assessment has been prepared in relation to these Regulations because no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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**2014 No. \*\*\*\***

**LOCAL GOVERNMENT**

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

<i>Made</i> - - - -	2014
<i>Laid before Parliament</i>	2014
<i>Coming into force</i> - -	2014

The Secretary of State, in exercise of the powers conferred by section 16 of the Local Audit and Accountability Act 2014<sup>(1)</sup>, makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Local Audit (Auditor Resignation and Removal) Regulations 2014 and shall come into force on \*\*\*.

(2) In these Regulations, “the Act” means the Local Audit and Accountability Act 2014.

**Application to chief constables**

2. Anything required to be done under these Regulations by or in relation to the relevant authority is required, in the case of the resignation or removal of a chief constable’s local auditor, to be done by or in relation to the police and crime commissioner who appointed that local auditor, except that in relation to the relevant authority’s accounts, it means the chief constable’s accounts.

**Removal of local auditor**

3.—(1) Subject to the remainder of these Regulations, a relevant authority may remove a local auditor from office at any time.

(2) If a relevant authority is a local authority operating executive arrangements, 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<sup>(2)</sup> (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 Greater London Authority is removing a local auditor from office, the local auditor must be removed by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.

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<sup>(1)</sup> 2014 (c. X)  
<sup>(2)</sup> 1972 (c. 70)

### **Procedure for removal of local auditor from office**

4.—(1) A relevant authority must consult and take into account the advice of its auditor panel on any proposal by the authority to remove a local auditor from office before the expiry of the local auditor's term of office.

(2) Not less than 28 days before the relevant authority is to consider a proposal to remove a local auditor from office, the relevant authority must give notice in writing of the proposal to—

- (a) the members of the relevant authority,
- (b) the chair of the relevant authority's auditor panel, and
- (c) the local auditor.

(3) Not later than the end of the period of 14 days beginning with the day on which the local auditor receives notice under paragraph (1), the local auditor may give a response in writing to the proposal to the authority.

(4) The relevant authority must as soon as practicable give a copy of any such response to the chair of the auditor panel.

(5) Not later than the end of the period of 28 days beginning with the day on which they receive notice under paragraph (1), the auditor panel must advise the relevant authority on the proposal, and that advice must take account of any response from the local auditor that is received by the panel within the period mentioned in paragraph (2).

(6) So far as practicable, the relevant authority must consider the proposal to remove the local auditor, and the advice on that proposal from the auditor panel, in the same manner as that in which the authority would consider a public interest report under Schedule 7 to the Act.

(7) 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 has a right to attend and speak at that meeting, and
- (b) a member of the relevant authority's auditor panel has a right to attend and speak at that meeting on behalf of the auditor panel.

(8) Where a relevant authority has decided to remove a local auditor from office, the relevant authority must, not later than the end of the period of 28 days beginning with the date of the decision, publish a statement of that decision—

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

(9) The statement must include—

- (a) any response received from the local auditor under paragraph (3);
- (b) any advice received from the auditor panel under paragraph (1) or (5); and
- (c) if the relevant authority has not followed that advice, the reasons why it has not done so.

(10) Where a relevant authority has decided to remove a local auditor from office, the relevant authority must give notice in writing of that fact to the local auditor's recognised supervisory body, not later than the end of the period of 28 days beginning with the date of the decision.

### **Resignation of local auditor**

5.—(1) A local auditor may resign their office by giving notice in writing to the relevant authority.

(2) The relevant authority must as soon as practicable give a copy of such a notice to the chair of the auditor panel.

(3) That notice is not effective unless accompanied by the statement referred to in regulation 6.



(4) An effective notice of resignation operates to bring the local auditor's term of office to an end as of the such date as may be specified in it, which must not be less than 28 days after the notice is given to the relevant authority.

#### **Statement by local auditor on ceasing to hold office**

**6.**—(1) Where a local auditor ceases for any reason to hold office before the expiry of the local auditor's term of office, the local auditor must send to the relevant authority a statement in writing of the circumstances connected with the local auditor ceasing to hold office.

(2) The statement required by paragraph (1) must be sent—

- (a) in the case of resignation, along with the notice of resignation under regulation 5;
- (b) in the case of removal from office, not later than the end of the period of 14 days beginning with the date on which the local auditor ceases to hold office.

(3) The relevant authority must, not later than the end of the period of 28 days beginning with the date of receiving the statement—

- (a) send a response to the local auditor and 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 such manner as it thinks is likely to bring the advice to the attention of persons who live in its area.

(4) The departing local auditor must give notice of the local auditor ceasing to hold office to the local auditor's recognised supervisory body, not later than the end of the period of 14 days beginning with the date on which the local auditor ceases to hold office.

#### **Functions of the auditor panel following resignation of a local auditor**

**7.**—(1) Not later than three months after a local auditor ceases to hold office as a result of resigning it before the expiry of their term of office, the relevant authority's auditor panel must—

- (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 of the panel's views about the circumstances and which explains any action the panel considers to be required.

(2) The relevant authority must, not later than the end of the period of 28 days beginning with the date of receiving that statement, publish it—

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

#### **Appointment of a local auditor following removal or resignation**

**8.** Where a local auditor resigns or is removed from office before the expiry of that term of office, the relevant authority must, not later than three months after the departing local auditor ceases to hold office, appoint a new local auditor to audit its accounts.

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

Date

Parliamentary Under Secretary of State  
Department for Communities and Local Government

## **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.

Regulations 2 and 3 set out the requirements for a “relevant authority” (see Schedule 2 to the Act) to remove a local auditor from office; regulation 4, the requirements for a local auditor to resign; and regulation 5, the requirements for a statement by a local auditor on ceasing to hold office. Regulation 6 requires the authority’s “auditor panel” (see section 9 of and Schedule 4 to the Act) to investigate following the resignation of a local auditor. Regulation 7 requires a relevant authority to appoint a new local auditor within three months.

No impact assessment has been prepared in relation to these Regulations because no impact on the private or voluntary sectors is foreseen.

# Section 4

## 4. Eligibility and Regulation of Auditors

- 4.1** **Clause 17 and Schedule 5** to the Bill cover the proposed new regulatory regime for local audit and contain a number of regulatory and order making powers.
- 4.2** The powers to make regulations to recognise a qualification for local audit and define the parameters for a relevant authority's audit to be considered a "major local audit" are contained in a single set of regulations the Local Audit (Professional Qualifications and Major Local Audit) Regulations 2014.

### Qualifications

- 4.3** Local auditors will need to hold an appropriate qualification to undertake local audit. This can be either a qualification recognised under Part 42 of the Companies Act 2006, or another qualification recognised under the Bill. Part 2 of the draft regulations sets out the minimum requirements that another qualification will need to meet in order to be recognised for local audit.
- 4.4** Included in this part of the draft regulations are –
- i) the steps a body is required to take for a qualification it offers to be recognised;
  - ii) the minimum academic standards that a person must have attained before they can attempt to gain the professional qualification;
  - iii) the examination subjects to be passed; and
  - iv) the minimum amount of practical training required to be awarded the qualification.

### Major Local Audit

- 4.5** One or more professional accountancy bodies will be authorised as "recognised supervisory bodies". The responsibilities of recognised supervisory bodies will include monitoring the quality of local audits undertaken by their member firms. There will be an additional level of oversight and monitoring for audits of significant local bodies, with the Financial Reporting Council taking responsibility for monitoring the quality of these "major local audits".
- 4.6** The thresholds in Part 3 define which bodies will have their audits defined as "major local audits". We are proposing that these cover the audits of bodies whose income or expenditure exceeds £500 million or,

in the case of pension funds, that they have over 20,000 members or that the fund holds assets of over £1,000 million. The Financial Reporting Council will also be able to decide if the audits of any other local bodies should be subject to additional monitoring.

- 4.7** The provisions regarding qualifications in these draft regulations largely mirror those set out in the Companies Act 2006 and regulations issued by the Financial Reporting Council. We have also been guided by the thresholds of defining major audits in the companies sector which are also set by the Financial Reporting Council. The draft has already been subject to some consideration by interested parties.

**Q9. Do you have any comments on the draft regulations on auditor qualifications and major local audits?**

**Q10. Do the requirements in Part 2 of the regulations ensure a robust and appropriate qualification for local audit?**

**Q11. Do the thresholds in Part 3 seem appropriate to capture the audits of significant local bodies?**

## **Register of eligible persons**

- 4.8** In order to be eligible for local audit, firms will need to be registered with a local audit recognised supervisory body which will be required to maintain a register of eligible firms. As in the statutory audit regime, we intend for this regulation making power to be delegated to the Financial Reporting Council and respondents may wish to look at the current regulations<sup>2</sup> drafted by the Financial Reporting Council on the statutory regime, which the local audit regulations are likely to follow closely. These regulations set out information that must be included on the register, including the auditor's name and address and the name of the relevant supervisory body for the auditor.

## **Information to share with public**

- 4.9** In line with firms' obligations under the Companies Act 2006, audit firms undertaking at least one major local audit are required to make information including their ownership, governance, and internal controls with respect to quality and independence of audit work available to the public. Again it is intended for this power to be delegated to the Financial Reporting Council, given that it already sets out the equivalent obligations for statutory audit firms in regulations<sup>3</sup>.

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<sup>2</sup> See [http://www.frc.org.uk/FRC-Documents/POB/Statutory-Auditors-\(Registration\)-Instrument-2008.aspx](http://www.frc.org.uk/FRC-Documents/POB/Statutory-Auditors-(Registration)-Instrument-2008.aspx)

<sup>3</sup> See [http://www.frc.org.uk/FRC-Documents/POB/Statutory-Auditors-\(Transparency\)-Instrument-2008.aspx](http://www.frc.org.uk/FRC-Documents/POB/Statutory-Auditors-(Transparency)-Instrument-2008.aspx)

**Q12. Do you have any comments about these delegated regulations?**

**Order to delegate functions of the Secretary of State to the Financial Reporting Council**

**4.10** The intention is for the local audit regime to follow the approach to delegation set out for statutory audit under the Companies Act 2006. It is therefore the Government's intention that, as for statutory audit, the Financial Reporting Council will become the overall supervisor for local audit and many of the powers in the Bill will be delegated to it by an order made under the Companies Act as applied to local audit by Schedule 5 of the Bill. For example, the Financial Reporting Council will have the delegated power to authorise professional accountancy bodies to act as recognised supervisory bodies for local audit. The Financial Reporting Council will also be responsible for recognising the qualifications set out in the regulations in this consultation document – a role it carries out for statutory audit – as well as responsibility for monitoring the quality of “major local audits” (as defined through the attached regulations), through its Audit Quality Review team.

STATUTORY INSTRUMENTS

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**2014 No. \*\*\*\***

**LOCAL GOVERNMENT**

**The Local Audit (Professional Qualifications and Major Local Audit) Regulations 2014**

<i>Made</i>	- - - -	2014
<i>Laid before Parliament</i>		2014
<i>Coming into force</i>	- -	2014

The Secretary of State, in exercise of the powers conferred by section 1219 of and paragraph 13 of Schedule 10 the Companies Act 2006<sup>(1)</sup>, as they have effect by virtue of section 17 of and Schedule 5 to the Local Audit and Accountability Act 2014<sup>(2)</sup>, makes the following Regulations:

**PART 1**

**General**

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Local Audit (Professional Qualifications and Major Local Audit) Regulations 2014 and shall come into force on \*\*\*\* 2014.

(2) In these Regulations—

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

“the Financial Reporting Council” means the Financial Reporting Council Limited<sup>(3)</sup>.

**PART 2**

**Local Audit Qualifications**

**Application for recognition of professional local audit qualification**

**2.**—(1) A qualifying body may apply to the Financial Reporting Council for an order (“a recognition order”) declaring a qualification offered by it to be recognised for the purposes of section 1219 of the Companies Act 2006 (appropriate qualifications) as it has effect by virtue of Schedule 5 to the Act (eligibility and regulation of local auditors).

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<sup>(1)</sup> 2006 (c. 46).

<sup>(2)</sup> 2014 (c. X).

<sup>(3)</sup> Functions of the Secretary of State for the purposes of these Regulations are delegated to the Financial Reporting Council under section 1252 of the Companies Act 2006 as it has effect by virtue of Schedule 5 to the Act: see SI XXXX.

(2) Any application must be—

- (a) made in such manner as the Financial Reporting Council may direct; and
- (b) accompanied by such information as the Financial Reporting Council may reasonably require for the purposes of determining the application.

(3) At any time after receiving an application and before determining it the Financial Reporting Council may require the applicant to furnish additional information.

(4) The directions and requirements given or imposed under paragraphs (2) and (3) may differ as between different applications.

(5) The Financial Reporting Council may require any information to be furnished under this regulation to be in such form or verified in such manner as it may specify.

(6) In the case of examination standards, the verification required may include independent moderation of the examinations over such a period as the Financial Reporting Council considers necessary.

(7) Every application must be accompanied by—

- (a) a copy of the applicant's rules, and
- (b) a copy of any guidance issued by the applicant in writing.

(8) The reference in paragraph (7)(b) to any guidance issued by the applicant is a reference to any guidance or recommendation—

- (a) issued or made by it to all or any class of persons holding or seeking to hold a qualification, or approved or seeking to be approved by the body for the purposes of giving practical training,
- (b) relevant for the purposes of Part 4 of and Schedule 5 to the Act, and
- (c) intended to have continuing effect,

including any guidance or recommendation relating to a matter within paragraph (9).

(9) The matters within this paragraph are—

- (a) admission to or expulsion from a course of study leading to a qualification,
- (b) the award or deprivation of a qualification, and
- (c) the approval of a person for the purposes of giving practical training or the withdrawal of such an approval,

so far as relevant for the purposes of Part 4 of and Schedule 5 to the Act.

### **Grant and refusal of recognition**

**3.—**(1) The Financial Reporting Council may, on an application duly made in accordance with regulation 2 and after being furnished with all such information as it may reasonably require under that paragraph, make or refuse to make a recognition order in respect of the qualification in relation to which the application was made.

(2) The Financial Reporting Council may make a recognition order only if it appears to it, from the information furnished by the applicant and having regard to any other information in its possession, that the requirements of Chapter 2 are satisfied in relation to the qualification.

(3) The Financial Reporting Council may refuse to make a recognition order in respect of a qualification offered by a body if it considers that the qualification's recognition is unnecessary having regard to the existence of one or more other qualifications which have been or are likely to be recognised in accordance with these Regulations.

(4) Where the Financial Reporting Council refuses an application for a recognition order it must give the applicant a written notice to that effect specifying which requirements, in its opinion, are not satisfied.

(5) A recognition order must state the date on which it takes effect.

## **Revocation of recognition**

4.—(1) A recognition order may be revoked by a further order made by the Financial Reporting Council if at any time it appears to it—

- (a) that any requirement of Chapter 2 is not satisfied in relation to the qualification to which the recognition order relates, or
- (b) that the qualifying body has failed to comply with any obligation imposed on it by or by virtue of these Regulations.

(2) An order revoking a recognition order must state the date on which it takes effect which must be after the period of three months beginning with the date on which the revocation order is made.

(3) Before revoking a recognition order the Financial Reporting Council must—

- (a) give written notice of its intention to do so to the qualifying body,
- (b) take such steps as the Financial Reporting Council reasonably considers practicable for bringing the notice to the attention of persons holding the qualification or in the course of studying for it, and
- (c) publish the notice in such manner as it thinks appropriate for bringing the notice to the attention of any other persons who are in its opinion likely to be affected.

(4) A notice under paragraph (3) must—

- (a) state the reasons for which the Financial Reporting Council proposes to act, and
- (b) give particulars of the rights conferred by paragraph (5).

(5) A person within paragraph (6) may, within the period of three months beginning with the date of the service or publication or such longer period as the Financial Reporting Council may allow, make written representations to the Financial Reporting Council and, if desired, oral representations to a person appointed for that purpose by the Financial Reporting Council.

(6) The persons within this paragraph are—

- (a) the qualifying body on which a notice is served under paragraph (3),
- (b) any other person holding the qualification or in the course of studying for it, and
- (c) any other person who appears to the Financial Reporting Council to be affected.

(7) The Financial Reporting Council must have regard to any representations made in accordance with paragraph (5) in determining whether to revoke the recognition order.

(8) If in any case the Financial Reporting Council considers it essential to do so in the public interest it may revoke a recognition order without regard to the restriction imposed by paragraph (2), even if—

- (a) no notice has been given or published under paragraph (3), or
- (b) the period of time for making representations in pursuance of such a notice has not expired.

(9) An order making a recognition order may contain such transitional provision as the Financial Reporting Council thinks necessary or expedient.

(10) A recognition order may be revoked at the request or with the consent of the qualifying body and any such revocation is not subject to—

- (a) the restrictions imposed by paragraphs (1) and (2), or
- (b) the requirements of paragraphs (3) to (5) and (7).

(11) On making an order revoking a recognition order the Financial Reporting Council must—

- (a) give notice of the making of the order to the qualifying body,
- (b) take such steps as the Financial Reporting Council considers reasonably practicable for bringing the making of the order to the attention of persons holding the qualification or in the course of studying for it, and



- (c) publish a notice of the making of the order in such manner as it thinks appropriate for bringing the notice to the attention of any other persons who are in its opinion likely to be affected.

### **Entry requirements**

- 5.**—(1) The qualification must be open to persons who—
- (a) have attained university entrance level, or
  - (b) have a sufficient period of professional experience.
- (2) In relation to a person who has not been admitted to university or a similar establishment in the United Kingdom, “attaining university entrance level” means—
- (a) being educated to such a standard as would enable the person to be considered for such an admission on the basis of—
    - (i) academic or professional qualifications obtained in the United Kingdom and recognised by the Financial Reporting Council to be of an appropriate standard, or
    - (ii) academic or professional qualifications obtained outside the United Kingdom which the Financial Reporting Council considers to be of an equivalent standard, or
  - (b) being assessed, on the basis of written tests of a kind appearing to the Financial Reporting Council to be adequate for the purpose (with or without oral examination), as of such a standard of ability as would entitle the person to be considered for such admission.
- (3) The assessment, tests and oral examination referred to in paragraph(2)(b) may be conducted by—
- (a) the qualifying body, or
  - (b) some other body approved by the Financial Reporting Council.
- (4) The reference in paragraph (1)(b) to “a sufficient period of professional experience” is to not less than seven years’ experience in a professional capacity in the fields of finance, law and accountancy.

### **Requirement for theoretical instruction or professional experience**

- 6.**—(1) The qualification must be restricted to persons who—
- (a) have completed a course of theoretical instruction in the subjects prescribed for the purposes of regulation 7, or
  - (b) have a sufficient period of professional experience.
- (2) The reference in paragraph (1)(b) to “a sufficient period of professional experience” is to not less than seven years’ experience in a professional capacity in the fields of finance, law and accountancy.

### **Examination**

- 7.**—(1) The qualification must be restricted to persons who have passed an examination (at least part of which is in writing) testing—
- (a) theoretical knowledge of the subjects prescribed for the purposes of this regulation in paragraph (4) and
  - (b) ability to apply that knowledge in practice,

and requiring a standard of attainment at least equivalent to that required to obtain a degree from a university or similar establishment in the United Kingdom.

(2) The qualification may be awarded to a person without his theoretical knowledge of a subject being tested by examination if the person has passed a university or other examination of equivalent standard in that subject or holds a university degree or relevant qualification in it.

(3) The qualification may be awarded to a person without the person's ability to apply their theoretical knowledge of a subject being tested by examination if the person has received practical training in that subject which is attested by an examination or diploma recognised by the Financial Reporting Council for the purposes of this regulation.

(4) The subjects prescribed for the purposes of paragraph (1)(a) are—

- (a) general accounting theory and principles;
- (b) legal requirements and standards relating to the preparation of financial statements for relevant authorities as defined by legislation from time to time;
- (c) international accounting standards;
- (d) financial analysis;
- (e) cost and management accounting;
- (f) risk management and internal control;
- (g) auditing and professional skills relevant to local audit;
- (h) legal requirements and professional standards relating to local audit and local auditors;
- (i) international auditing standards;
- (j) professional ethics and independence; and
- (k) those aspects of the following which are relevant to auditing—
  - (i) legislation (primary and secondary) relating to relevant authorities;
  - (ii) corporate governance;
  - (iii) tax law;
  - (iv) public finance, including law and regulations relating to local taxation and revenue raising in the public sector;
  - (v) civil and commercial law;
  - (vi) social security and employment law;
  - (vii) information technology and computer systems;
  - (viii) general and financial economics;
  - (ix) relevant statistical and sampling techniques; and
  - (x) basic principles of financial management.

### **Practical training**

**8.**—(1) The qualification must be restricted to persons who have completed at least three years' practical training of which—

- (a) part was spent being trained in local audit work, and
- (b) a substantial part was spent being trained in—
  - (i) local audit work;
  - (ii) statutory audit work for the purposes of the Companies Act 2006<sup>(4)</sup>; or
  - (iii) other audit work relating to any body whose accounts form part of the group for which the Treasury prepares accounts under section 9(1)(a) of the Government Resources and Accounts Act 2000<sup>(5)</sup>.

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<sup>(4)</sup> 2006 (c. 46).  
<sup>(5)</sup> 2000 (c. 20).

(2) For the purposes of paragraph (1), “statutory audit work” and “local audit work” include equivalent work on the audit of accounts under the law of an EEA state, or part of an EEA state, other than the United Kingdom.

(3) The training must be given by persons approved by the body offering the qualification as persons whom the body is satisfied, in the light of undertakings given by them and the supervision to which they are subject (whether by the body itself or some other body or organisation) will provide adequate training.

(4) At least two-thirds of the training must be given by a person—

- (a) eligible for appointment as a local auditor,
- (b) eligible for appointment as a statutory auditor for the purposes of the Companies Act 2006, or
- (c) eligible for a corresponding appointment as an auditor under the law of an EEA State, other than the United Kingdom.

### **Supplementary provision with respect to a sufficient period of professional experience**

**9.**—(1) Periods of theoretical instruction in the fields of finance, law and accountancy may be deducted from the required period of professional experience, provided the instruction—

- (a) lasted at least one year, and
- (b) is attested by an examination;

but the period of professional experience may not be so reduced by more than four years.

(2) The period of professional experience together with the practical training required in the case of persons satisfying the requirement in regulation 6 by virtue of having a sufficient period of professional experience must not be shorter than the course of theoretical instruction referred to in that regulation and the practical training required in the case of persons satisfying the requirement of that regulation by virtue of having completed such a course.

### **The body offering the qualification**

**10.**—(1) The body offering the qualification must have—

- (a) rules and arrangements adequate to ensure compliance with the requirements of regulations 7 to 9, and
- (b) adequate arrangements for the effective monitoring of its continued compliance with those requirements.

(2) The arrangements must include arrangements for monitoring—

- (a) the standard of the body’s examinations, and
- (b) the adequacy of the practical training given by the persons approved by it for that purpose.

## **PART 2**

### **Major Local Audit**

#### **Definition of major local audit**

**11.**—(1) For the purposes of Schedule 10 to the Companies Act 2006 (recognised supervisory bodies) as it has effect by virtue of Schedule 5 to the Act, a local audit of the accounts of a relevant authority is a “major local audit” if one or both of the following conditions apply—

- (a) the higher of the relevant authority’s gross income for the year and its gross expenditure for the financial year exceeds £500 million;

- (b) the relevant authority is required to maintain a pension fund under regulations under section 1 of the Public Service Pensions Act 2013<sup>(6)</sup> as they relate to local government workers (within the meaning of that Act), and either—
  - (i) more than 20,000 members of a scheme established under those regulations, in relation to local government workers within the meaning of that Act, have rights relating to that fund, whether or not any of those members also have rights relating to a different fund;
  - (ii) the fund has gross assets of £1,000 million or more.

(2) For the purposes of this regulation, a person is a member of the scheme if one or more of the following conditions apply—

- (a) there are presently arrangements made under the scheme for the accrual of benefits to or in respect of the person;
- (b) the person is entitled to the present payment of benefits under the pension scheme;
- (c) the person has accrued rights under the scheme;
- (d) the person has rights under the pension scheme which are attributable (directly or indirectly) to pension credits, and if a person dies having become entitled to pension credits but without having rights attributable to them, the person is to be treated as having acquired, immediately before death, the rights by virtue of which the liability in respect of the pension credits is subsequently discharged.

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

Date Parliamentary Under Secretary of State  
Department for Communities and Local Government

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision about professional audit qualifications under the Local Audit and Accountability Act 2014, which requires “relevant authorities” (see Schedule 2 to the Act) to appoint their own “local auditors”. Schedule 5 to the Act applies, with modifications, provisions of the Companies Act 2006 in relation to the eligibility and monitoring of local auditors.

Part 1 contains general provisions. Part 2 makes provision about “appropriate qualifications” for local audit: in particular, how a qualification is to be “recognised” for the purposes of local audit (making it a type of appropriate qualification for the purposes of the Act). Functions of the Secretary of State in relation to recognition of qualifications are delegated to the Financial Reporting Council. Part 3 defines “major local audit” for the purpose of monitoring of audits.

No impact assessment has been prepared in relation to these Regulations because no impact on the private or voluntary sectors is foreseen.

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<sup>(6)</sup> 2013 (c. 25).

# Section 5

## 5. Conduct of Local Audit

### **Consideration of Public Interest Reports or written recommendations by a relevant authority**

- 5.1** **Clause 23, Schedule 7** places a duty on local auditors to consider whether they need to issue a report in the public interest and a power to make a written recommendation. It also makes provisions for the processes by which auditors issue these and relevant authorities consider and publicise them.
- 5.2** Paragraph 5 requires most relevant authorities to consider a report or recommendation at a meeting within one month of receiving it and to decide what action needs to be taken. There are separate requirements for health service bodies (to consider as soon as reasonably practicable); the Greater London Authority (the Mayor must attend the meeting); and police and crime commissioners and the Mayor's Office of Policing and Crime (to consider within one month but not at a public meeting).
- 5.3** Paragraph 5(9) sets out the Secretary of State's regulation making powers to modify these arrangements for relevant authorities to consider a report or recommendations. We propose to make regulations which will modify the requirements for Port Health Authorities, Internal Drainage Boards and the persons or bodies referred to in paragraph 29 of Schedule 2 to consider a report or recommendation to "as soon as is practicable". We consider that this is appropriate because these bodies are not currently required to hold public meetings.
- 5.4** Paragraph 5(10) provides a further power for the Secretary of State to make regulations which apply (with or without modifications) the existing legislation which govern how bodies which are required to have meetings must hold these meetings, how the meetings must be publicised and what documents they can consider. The relevant pieces of legislation are: the Public Bodies (Admission to Meetings) Act 1960, Part 5A of the Local Government Act 1972 (access to meetings and documents) and Schedule 12 to the Local Government Act 1972 (meetings and proceedings of local authorities). These require the admission of the public to meetings of relevant authorities, prevent the meeting from excluding reports or recommendations, require the agenda to be published before the meeting, and require that the documents, including reports and recommendation are open for public inspection before the meeting.

- 5.5 The majority of relevant authorities subject to audit under this Bill are already subject to the provisions within this legislation. We propose that the regulations will extend these requirements - to the extent that they do not already apply – to all relevant authorities that are required to consider public interest reports and recommendations at meetings. We believe these to be the London Waste and Recycling Board, a parish meeting of a parish which does not have a separate parish council, and Charter Trustees.

**Q13. Do you have any comments on the arrangements for Public Interest Reports?**

**Accounts and audit regulations**

- 5.6 The Accounts and Audit (England) Regulations 2011 set out important provisions on financial management, internal control, internal audit, the content of published accounts and procedures affecting the published accounts, public rights and the audit. Under clause 31 of the Local Audit and Accountability Bill new Accounts and Audit Regulations will be made, which will play a similar role in the new audit framework. This consultation asks for views on some of the key aspects of the content of the new regulations, to assist in the preparation of a draft set of regulations which we propose to issue for consultation later in 2014. The 2011 regulations are available at:  
<http://www.legislation.gov.uk/uksi/2011/817/contents/made>
- 5.7 The 2011 regulations do not apply to health service bodies, and the same will be true of the new regulations. Sections (1) to (5) below deal with the regulations as they apply to relevant authorities that are not smaller authorities, and section (6) discusses regulations for the smaller authorities.

***Financial management, internal control and internal audit***

- 5.8 The aim of this part (regulations 4, 5 and 6 in the 2011 Regulations) is to set down the key duties of local bodies in maintaining effective financial management, internal control and internal audit, together with the processes that ensure compliance with those duties. Successive sets of Accounts and Audit Regulations since 1974 have developed these provisions, to ensure that local bodies keep in line with best practice in the private sector and other parts of the public sector. The provisions of the regulations are supplemented by codes and good practice advice published by professional bodies, and we would wish this combination of legislative and professional elements to continue.
- 5.9 The Government would welcome suggestions for changes to the regulations that would enable them better to fulfil the role outlined above. Our provisional view on the current regulations is as follows:

- i) Regulation 4 (Responsibility for financial management) – does not appear to be in need of updating;
- ii) Regulation 5 (Accounting records and control systems) – Parts of this regulation have been taken into clause 3(2) of the Bill and can be removed. Other parts may be over-specific for the high level provisions appropriate to the regulations. We would welcome comments on the form of this regulation, and in particular on whether a more principles-based specification of duties relating to records and controls could be taken; and
- iii) Regulation 6 (Internal audit) – We would welcome views on whether the current wording “undertake an adequate and effective internal audit of its accounting records and of its system of internal control” properly reflects the role of a modern internal audit function. Other aspects of the regulation do not appear in need of updating.

**5.10** In addition clause 31 (at subsection (1)(c)) gives a new power to make regulations on the preservation of accounting records and statements of accounts. We are not aware of any difficulties caused by the lack of such provisions, and so do not see a need at present to exercise this power.

**Q14. Do you have any comments about the provisions for financial management, internal control and internal audit?**

***Statements of accounts – content***

**5.11** Regulation 7 of the current Regulations requires the statement of accounts of a larger authority to be prepared in accordance with proper practices in relation to accounts, and to include a number of specific statements and notes set out in the regulation.

**5.12** The mention of proper practices activates the definition of that term in section 21 of the Local Government Act 2003, and, through regulations made under section 21, applies the *Code of Practice on Local Authority Accounting in the United Kingdom* to the larger authorities. The Code is prepared and published by professional accountancy bodies and comes under the supervision of the Financial Reporting Advisory Board, which also oversees the central government accounting code. The specific requirements in regulation 7 comprise only statements and notes not forming part of general accounting requirements. They include items which the Government wishes to see included in the published accounts to enhance accountability and transparency to the public.

**5.13** This combination of a professional code, overseen by an authoritative supervisory board, and supplemented by additional requirements in the regulations, has served local government well for over twenty years.

The Government believes that it safeguards the standing of the published accounts of local authorities and other local bodies, and would wish to see it continue. The Bill includes provisions (in Schedule 12) to apply the definition of proper practices in the 2003 Act to all relevant authorities as defined in the Bill (other than health service bodies) to ensure that there is a clear framework for the accounts of all these authorities. We have no current proposals to alter the list of special statements and notes included in the regulation.

### ***Statements of accounts – process***

**5.14** Regulation 8 of the current Regulations sets out the process by which the statement of accounts must be prepared and published, including certification by the responsible financial officer and approval by a committee or a full meeting of the authority. The current regulation incorporates significant reforms made in 2011 designed to ensure that members were not asked to approve accounts until the findings of the audit were available. Our provisional conclusion is that these changes are working well and should be retained. However, we are considering some further ways in which transparency could be improved:

- i) addition of a requirement that the statement, as certified by the responsible financial officer, should be put on the authority's website (labelled clearly to show that it has not been audited) and laid before a committee or a full meeting of the authority. We are aware that many authorities already do this; and
- ii) addition of clarification of what should be done if the audit is completed after the 30 September publication deadline. We envisage that this would involve re-publication with the audit opinion and certificate. We understand that this is already the practice in the few cases where the circumstances arise, but the current regulation leaves the position uncertain.

<p><b>Q15. Do you have any comments on the content of statements of accounts and the process for producing them?</b></p>
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### ***Statement of accounts – timetable***

**5.15** Current regulation 8 also sets out the timetable for the production of statements of accounts. The responsible financial officer is required to certify that the statement gives a true and fair view no later than 30 June, and the statement must be published no later than 30 September. The expectation is that the published statement will contain the auditor's opinion and certificate, and this is achieved in the great majority of cases.

**5.16** This timetable means that local authority publish their audited accounts later than most other parts of the public sector. NHS Foundation Trusts must publish their audited accounts by late June, and



Government Departments are expected to lay their audited accounts in Parliament before the summer recess (generally mid to late July).

- 5.17** Earlier publication of the accounts would enhance authorities' accountability to local residents, and assist their own financial management by providing earlier assurance on the previous year's financial outturn. Local authorities are a significant component of the Government's Whole of Government Accounts, and the current local government timetable is one barrier to bringing forward the publication date of those accounts.
- 5.18** We are aware that some authorities publish substantially earlier than the deadline. Oldham Council published its 2012-13 statement of accounts on 31 May 2013, and Transport for London on 29 July. But other authorities would need to make significant changes to their systems and processes to move the publication date forward.
- 5.19** The disparity between the timetables for local government and other parts of the public sector justifies a reconsideration of the current dates. We would welcome views on this issue and information of the practical issues that would be raised by a change. If any change is to be made local authorities would be given definite notification at least 12 months before the beginning of the first year to which the new timetable would apply (that is, more than two years before the accounts for the year have to be published).

**Q16. Do you have any comments on the bringing forward of the local government accounts timetable, or the practical issues a change would raise?**

### ***Public rights and audit processes***

- 5.20** Part 6 of the current Regulations (regulations 21 to 28), together with regulations 9 to 11, set out the process for local residents exercising the right to inspect a local authority's detailed accounting records and supporting documentation while the annual audit is being undertaken. For example, the regulations specify that principal bodies' inspection periods must last twenty working days and be preceded by a two week notice period (with a notice on their website and in a local newspaper); and followed by a period when local electors can raise questions and objections with the auditor.
- 5.21** We consider that some changes to this might be appropriate and seek views on the options described below. This consultation also seeks some information about how these rights are exercised.

### ***The inspection period***

**5.22** We consider that it would be beneficial for local bodies to set the inspection period so far as possible for the same period, and seek views on two alternative options:

- i) **Option 1: encourage authorities to start the inspection period of twenty working days between mid June and end July.** This would continue to be preceded by a fourteen day notice period via a notice on the website and in the newspaper, and followed by a questions and objections period; or
- ii) **Option 2: set a default inspection period of twenty working days, but amalgamate it with the period for questions and objections.** The authority could bring forward or defer the period but this would be considered an exception. The inspection period would continue to run for twenty days, but questions and objections could be made until the audit was closed. It would be preceded by a fourteen day notice period via a notice on the website and in the newspaper. This would allow local electors who make use of the right of inspection to raise matters immediately with the auditor by question or objection.

**Q17. Do you have any comments about Options 1 and 2, or any other options for that matter which would align inspection periods more closely?**

**Q18. What is the level of take up of these rights? What information do local electors access through these rights? What use is made of this information?**

### ***Publicity for the inspection period***

**5.23** We also want to seek views on the required publicity around these inspection rights. Authorities are currently required to publish a notice of these rights in a newspaper and on their website for fourteen days before the inspection period opens. We are considering making additional requirements to require authorities to publicise these; for example, in the council tax bill or leaflet; or in the unaudited statement of accounts.

**Q19. Do you have any comments about additional publicity for the inspection period?**

**Q20. Do you have any other comments on the Accounts and Audit regulations for principal bodies?**

### ***Smaller bodies***

**5.24** New Accounts and Audit Regulations will also be necessary for the smaller authorities. The points raised above for larger authorities will also be relevant to them, but we would also expect to maintain many of the current provisions for smaller bodies. For instance we would expect smaller authorities to continue:

- i) to have the option to prepare accounts on the same basis as larger authorities; and
- ii) where their annual expenditure / income is no greater than £200,000 to have the option to prepare accounts on a receipts and payments basis.

**5.25** We would also expect the right of inspection to continue to be exercisable by prior appointment. And we would not at present wish to consider any change in the timetable for the preparation and publication of the year end accounts for the smaller authorities.

**Q21. Do you have any comments on the content of Accounts and Audit Regulations for smaller authorities?**

# Section 6

## 6. List of Consultation Questions

### **Smaller authorities' regulations**

1. The Government does not intend to provide for smaller authorities to opt-out during a contract period, for the reasons given above.

However, we would welcome comments on any circumstances under which a smaller authority should be able to opt-out of the specified person's regime once the deadline for opting-out of a contract period has expire.

2. We would like to understand if there are any circumstances in which the specified person should be able to forcibly opt-out a smaller authority. If this is allowed in any circumstances, what safeguards should there be to ensure that the authority is treated fairly and has sufficient time to appoint its own auditor in compliance with the law?
3. Should the specified person be required to publish the record of the names of opted-in and opted-out authorities, and, for opted-in authorities, to publish the names of the appointed auditors?
4. In the event that a smaller authority opts-out of the specified person's appointment regime but then fails to appoint an auditor, should the Secretary of State be able to order that the authority is opted-in and require the specified person to appoint an auditor?
5. Do you have any observations on the draft regulations for smaller authorities?
6. Are these the right criteria for suspension and the right process for exemption?

### **Independent auditor panels and the resignation and removal of auditors**

7. Do you have any comments about the draft regulations on auditor panels and/or the resignation and removal of auditors?
8. On the resignation and removal of an auditor, does three months give a reasonable period for relevant authorities to make a new appointment?

### **Eligibility and regulation of auditors**

9. Do you have any comments about the draft regulations on auditor qualifications and major local audits?

10. Do the requirements in Part 2 of the regulations ensure a robust and appropriate qualification for local audit?
11. Do the thresholds in Part 3 seem appropriate to capture the audits of significant local bodies?
12. Do you have any comments about these delegated regulations?

## **Conduct of local audit**

### ***Consideration of report or recommendation – Public Interest Reports***

13. Do you have any comments on the arrangements for Public Interest Reports?

### ***Accounts and audit regulations***

14. Do you have any comments about the provisions for financial management, internal control and internal audit?
15. Do you have any comments on the content of statements of account and the process for producing them?
16. Do you have any comments on the bringing forward of the local government accounts timetable, or the practical issues a change would raise?
17. Do you have any comments about Options 1 and 2, or any other options for that matter which would align inspection periods more closely?
18. What is the level of take up of these rights? What information do local electors access through these rights? What use is made of this information?
19. Do you have any comments about additional publicity for the inspection period?
20. Do you have any other comments on the Accounts and Audit regulations for principal bodies?
21. Do you have any comments on the content of Accounts and Audit Regulations for smaller authorities?