



Department for
Communities and
Local Government

Local Audit

Consultation

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Section 1

Introduction

Background

- 1.1** In August 2010, the Secretary of State for Communities and Local Government announced the Government's plans to re-focus local public audit. The reforms will allow local public bodies to appoint their own auditors, with appropriate safeguards to ensure the continuation of high standards, whilst ensuring that local people will be able to hold local public bodies to account.
- 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 **5 years** (2012-2017) and an estimated **£1.2 billion^a** over **10 years**. The Local Audit and Accountability Act 2014 sets out 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 Act 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 contracts to an independent company established by the Local Government Association alongside value for money tools and Housing Benefit grant certification;
 - 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

^a 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.

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 and local value for money studies;
- the publication of key financial and governance information by smaller authorities;
- the transfer of the National Fraud Initiative, the Audit Commission's data matching powers and other counter fraud tools to Cabinet Office;
- directions to comply with codes of practice on local authority publicity;
- council tax referendums; and
- other connected purposes.

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

1.5 Additionally Ministers have agreed Counter Fraud Tools will transfer to Chartered Institute of Public Finance and Accountancy while the Department for Communities and Local Government have taken on a role for Corporate Governance Inspections.

What does the consultation cover?

1.6 This document sets out our proposals for the regulations regarding:

- i) **Section 2:** Modification of the Act in relation to smaller authorities,
- ii) **Section 3:** Specification of Collective Procurement body;
- iii) **Section 4:** Account and Audit regulations
- iv) **Section 5:** Transparency Code for internal drainage boards, charter trustees and port health authorities

How to respond

1.7 Any email responses should be sent to:

foia@communities.gsi.gov.uk

Or by post to:

Future of Local Audit Team, DCLG

Zone 3/J5, Eland House Bressenden Place, SW1E 5DU

Section 2

2. Smaller Authorities Regulations

Policy Objective

- 2.1 The objective for the reform of smaller authorities audit policy is to ensure transparency, quality and cost-effective audit.
- 2.2 Government has already set out in previous consultations that all small authorities with a turnover over £25,000 pa will be subject to the current light-touch proportionate audit in order to meet accountability requirements of a public organisation handling public money.
- 2.3 Small authorities with a turnover below £25,000 pa will be exempt from routine audit and will, instead, be subject to a new transparency requirement (see Section 5). Government proposes to retain a mechanism for local electors to ask questions and raise objections to items of account with an auditor for these bodies.

Overview

- 2.4 Section 5 of the Act enables the Secretary of State to make provision in regulations about the audit of smaller authorities, defined in section 6 of the Act as those with an annual income and expenditure not exceeding £6.5 million. The regulations will include modification and disapplication of provisions in the Act.
- 2.5 Proposed regulations under these powers will:
 - 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
 - enable the creation of a less onerous framework for audit, mirroring the current “limited assurance” arrangements, in line with the smaller amounts of public money these authorities control.

Changes since previous consultation

- 2.6 In November 2013, the Government consulted on draft regulations covering core provisions relating to the specification of a “person” to appoint auditors to smaller authorities and on a policy statement for regulations to exempt smaller authorities with an income and expenditure below £25,000 from routine audit.
- 2.7 The revised draft regulations reflect responses to the November consultation, as set out in the Government’s response (March 2014),

and include provisions to exempt the smallest authorities from routine external audit. The revised draft regulations also set out:

- more detailed provisions relating to opting-in and opting-out of the specified person's auditor appointment regime. In particular, the draft regulations give new authorities and authorities which have become smaller authorities during an appointing period a right to opt-in, and authorities which had previously opted-out a right to request to opt-in.
- modified requirements for the specified person's written offer to smaller authorities which remove the requirement to include its proposed fee scales. The Government recognises that this will require authorities to make a decision to opt-in or out on the basis of the principle of collective procurement, rather than on indicative costings. However, in practice, it would be difficult for a specified person, or potential audit suppliers, to estimate likely fees with any degree of accuracy in advance of knowing how many authorities are opted-in to audit contracts. Any estimates that the specified person was able to provide would be subject to revision once the contracts were awarded.
- provisions relating to auditor removal and resignation, and failure to appoint an auditor. Following responses to the November 2013 consultation, the regulations enable the Secretary of State to direct that an authority which opted-out of the specified person's auditor appointment regime but then failed to appoint an auditor, is opted-in. The Secretary of State would first consult both the authority and the specified person. This provision is in addition to the Secretary of State's existing powers in section 12 of the Act, to direct the relevant authority to appoint a named auditor, or to appoint an auditor on its behalf.
- modifications to schedule 5 to the Act to extend eligibility to undertake audit of smaller authorities to statutory auditors in addition to auditors registered for local audit. The draft regulations also include a new duty on auditors of smaller authorities to comply with any directions given by the Secretary of State as to arrangements to monitor the standard of the work. In line with the proportionate arrangements for the audit of smaller authorities, "limited assurance" audit work would not be subject to routine inspection by the auditors' professional membership bodies. This provision would enable the Secretary of State to let a contract to undertake such monitoring, in order to review whether or not the light-touch approach was working effectively. In the event that such a review identified significant concerns regarding the quality of "limited assurance" audits, the Secretary of State could choose to introduce regulations to address these concerns.
- provisions to enable electronic communication: this should keep down costs to the specified person and opted-in authorities.
- An indicative schedule of modifications to the Act amending provisions in relation to exempt authorities and those opted-in to the specified person's auditor appointment regime. A "Keeling

Schedule”, showing how these modifications relate to the original provisions of the Act is also shown at Annex A.

Policy statement on appointment of auditors to exempt authorities

- 2.8** The Government recognises that, in the majority of cases, an exempt authority will not, in practice, need to have an appointed auditor as the auditor’s role will be confined to the consideration of questions and objections to items of account from local electors. The Government therefore proposes to enable exempt authorities which are opted-in to the specified person’s auditor appointment regime to have an auditor appointed only when an elector wishes to ask a question or raise an objection. The authority would publish the contact details for the specified person, instead of the auditor, and electors would send any questions or objections to the specified person. The specified person would then appoint an auditor to consider the question or objection. This approach should reduce costs and minimise burdens to the specified person and to authorities opted-in to its auditor appointment regime. The draft regulations include key modifications to regulation 14 (Appointment of local auditors to opted in authorities) and modifications to Section 20 of the Act. Further modifications will be made to give full effect to this policy.
- 2.9** The Government proposes that this approach will not apply to authorities which opt-out of the specified person’s auditor appointment regime. These authorities will be required to appoint an auditor in the usual way. This is because electors to these authorities would not otherwise have an independent person to whom they could address any questions or objections, and it could take the authority too long to appoint an auditor in the event that an elector wished to raise a question or an objection.

Questions

Q1. Do the regulations meet the Government’s policy objective at Paragraph 2.1?

Q2. Do you have any other comments on the proposed smaller authorities regulations?

Q3. Do you agree with the differing proposals regarding the appointment of auditors to exempt authorities which are opted-in and those which are opted-out of the specified person’s auditor appointment regime?

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

2014 No. 0000

LOCAL GOVERNMENT

The Local Audit (Smaller Authorities) Regulations 2014

Made - - - - 2014

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 5(1) to (4), (5)(a) to (c), (6) to (8), and 6(4) of the Local Audit and Accountability Act 2014**(b)**.

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

Citation, commencement and application

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

Interpretation

2. In these Regulations—

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

“audit contract” means a contract between the specified person and local auditors for the carrying out of work in connection with an audit under the Act of the accounts of an opted in authority;

“compulsory appointing period” means the financial years for which a specified person is responsible for appointing a local auditor to conduct the audit of the accounts for any authority which becomes an opted in authority by virtue of regulation 8, which—

- i. is set by the specified person including it in a written offer under regulation d); and
- ii. relates to particular consecutive financial years, being for a minimum of one but no more than five years;

“exempt authority” means a smaller authority that has certified itself as exempt under regulation;

“full audit authority” means a smaller authority which has decided to prepare accounts and be audited as if it was a relevant authority which is not a smaller authority, in accordance with regulation 3;

“newly formed smaller authority” means—

- (a) a smaller authority which did not exist at the time that a specified person served an offer under regulation d) on a class of smaller authorities within which the smaller authority now falls; or
- (b) an authority which is now a smaller authority, but that was not a smaller authority at the time that a specified person served an offer under regulation d) on a class of smaller authorities within which the authority now falls;

“opted in authority” means a smaller authority for which the responsibility for the appointment of a local auditor has become that of a specified person instead of that of the authority;

“smaller authority” has the same meaning as in the Act, but does not include a health service body; and

“specified person” means a person specified by the Secretary of State under regulation b) to appoint local auditors.

Procedure for deciding to become or cease to be a full audit authority

3.—(1) Other than authorities to whom paragraph 0 applies, a smaller authority may decide to prepare a statement of accounts and be audited as if it were a relevant authority which is not a smaller authority in accordance with this regulation (“a full audit authority”).

(2) This paragraph applies to an authority if—

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

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

- (a) the definition of “full audit authority” and “smaller authority” in regulation 2;
- (b) this regulation and regulations 0, (1)d), (1)f), 13, 18 and 0; and
- (c) paragraph 20 of the Schedule.

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

Specification of a person to appoint local auditors

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

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

Procedure for specifying a person to appoint local auditors

5.—(1) Specification must be in writing.

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

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

- (a) on a website which is publicly accessible free of charge;

(b) in the London Gazette.

(4) The relevant details are—

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

Exemption from certain audit requirements

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

- (a) the qualifying condition in paragraph 0 is met;
- (b) the financial year is not one of the first three years of the authority's existence; and
- (c) none of the relevant circumstances in paragraph 0 apply in relation to the keeping of the accounts for the preceding financial year or to the audit of those accounts.

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

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

(3) The relevant circumstances are—

- (a) the local auditor has made a public interest report under paragraph 1(1) of Schedule 7 to the Act in respect of the authority or any entity connected with it;
- (b) the local auditor has made a written recommendation under paragraph 2(1) of Schedule 7 to the Act to the authority, relating to the authority or any entity connected with it;
- (c) the local auditor has issued an advisory notice under paragraph 1(1) of Schedule 8 to the Act, and has not withdrawn the notice;
- (d) the local auditor has commenced judicial review proceedings under section 31(1) of the Act, and the proceedings have not been withdrawn nor has the court found against the auditor;
- (e) the local auditor has made an application under section 28(1) of the Act that an item of account is unlawful, and the application has not been withdrawn nor has the court refused to make the declaration; or
- (f) the court has declared an item of account unlawful after a person made an appeal under section 28(3) of the Act.

(4) Subject to paragraph 0, where any relevant circumstances under paragraph 0 apply after the authority has certified itself as an exempt authority in relation to a financial year, that certification is rescinded.

(5) If, after the rescinding of certification because a relevant circumstance in paragraphs 0(c) to (e) applied—

- (a) the advisory notice referred to in paragraph 0 is withdrawn;
- (b) the judicial review proceedings referred to in paragraph 0 are withdrawn or the court finds against the local auditor; or

(c) the application referred to in paragraph 0 is withdrawn or the court has refused to make the declaration;

the certification as an exempt authority is reinstated.

(6) An authority which has certified itself as exempt must—

(a) notify the specified person responsible for appointing the authority's local auditor by serving notice on it as soon as practicable after the certification; and

(b) publish the notice—

i. if it has a website, on its website;

ii. otherwise in such manner as it thinks is likely to bring the notice to the attention of persons who live in its area.

Service of offer before compulsory appointing period

7.—(1) Before every compulsory appointing period, a specified person must serve an offer in accordance with this regulation on all smaller authorities of which it is aware falling within the class in relation to which that person has been specified under regulation 0, regarding the opportunity for the transfer of responsibility for appointment of a local auditor from authorities within the class to that specified person for the duration of the compulsory appointing period.

(2) The offer must contain the relevant details, which are—

(a) the length of the compulsory appointing period, with a clear statement of the financial years to which it relates;

(b) the closing date for the service of notice on the specified person by an authority within the class giving its response to the written offer (and that date must allow at least 8 weeks for the response beginning on the date of service of the written offer);

(c) a statement that the specified person will not be under a duty to appoint a local auditor to a full audit authority or any other authority which does not become an opted in authority;

(d) an explanation of the procedures by which an authority—

(aa) may become an opted in authority;

(bb) will be deemed to be an opted in authority; or

(cc) may choose not to be an opted in authority.

Taking up an offer

8.—(1) A smaller authority, after receiving an offer under regulation (1)d), may take up that offer by serving notice on the specified person before or on the closing date mentioned in regulation 0 confirming that it wants the specified person to appoint its local auditor.

(2) A smaller authority which serves a valid notice under paragraph (3) becomes an opted in authority on the date of service.

(3) A smaller authority which, after receiving a written offer under regulation (1)d), does not serve a written notice in accordance with paragraph (3), is deemed to be an opted in authority on the day after the closing date mentioned in regulation 0.

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

Rejecting an offer

- 9.—(1) A smaller authority, which has received an offer under regulation d), may reject the offer in accordance with this regulation.
- (2) The authority must serve a notice rejecting the offer before or on the closing date mentioned in regulation 0 on the specified person.
- (3) An authority which serves a valid notice under paragraph (2) does not become an opted in authority and remains responsible for appointing its own local auditor for the duration of the compulsory appointing period (subject to the specified person agreeing to a request by the authority to become an opted in authority under regulation g)).

Full audit authority duty

10. —(1) A full audit authority which receives an offer under regulation (1)d) must notify the specified person that sent the offer to it that it is a full audit authority.
- (2) A full audit 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 from the beginning of the compulsory appointing period until the date when the authority notifies the specified person that it is a full audit authority.

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

11. —(1) During the compulsory appointing period, the following authorities have the right to become an opted in authority, in accordance with this regulation—
- (a) a newly formed smaller authority;
 - (b) an authority that was a full audit authority at the time it was sent an offer by a specified person under regulation (1)d), but which has subsequently ceased to be a full audit authority;
 - (c) an authority to which a specified person should have sent a written offer under regulation d) but failed to do so.
- (2) An authority falling within paragraph (1) may become an opted in authority by serving notice on the person specified under regulation 0 in relation to the class of authorities within which the authority now falls, of its decision to become an opted in authority; and such notice must specify the authority's postal address.
- (3) An authority serving a notice under paragraph (2) becomes an opted in authority on the date on which it serves a valid notice in accordance with the relevant paragraph.
- (4) The authority is an opted in authority for the remainder of the current compulsory appointing period.

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

12. —(1) During the compulsory appointing period, any authority which rejected a specified person's offer under regulation 9 has the right to make a request to that specified person to become an opted in authority, in accordance with this regulation.
- (2) The authority must serve notice on the specified person of its request to become an opted in authority, and the notice must specify the authority's postal address.
- (3) 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 request is refused.

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

(5) The authority is an opted in authority for the remainder of the current compulsory appointing period.

Newly formed smaller authorities

13. As soon as a specified person becomes aware of the existence of a smaller authority of which it was previously unaware, which falls within the class of smaller authorities in relation to which the person was specified under regulation 0, it must write to the authority and provide it with details of its right to become an opted in authority under regulation f).

Appointment of local auditors to opted in authorities

14. —(1) Subject to paragraph (3), a specified person must appoint a local auditor to each smaller authority which became an opted in authority by—

- (a) taking up the specified person's offer under regulation,
- (b) exercising the right to become an opted in authority under regulation (1)f), or
- (c) the specified person agreeing to its request to become an opted in authority under regulation 12,

to conduct the audits for the appropriate period.

(2) The appropriate period is—

- (a) for an authority within paragraph (1)(a), the compulsory appointing period;
- (b) for an authority within paragraph (1)(b) or (c), the remainder of the current compulsory appointing period beginning with the day on which the authority became an opted in authority.

(3) In the case of an exempt authority, a specified person must not appoint a local auditor to an opted in authority unless and until a local government elector—

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

the auditor's appointment is only to be for the duration of the audit for the financial year to which the question or objection relates.

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

(5) The scales of fees applicable to the audit of an authority—

- (a) which became an opted in authority under regulation (1)f) or (1)g), or
- (b) which is an exempt authority to which an auditor has been appointed under paragraph (3),

must be the same scales of fees applicable to other opted in authorities falling within the same class of authorities as the authority;

(6) A specified person may recover its reasonable administrative costs from an authority for making arrangements to appoint a local auditor to that authority if—

- (a) it becomes an opted in authority under regulation 12; or
- (b) it appoints the auditor in compliance with a direction under section 12 of the Act as modified by these Regulations.

Removal of auditors by specified person

- 15.** —(1) A specified person may remove a local auditor which it appointed from office.
- (2) When a local auditor appointed by a specified person to an opted in authority is removed from office, whether through resignation by, or removal of, that auditor, that specified person must appoint a new local auditor to that opted in authority as soon as practicable after the auditor leaves office.
- (3) Before appointing an auditor under paragraph (2), the specified person must consult the authority about the proposed appointment.
- (4) The opted in authority must, within the period of 28 days beginning with the day on which the appointment under paragraph (3) is notified to the authority by the specified person, publish a notice that—
- (a) states that the specified person has made the appointment,
 - (b) identifies the local auditor that has been appointed, and
 - (c) specifies the period for which the local auditor has been appointed.
- (5) The notice must be published—
- (a) if the authority has a website, on its website;
 - (b) otherwise, in accordance with paragraph (6).
- (6) An authority publishes a notice in accordance with this subsection if it publishes the notice in such manner as it thinks is likely to bring the notice to the attention of persons who live in its area.
- (7) The relevant authority must exclude from the notice information whose disclosure would prejudice commercial confidentiality, unless there is an overriding public interest in favour of its disclosure.

Authority ceasing to qualify as a smaller authority

- 16.** —(1) An opted in 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 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 for the financial years during which the authority no longer qualifies as a smaller authority until the date when the specified person is made aware that the authority does not so qualify.

Additional functions of specified person

- 17.** A specified person has the following additional functions—

- (a) to keep a record of—
 - i. authorities on which it must serve an offer under regulation (1)d), and
 - ii. newly formed authorities on which it must serve a notice under regulation 13;

- (b) to publish and keep up to date, on a website which is publicly accessible for free—
 - i. the records mentioned in paragraph (a), and which of the authorities are opted in authorities;
 - ii. the contact details for the auditor appointed to each opted in authority, where the authority is not an exempt authority;

- (c) to design and implement appropriate systems to—
 - i. oversee issues of independence of any auditor which it has appointed, arising both at the point of appointment and during the conduct of an audit;
 - ii. monitor compliance by a local auditor against the contractual obligations in an audit contract;
 - iii. deal with disputes or complaints from—
 - (aa) auditors, opted in authorities and local government electors relating to audit contracts and the carrying out of audits;
 - (bb) authorities regarding the refusal of a request to become an opted in authority under regulation 12.

Duty to provide information

- 18.** If a specified person requests information required for the exercise of its functions from
- (a) smaller authority, or
 - (b) local auditor,

they must provide the information requested to the specified person.

Fees for audit

- 19.** —(1)A specified person must specify the scales of fees in respect of the audit of the accounts of opted in authorities for a financial year before the start of the financial year.
- (2) Scales of fees must relate to a particular financial year, but may be set for more than one financial year at a time.
- (3) A specified person may vary a scale of fees which it has specified, but must not do so once the financial year for an audit to which a scale of fees relates to has begun.
- (4) Before specifying or varying any scale of fees, a specified person must consult—
- (a) such representative associations of smaller authorities as appear to the specified person to be concerned, and
 - (b) such bodies of accountants as appear to the specified person to be appropriate.
- (5) A scale of fees may take account of the costs 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), including supporting the production of relevant guidance;

(d) costs and expenses of local auditors which are recoverable from authorities under the Act, listed in paragraph (6) below.

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

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

Payment of fee

20. —(1) Subject to paragraph (33), an opted in authority is liable to pay to the specified person which appointed its auditor the fee applicable for the audit in accordance with the appropriate fee scale.

(2) The specified person may authorise an auditor to collect the fee for the audit on its behalf.

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

- (a) that the work involved in a particular audit was substantially more or less than that envisaged by the appropriate scale, or
- (b) any of the provisions mentioned in regulation 1(32) apply,

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

(4) The specified person must notify the authority concerned of any increased fee under paragraph (3), giving reasons, and the notification may be given via the auditor.

Ending specification

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

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

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

(3) 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.

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

Consequences of end of specification

22. —(1) If the Secretary of State gives notice in writing to a specified person under regulation 1(37)(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 (1)(b) to the Secretary of State and some to another specified person.

(3) The specified person on whom notice is served under regulation 1(37)(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.

Service

23. —(1) A notice that is required under these Regulations to be served on a person or authority may be served by—

- (a) delivering it to that person's or authority's address;
- (b) post to that person's or authority's address; or
- (c) electronic service in accordance with regulation 24.

Electronic service

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

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

(3) The conditions are that—

- (a) the recipient has stated a willingness to receive notices by means of an electronic communication,
- (b) the statement has not been withdrawn, and

- (c) the notice was transmitted to an electronic address specified by the recipient.
- (4) A statement may be limited to notices of a specified description.
- (5) A statement may require a notice to be in a specified electronic form.
- (6) A statement may be modified or withdrawn—
 - (a) in a case where the statement was made by being published, by publishing the modification or withdrawal in the same or in a similar manner;
 - (b) in any other case, by giving a notice to the person to whom the statement was made.
- (7) Where a notice is served on a recipient in accordance with this regulation, the notice is, unless the contrary is proved, to be deemed to have been served on that recipient at the time at which the electronic communication is transmitted.
- (8) In this regulation—
 - “electronic address” includes any number or address used for the purposes of receiving electronic communications;
 - “electronic communication” means an electronic communication within the meaning of the section 15 of the Electronic Communications Act 2000 (general interpretation)(c);
 - “specified” means specified in a statement made for the purposes of paragraph (3)(a).

Modification of the Act

- 25.** The Schedule to these Regulations contains modifications to the Act in relation to the audit of the accounts of smaller authorities.

SCHEDULE

Regulation 0

PART 1

General modifications

- 1.**—a) The Act applies in relation to the audit of the accounts of smaller authorities as it applies in relation to the audit of the accounts of other relevant authorities subject to—
 - (a) the general modifications to the Act in sub-paragraph (2), and
 - (b) the specific modifications to the Act in the rest of this Schedule, which include modifications specific to a particular category of smaller authority.
- (2) The general modifications are—
 - (a) references (however expressed) to—
 - i. a Part or a provision of the Act, or
 - ii. Part 42 of the Companies Act 2006 or any provision of that Part,are to that Part or provision as it has effect by virtue of these Regulations;

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

(b) references to eligibility for appointment as a local auditor include eligibility for appointment as a local auditor for smaller authorities, and references to persons who are so eligible are to be construed accordingly.

(3) Sub-paragraph (2) does not apply to a provision that—

(a) is treated as forming part of the Act or of Part 42 of the Companies Act 2006 by virtue of any of the following provisions of this Schedule, and

(b) provides for an expression listed in sub-paragraph (2) to have the meaning it would have under the Act or Part 42 of the Companies Act 2006 apart from its application by virtue of this Schedule.

PART 2

Modification of Part 3 (appointment etc of local auditors)

Appointment of local auditor

1. In relation to an exempt authority, section 7(1) to (4) does not apply.

2. In relation to an opted in authority which is not an exempt authority, in section 7—

(a) for subsection (1), substitute—

“(1) The specified person must appoint a local auditor to audit the accounts of an opted in authority for a financial year not later than 31 December in the preceding financial year.”;

(b) in subsection (2)—

i. for “A relevant authority” substitute “The specified person”;

ii. for “its accounts” substitute “the accounts”;

iii. and in paragraph (b) for “the authority” substitute “the specified person”;

(c) in subsection (3), for “the relevant authority” substitute “the specified person”;

(d) in subsection (6), for “a relevant authority” substitute “an authority”.

Procedure for appointment

3. In relation to an exempt authority, section 8 does not apply.

4. In relation to an opted in authority which is not an exempt authority, in section 8—

(a) omit subsection (1);

(b) in subsection (2)—

i. for “relevant authority” substitute “opted in authority”;

ii. in paragraph (a), for “it has made” substitute “the specified person has made”;

iii. at the end of paragraph (b) insert “and”;

iv. omit paragraphs (d) and (e);

(c) in subsection (3), omit “relevant”;

(d) in subsection (4)—

- i. for “A relevant authority” at the beginning, substitute “An authority”;
- ii. in paragraph (a) omit the words from “in the case” to “health service body,”;
- iii. omit paragraphs (b) and (c);

(e) in subsection (5), omit “relevant”.

Requirement to have auditor panel

5. In section 9—

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

Functions of auditor panel

6. In section 10, before subsection (1) insert—

“(A1) This section is subject to section 9.”

Failure of specified person to appoint local auditor

7. In section 12, in the event that the specified person fails to appoint a local auditor to an opted in authority in accordance with Part 3 of the Act and these Regulations—

- (a) for subsection (1), substitute—
 - “(1) If a specified person fails to appoint a local auditor to an opted in authority in accordance with this Part and the Local Audit (Smaller Authorities) Regulations 2014, the authority must immediately inform the specified person and the Secretary of State of that fact.”;
- (b) in subsection (2)—
 - i. for the words “relevant authority” to “commissioning group,” substitute “specified person”;
 - ii. after “local auditor”, the first time those words appear, insert “to an opted in authority”;
 - iii. after “this Part “ insert “and the Local Audit (Smaller Authorities) Regulations 2014”;
 - iv. after paragraph (a) insert—
 - “(ab) direct that specified person to appoint an auditor, or”;
- (c) after subsection (2) insert—
 - “(2A) An appointment under subsection (2)(ab) takes effect on such terms as the Secretary of State may direct.”;

- (d) in subsection (3)(a), omit “relevant”;
- (e) in subsection (4)—
 - i. omit “relevant” both times it occurs;
 - ii. in paragraph (a), after “authority” insert “(and the specified person where the Secretary of State intends to direct the specified person)”; and
 - iii. in paragraph (b), after “authority” insert “or the specified person”; and
 - iv. in subsection (5), for “a relevant” substitute “an”.

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

8. In section 12, in the event that a smaller authority which is not an opted in authority fails to appoint a local auditor in accordance with Part 3 of the Act and these Regulations—

- (a) in subsection (1)—
 - i. for the words “relevant authority” to “commissioning group,” substitute “smaller authority”; and
 - ii. after “this Part” insert “and the Local Audit (Smaller Authorities) Regulations 2014”;
- (b) in subsection (2)—
 - i. for the words “relevant authority” to “commissioning group,” substitute “smaller authority”;
 - ii. after “local auditor”, the first time those words appear, insert “to an opted in authority”;
 - iii. after “this Part” insert “and the Local Audit (Smaller Authorities) Regulations 2014”; and
 - iv. after paragraph (a) insert—
 - “(ab) direct the person who is specified under regulation 5(2) of the Local Audit (Smaller Authorities) Regulations 2014 in relation to the class of smaller authorities within which the authority falls, to appoint an auditor, or”;
- (c) after subsection (2) insert—
 - “(2A) An appointment under subsection (2)(ab) takes effect on such terms as the Secretary of State may direct.”;
- (d) in subsection (3)(a) omit “relevant”;
- (e) in subsection (4)—
 - i. omit “relevant” both times it occurs;
 - ii. in paragraph (a), after “authority”, insert “(and the specified person where the Secretary of State intends to direct the specified person)”; and
 - iii. in paragraph (b), after “authority” insert “or the specified person”; and
- (f) in subsection (5), for “a relevant” substitute “an”.

Modifications to Part 5 (conduct of local audit)

General duties of auditors

9. In section 20, in relation to a smaller authority other than an exempt authority—

(a) in subsection (1)—

- i. for “relevant authority other than a health service body” substitute “smaller authority other than an exempt authority”;
- ii. in paragraph (b), omit the words from “that the statement” to the end;
- iii. in subsection (2), for “a relevant authority other than a health service body” substitute “an authority”;
- iv. in subsections (3) and (5), for “a relevant authority” substitute “an authority”;

(b) after subsection (6) insert—

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

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

10. In section 20, in relation to an exempt authority—

(a) before subsection (1) insert—

“(ZA1) A local auditor must not carry out an audit of the accounts of an exempt authority unless and until a local government elector—

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

(A1) Subject to paragraph (1), the audit of the accounts of an exempt authority is limited to responding appropriately to any—

- (a) question raised under section 26(2); or
- (b) objection made under section 27(1).”

(b) in subsection (1)—

- i. for the words “auditing the accounts” to “auditor must”, substitute “exercising functions under paragraph (A1), if a matter comes to the attention of the auditor which the auditor thinks merits further investigation, and it would be proportionate to do so, the local auditor may”;
- ii. for “be satisfied” substitute “consider whether”;
- iii. remove the word “that” at the beginning of paragraphs (a) to (c);
- iv. in paragraph (b), omit the words from “that the statement” to the end;

(c) omit subsections (2) to (4);

(d) in subsection (5) for “a relevant authority” substitute “an exempt authority”;

(e) after subsection (6) insert—

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

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

PART 3

Modification of Schedules to the Act

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

11. In paragraph 1 of Schedule 3—

(a) in sub-paragraph (1), for “function of appointing a local auditor to audit its accounts is” substitute “functions listed in sub-paragraph (5) are”;

(b) in sub-paragraph (2), for “authority’s function of appointing a local auditor to audit its accounts” substitute “functions of the authority listed in sub-paragraph 1(5)”;

(c) in sub-paragraph (4), for “A local auditor appointed to audit the accounts of a parish meeting must be appointed” substitute “The functions listed in sub-paragraph (5) must be exercised”;

(d) after sub-paragraph (4) insert—

“(5) The functions are—

(a) deciding to become, or to cease to be, a full audit authority under regulation 3 of the Local Audit (Smaller Authorities) Regulations 2014;

(b) a full audit authority deciding to cease to be a full audit authority;

(c) deciding to self-certify as an exempt authority under regulation 6 of those regulations;

(d) a full audit authority deciding to become an opted in authority under regulation 8 of those regulations;

(e) deciding to reject an offer under regulation 9 of those regulations;

(f) deciding to exercise a right to request to become an opted in authority under regulation 12 of those regulations.”.

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

12. For paragraph 4 of Schedule 5, substitute—

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

“**Individuals and firms: eligibility for appointment as a local auditor**

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

- (a) (i) is a member of a recognised supervisory body, and
(ii) is eligible for appointment under the rules of that body,
by virtue of Chapter 2 of this Part; or
- (b) (i) is a member of a recognised supervisory body, and

(ii) is eligible for appointment under the rules of that body as a statutory auditor, by virtue of Chapter 2 of Part 42 of the Companies Act 2006 as it has effect apart from its application by virtue of Schedule 5 to the Local Audit and Accountability Act 2014 or by virtue of the Local Audit (Smaller Authorities) Regulations 2014.”

13. After paragraph 4 of Schedule 5, insert—
- “**4A.** In section 1213(2) (effect of ineligibility)—
- (a) omit “and” at the end of paragraph (a);
 - (b) insert “and” at the end of paragraph (b); and
 - (c) after paragraph (b), insert—
“(c) where the local auditor was appointed by a specified person, give the notice in paragraph (b) also to the specified person.””.
14. In paragraph 5 of Schedule 5, in the text substituted for section 1214 (independence requirement) of the Companies Act 2006—
- (a) in subsection (1), for “and (5)” substitute “, (5) and (5A)”; and
 - (b) after subsection (5), insert—
(5A) This subsection applies if—
 - (a) P is an employee or a member of the specified person who is responsible for appointing the authority’s local auditor;
 - (b) P is a partner or employee of a person falling within paragraph (a), or a partnership of which such a person is a partner.”.
15. In addition to the modification made by paragraph 6 to section 1215 (effect of lack of independence), in subsection (1) of that section—
- (a) omit “and” at the end of paragraph (a);
 - (b) insert “and” at the end of paragraph (b); and
 - (c) after paragraph (b), insert—
“(c) where the local auditor was appointed by a specified person, give the notice in paragraph (b) also to the specified person.”.
16. In relation to an opted in authority, in addition to the modification made by paragraph 7 to section 1216 (effect of appointment of a partnership), in subsection (5) of that section—
- (a) for “relevant authority” the first time it occurs, substitute “specified person who appointed the local auditor”; and
 - (b) in paragraph (b) for “relevant authority”, substitute “specified person”.
17. After paragraph 8 of Schedule 5, insert—
- “**8A.** Section 1217, as it has effect apart from its application by virtue of Schedule 5 to the Local Audit and Accountability Act 2014 or by virtue of the Local Audit (Smaller Authorities) Regulations 2014, applies also for the purposes of those Regulations, so that a supervisory body under that section is also a supervisory body for the purposes of the Regulations.”.
18. In relation to an opted in authority, in paragraph 16 of Schedule 5, in the text substituted for section 1248 (Secretary of State’s power to require second audit)—
- (a) in subsection (1), after “appointed” insert “by a specified person”;
 - (b) in subsections (2) and (5), for “relevant authority” substitute “specified person”;
 - (c) in subsection (6) for “authority” substitute “specified person”; and
 - (d) omit subsection (7).

19. In relation to an opted in authority, in paragraph 17 of Schedule 5, in the text substituted for section 1249 (supplementary provision about second audits)—

(a) for “relevant authority” the second time it appears, substitute “specified person who appointed the auditor”; and

(b) in subsection (1), after “section 1248” insert “, and must ensure that the authority is either not required to pay a fee for the first audit, or is refunded any fee paid”.

20. In paragraph 27(3) of Schedule 5, add to the list of definitions to be inserted—

“smaller authority	section 6(1) of the Local Audit and Accountability Act 2014”;
“full audit authority	regulation 2 of the Local Audit (Smaller Authorities) Regulations 2014”
“opted in authority	regulation 2 of the Local Audit (Smaller Authorities) Regulations 2014”
“specified person	regulation 2 of the Local Audit (Smaller Authorities) Regulations 2014”

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

21. After paragraph 1(5)(e) of Schedule 6 insert—

“(ea) a person specified under regulation 0 of the Local Audit (Smaller Authorities) Regulations 2014.”

Modification of Schedule 11 (disclosure of information)

22. After paragraph 1(3)(c) of Schedule 11 insert—

“(ca) a person specified under regulation 0 of the Local Audit (Smaller Authorities) Regulations 2014.”

Section 3

3. Collective Auditor Procurement by a Specified Person

Overview

- 3.1 Section 17 of the Act enables the Secretary of State to make regulations providing for the appointment, by a person he has specified (an “appointing person”), of a local auditor to audit the accounts of a local body to which the regulations apply.
- 3.2 The regulations intended to be made under section 17 will fulfil the Government’s commitment to enable the establishment of sector-led collective procurement arrangements. Under such arrangements, authorities would be able to choose to ‘opt-in’ and have an auditor appointed on their behalf by a specified appointing person, rather than appoint their own auditor locally.
- 3.3 The regulations will not identify or establish an appointing person. They will set out a framework through which the Secretary of State may specify a body set up by the sector as an appointing person, and give them the powers and duties to operate collective procurement arrangements. In addition, the regulations will set out the process through which authorities may opt-in to such arrangements.
- 3.4 The powers under section 17 were added to the Act during its Parliamentary passage, in response to calls from the sector to allow for large-scale collective procurement. At that stage, the Government issued a statement of policy intent, setting out how we intended to use the powers. The draft regulations reflect the main proposals in that statement of intent.
- 3.5 The Government has worked closely with key stakeholders in developing the draft regulations. The regulations also build on similar provisions for smaller authorities, which the Government previously consulted on in 2013 (see also section 2 of this consultation).

The Specification of an ‘Appointing Person’

- 3.6 Under the draft regulations the Secretary of the State may specify a person to be an appointing person (in practice it is likely to be a body rather than an individual). The Secretary of State will be able to specify more than one appointing person, and may also specify different appointing persons for different groups / types of audited bodies. This will provide the flexibility to respond to whatever arrangements the sector wishes to put in place. The regulations also require the

specification of an appointing person to be made public, by publishing in the London Gazette and on a website.

- 3.7** The Secretary of State will have the power to end the specification of an appointing person. Before ending a specification, the Secretary of State will first be required to consult audited bodies and associations of such bodies with an interest. The Secretary of State must then write to inform the appointing person of the end of specification, giving the reasons for doing so, and must publish the end of the person's specification, by the same means as publication of specification.
- 3.8** The draft regulations provide that once the Secretary of State has written to the appointing person about the ending of specification, the Secretary of State may exercise the functions of that person, and / or transfer relevant rights and liabilities of that person either to the Secretary of State or another specified person.

How Audited Bodies May Opt-In

- 3.9** Participation in sector-led collective procurement arrangements will be optional. Under the proposed regulations the appointing person will be required to issue an 'invitation' to audited bodies, who will choose whether to 'opt-in' to sector-led arrangements. The 'invitation' will need to set out the proposed 'appointing period' for which an audited body will opt-in, and during which the appointing person will be responsible for appointing an auditor to any body which has opted in. Audited bodies will have at least eight weeks to respond to the invitation, and the regulations require that any decision to opt-in to collective procurement will need to be taken by full council.
- 3.10** Authorities that opt-in will do so for the duration of the 'appointing period', which the Government intends to limit to a maximum length of five financial years. After the period has expired, the appointing person would be able to begin another appointing period, but would be required to run another opt-in process first – giving the opportunity for audited bodies to choose whether to join sector-led arrangements for that period.
- 3.11** In general, the opportunity to opt-in will only occur at the formal invitation point before the start of each appointing period, and opting in lasts for the duration of that period. However, the regulations allow for three specific instances where the Government considers certain audited bodies should have a right to opt-in 'mid-contract':
- Where a new audited body is established during an appointing period;
 - Where an audited body that was previously a smaller authority becomes a principal authority and so ceases to fall within the arrangements for opting in for smaller authorities; and
 - Where a smaller authority chooses to prepare full accounts (rather than income and expenditure or receipts and payments accounts)

and therefore becomes subject to full audit and so ceases to fall within the arrangements for opting - in for smaller authorities.

- 3.12** Any other audited body (for example one that initially chose not to participate when the invitation was issued) may *request* to opt-in, but it will be for the appointing person to decide if they accept or decline that request.
- 3.13** Where an audited body has opted-out, but then fails to make an appointment by the required deadline, the Secretary of State's existing power at section 12 of the Act to direct the authority to appoint a named auditor, or to appoint an auditor on behalf of the authority, will be extended to permit the direction of an appointing person to appoint an auditor to that body (after consultation with both the appointing person and the body).

The Functions of an Appointing Person

- 3.14** The appointing person will be required to appoint an auditor to each opted-in authority, and to do so by the 31 December of the financial year preceding the year that the appointed auditor is to audit. Before making appointments, the appointing person will be under a duty to consult each opted-in body on the proposed appointment.
- 3.15** As in the case of local appointment, the Secretary of State will have a reserve power to act if the appointing person fails to make an appointment by the required deadline. In such a case, the Secretary of State may either appoint an auditor to the relevant body (or bodies), or direct the appointing person or the audited body to make an appointment of a named auditor. This is a backstop power which the Secretary of State will have the discretion whether or not to use, depending on the specific circumstances around any failure to appoint.
- 3.16** The appointing person will be required to consult on and then set scales of fees for audit, which opted-in bodies will be required to pay. As under the current framework, while the scale of fees would set the 'standard' fee for opted-in bodies, the appointing person will be able to charge a higher or lower fee if it appears to it that the work involved in an audit is more or less than expected. This enables the fee to account for any additional work that the auditor may carry out, such as considering objections or carrying out a public interest report. Opted - in bodies will be under a duty to provide the appointing person with the information they need to carry out their functions – for example to determine the final fee.
- 3.17** The regulations give the appointing person three further general functions. These are to design and implement appropriate systems to:
- Oversee the ongoing independence of the auditor;
 - Monitor the compliance of appointed auditor with contractual obligations; and

- Deal with disputes or complaints relating to audit contracts and the carrying out of audits.

Other Key Provisions

- 3.18** The draft regulations also include a series of modifications to the Act, which will apply in the case of those audited bodies that opt-in to collective procurement arrangements under these regulations. Most of these modifications apply to Part 3 of the Act, which sets out the process for local appointment and the duty to have an auditor panel. Most significantly, those audited bodies that opt- in will no longer be under a duty to have an auditor panel. The regulations also modify the ‘failure to appoint’ provision in section 12 of the Act. These ensure that the Secretary of State’s reserve power to act where an authority fails to make a local appointment by 31 December is also extended to the case where an appointing person fails to appoint to an authority that has opted-in to collective arrangements.
- 3.19** There are also minor modifications to Schedule 5 and Schedule 7 of the Act, to reflect the fact that in the case of opted-in bodies, it will be the appointing person that appoints the auditor, and who will recover charges for additional work by way of increased fees.
- 3.20** A “Keeling Schedule”, showing how these modifications relate to the original provisions of the Act is also shown at Annex B.

Questions

Q4. Should regulations require that the decision to opt-in to sector-led arrangements is made by full council?

Q5. Do you agree that the maximum length appointing period should be restricted to five years?

Q6. Do you have any other comments on the proposed collective procurement regulations?

STATUTORY INSTRUMENTS

2014 No. 0000

LOCAL GOVERNMENT

The Local Audit (Specified Person) Regulations 2014

Made - - - - *****

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 17 of the Local Audit and Accountability Act 2014(d).

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

Citation, commencement and application

1. These Regulations may be cited as the Local Audit (Specified Person) Regulations 2014 and come into force on ***.

Interpretation

In these Regulations—

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

“audit contract” means a contract between a specified person and local auditors for the carrying out of work in connection with audits under the Act of the accounts of opted in principal authorities;

“compulsory appointing period” means the financial years for which a specified person is responsible for appointing a local auditor to conduct the audit of the accounts for any authority which becomes an opted in authority by virtue of regulation (1)e), which—

- (a) is specified in an invitation published under regulation (1)d), and
- (b) relates to particular consecutive financial years, being for a minimum of one but no more than five years;

“full audit authority” has the same meaning as in regulation 2 of the Local Audit (Smaller Authorities) Regulations 2014;

“newly formed principal authority” means either—

- (a) a principal authority which did not exist at the time that a specified person published its invitation to a class of principal authorities, within which the principal authority now falls, under regulation d); or

- (b) a relevant authority which was a smaller authority at the time that a specified person published its invitation to a class of principal authorities, within which the principal authority now falls, under regulation d), but which has subsequently become a principal authority;

“opted in authority” means a principal authority for which the responsibility for the appointment of a local auditor has become that of a specified person instead of that of the authority;

“principal authority” means—

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

“specified person” means a person specified by the Secretary of State under regulation (1)b) to appoint local auditors.

Specification of a person to appoint local auditors

—b) The Secretary of State may, in accordance with regulation (1)c), specify a person to appoint local auditors to opted in authorities.

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

Procedure for specifying a person to appoint local auditors

—c) Specification must be in writing.

(3) Specification may be of infinite duration or subject to an expiry date.

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

- (a) on a website which is publicly accessible free of charge;
- (b) in the London Gazette.

(5) The relevant details are—

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

Invitation to principal authorities

—d) Before every compulsory appointing period, a specified person must make an invitation in accordance with this regulation to all principal authorities falling within the class in relation to which that person has been specified under regulation 1(2), regarding the opportunity for the transfer of responsibility for appointment of a local auditor from authorities within the class to that specified person for the duration of the compulsory appointing period.

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

(7) The invitation must contain the following information—

- (a) the length of the compulsory appointing period, with a clear statement of the financial years to which it relates;
- (b) the closing date for the service of notice on the specified person by an authority within the class to accept the invitation (and that date must allow at least 8 weeks for acceptance beginning on the date the invitation is published);
- (c) an explanation of the procedures by which an authority may accept the invitation and become an opted in authority.

Acceptance of an invitation

—e) Subject to paragraph (2), a principal authority may accept an invitation made by a specified person under regulation (1)d), if it is within the class of authorities to whom the invitation was made, by serving a notice of acceptance on the specified person before or on the closing date mentioned in regulation 1(7)(b).

(8) An authority becomes an opted in authority on the day on which it serves a valid notice of acceptance under paragraph (1).

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

Non-acceptance of invitation

If a principal authority does not accept an invitation made by a specified person in accordance with regulation (1)e), the authority remains responsible for appointing its own local auditor (subject to that specified person agreeing to a request by the authority to become an opted in authority under regulation (1)g)).

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

—f) During the compulsory appointing period, a newly formed principal authority has the right to become an opted in authority in accordance with this regulation.

(10) A newly formed principal authority may become an opted in authority by serving notice, on the person specified under regulation 1(2) in relation to the class of authorities within which the authority now falls, of its decision to become an opted in authority; such notice must specify the authority's postal address.

(11) The authority becomes an opted in authority on the date on which it serves a valid notice under paragraph (10).

(12) The authority is an opted in authority for the remainder of the current compulsory appointing period.

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

—g) During the compulsory appointing period, any principal authority which could have accepted a specified person's invitation under regulation d) but did not, has the right to make a request to that specified person to become an opted in authority, in accordance with this regulation.

(13) The authority must serve notice on the specified person of its request to become an opted in authority, and the notice must specify the authority's postal address.

(14) The specified person must—

- (a) consider the authority's request to opt in,
- (b) serve notice on the authority, within 4 weeks beginning with the date that the request to become an opted in authority was received, giving the decision in relation to the request, and
- (c) provide reasons if the request is refused.

(15) The authority becomes an opted in authority on the date on which the specified person serves a notice on the authority agreeing to its request to become an opted in authority.

(16) The authority is an opted in authority for the remainder of the current compulsory appointing period.

Appointment of local auditors to opted in authorities

—h) A specified person must appoint a local auditor to each principal authority which became an opted in authority by—

- (a) accepting the specified person's invitation under regulation (1)e),
- (b) exercising the right to request to become an opted in authority under regulation (1)f), or
- (c) the specified person agreeing to its request to become an opted in authority under regulation (1)g),

to conduct the audits for the appropriate period.

(17) The appropriate period is—

- (a) for an authority within paragraph (1)(a), the compulsory appointing period;
- (b) for an authority within paragraph (1)(b) or (c), the remainder of the current compulsory appointing period beginning with the day on which the authority became an opted in authority.

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

(19) The scales of fees applicable to the audit of an authority which became an opted in authority under regulation (1)f) or (1)g) must be the scales of fees applicable to other opted in authorities falling within the same class of authorities.

(20) A specified person may recover its reasonable administrative costs from an authority for making arrangements to appoint a local auditor to that authority if—

- (a) it becomes an opted in authority under regulation (1)g); or
- (b) it appoints the auditor in compliance with a direction under section 12 of the Act as modified by these Regulations.

Authority ceasing to qualify as a principal authority

—i) An opted in authority that was a principal authority, but which has ceased to be a principal authority, must serve a notice informing the person specified under regulation 1(2) for the class of principal authorities within which the authority previously fell, of that fact as soon as practicable after it ceases to be a principal authority.

(21) An opted in authority which fails to serve a notice on a specified person as required by paragraph i) is liable to pay to that specified person an amount equal to any costs incurred by a local auditor appointed to the authority by the specified person for the financial years during which the authority no longer qualifies as a principal authority until the date when the specified person is made aware that the authority does not so qualify.

Removal of auditors

—j) A specified person may remove a local auditor which it appointed from office.

(22) When a local auditor appointed by a specified person to an opted in authority is removed from office, whether through resignation by, or removal of, that auditor, that specified person must appoint a new local auditor to that opted in authority as soon as practicable after the auditor leaves office.

(23) Before appointing an auditor under paragraph (2), the specified person must consult the authority about the proposed appointment.

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

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

(25) The notice must be published—

- (a) if the authority has a website, on its website;

(b) otherwise, in accordance with paragraph (6).

(26) An authority publishes a notice in accordance with this subsection if—

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

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

Additional functions of specified person

A specified person has the following additional functions—

- (a) to keep a record of which principal authorities are opted in authorities and to publish that record on a website which is publicly accessible for free;
- (b) to design and implement appropriate systems to—
 - (i) oversee issues of independence of any auditor which it has appointed, arising both at the point of appointment and during the conduct of an audit;
 - (ii) monitor compliance by a local auditor against the contractual obligations in an audit contract;
 - (iii) deal with disputes or complaints from—
 - (aa) auditors, opted in authorities and local government electors relating to audit contracts and the carrying out of audits;
 - (bb) authorities regarding the refusal of a request to become an opted in authority under regulation (1)g).

Duty to provide information

If a specified person requests information required for the exercise of its functions from a—

- (c) principal authority, or
- (d) local auditor,

they must provide the information requested to the specified person.

Fees for audit

—k) A specified person must specify the scales of fees in respect of the audit of the accounts of opted in authorities for a financial year before the start of the financial year.

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

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

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

- (a) all opted in authorities;

- (b) such representative associations of principal authorities as appear to the specified person to be concerned, and
 - (c) such bodies of accountants as appear to the specified person to be appropriate.
- (31) A scale 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), including supporting the production of relevant guidance;
 - (d) costs and expenses of local auditors which are recoverable from authorities under the Act, listed in paragraph (6) below.
- (32) The costs or expenses of the auditor recoverable from an authority under any of the following provisions of the Act, are instead recoverable as part of the fee for the audit of an opted in authority to which the costs or expenses relate—
- (a) sections 23(3) (offences relating to auditor’s right to documents and information);
 - (b) section 26(3) (inspection of documents etc);
 - (c) section 27(7) (right to make objections at audit);
 - (d) section 28(7) (declaration that item of account is unlawful);
 - (e) section 31(6) (power of auditor to apply for judicial review);
 - (f) paragraph 1(5) of Schedule 7 (public interest reports);
 - (g) paragraph 2(4) of Schedule 7 (written recommendations); and
 - (h) paragraph 3(5) of Schedule 8 (advisory notices).

Payment of fee

—l) Subject to paragraph (33), an opted in authority is liable to pay to the specified person which appointed its auditor the fee applicable for the audit in accordance with the appropriate fee scale.

(33) The specified person may authorise an auditor to collect the fee for the audit on its behalf.

(34) If it appears to a specified person, on the basis of evidence supplied by a local auditor which it has appointed, 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 l).

(35) The specified person must notify the authority concerned of any increased fee under paragraph (33), giving reasons, and the notification may be given via the auditor.

Ending specification

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

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

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

(37) The Secretary of State must—

- (a) give notice in writing to the specified person concerned 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.

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

Consequences of end of specification

—n) If the Secretary of State gives notice in writing to a specified person under regulation 1(37)(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.

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

(40) The specified person on whom notice is served under regulation 1(37)(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.

Service

—o) A notice that is required under these Regulations to be served on a person or authority may be served by—

- (c) delivering it to that person’s or authority’s address;
- (d) post to that person’s or authority’s address; or
- (e) electronic service in accordance with regulation (1)p).

Electronic service

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

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

(42) The conditions are that—

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

(43) A statement may be limited to notices of a specified description.

(44) A statement may require a notice to be in a specified electronic form.

(45) A statement may be modified or withdrawn—

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

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

(47) In this regulation—

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

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

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

Modification of the Act

The Schedule to these Regulations contains modifications to the Act in relation to the audit of the accounts of principal authorities.

SCHEDULE

Regulation 0

PART 1

General modifications

1. —q) The Act applies in relation to the audit of the accounts of principal authorities as it applies in relation to the audit of the accounts of other relevant authorities subject to—

(a) the general modifications to the Act in sub-paragraph (2), and

(b) the specific modifications to the Act in the rest of this Schedule, which include modifications specific to a particular category of principal authority.

(2) The general modifications are that references (however expressed) to—

(a) a Part or a provision of the Act, or

(b) Part 42 of the Companies Act 2006 or any provision of that Part,

are to that Part or provision as it has effect by virtue of these Regulations.

(3) Sub-paragraph (2) does not apply to a provision that—

(a) is treated as forming part of the Act or of Part 42 of the Companies Act 2006 by virtue of any of the following provisions of this Schedule, and

(b) provides for an expression listed in sub-paragraph (2) to have the meaning it would have under the Act or Part 42 of the Companies Act 2006 apart from its application by virtue of this Schedule.

PART 2

Modification of Part 3 (appointment etc of local auditors)

Appointment of local auditor

In section 7, for subsections (1) to (3), substitute—

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

“(1) The specified person must appoint a local auditor to audit the accounts of an opted in authority for a financial year not later than 31 December in the preceding financial year.

(2) The specified person may appoint a local auditor to audit the accounts of an opted in authority for more than one financial year; and in such a case—

- (a) subsection (1) does not apply in relation to the second or any subsequent year for which the appointment is made, but
- (b) the specified person must make a further appointment of a local auditor at least once every 5 years.

(3) Subsection (2)(b) does not prevent the specified person from re-appointing a local auditor to an opted in authority.”.

Procedure for appointment

In section 8—

- (c) omit subsection (1); and
- (d) in subsection (2)—
 - (i) for “The relevant authority” substitute “An opted in authority”;
 - (ii) for “the appointment is made”, substitute “the appointment is notified to the relevant authority by the specified person”;
 - (iii) in paragraph (a), for “it” substitute “the specified person”; and
 - (iv) omit paragraphs (d) and (e).

Requirement to have auditor panel

In section 9—

- (e) in subsection (1), after “relevant authority” insert “other than an opted in authority”; and
- (f) after subsection (1) insert—

“(1A) An authority may have an auditor panel at any time, but that panel must not be consulted about—

 - (a) whether or not the authority is to become an opted in authority;
 - (b) matters relating to an auditor appointed by a specified person; or
 - (c) matters relating to an audit carried out by an auditor appointed by a specified person.”.

Functions of auditor panel

In section 10, before subsection (1) insert—

“(A1) This section is subject to section 9.”

Failure of specified person to appoint local auditor

In section 12, in the event that the specified person fails to appoint a local auditor to an opted in authority in accordance with Part 3 of the Act and these Regulations—

- (g) for subsection (1), substitute—

“(1) If a specified person fails to appoint a local auditor to an opted in authority in accordance with this Part and the Local Audit (Specified Person) Regulations 2014, the authority must immediately inform the specified person and the Secretary of State of that fact.”
- (h) in subsection (2)—

- (i) for the words “relevant authority” to “commissioning group,” substitute “specified person”;
- (ii) after “local auditor”, the first time those words appear, insert “to an opted in authority”;
- (iii) after “this Part” insert “and the Local Audit (Specified Person) Regulations 2014”;
and
- (iv) after paragraph (a) insert—
“(ab) direct the specified person to appoint an auditor, or”;
- (i) after subsection (2) insert—
“(2A) An appointment under subsection (2)(ab) takes effect on such terms as the Secretary of State may direct.”;
- (j) in subsection (3)(a), omit “relevant”;
- (k) in subsection (4)—
 - (i) omit “relevant” both times it occurs;
 - (ii) in paragraph (a), after “authority” insert “(and the specified person where the Secretary of State intends to direct the specified person)”; and
 - (iii) in paragraph (b), after “authority” insert “or the specified person”; and
- (l) in subsection (5), for “a relevant”, substitute “an”.

Failure of principal authority to appoint auditor

In section 12, in the event that a principal authority fails to appoint an auditor in accordance with Part 3 of the Act and these Regulations—

- (m) in subsection (1), for “relevant” substitute “principal”;
- (n) in subsection (2)—
 - (i) for “relevant” substitute “principal”;
 - (ii) after paragraph (a) insert—
“(ab) direct the person specified under regulation 3(2) of the Local Audit (Specified Person) Regulations 2014 in relation to the class of principal authorities within which the authority falls, to appoint an auditor.”;
- (o) after subsection (2) insert—
“(2A) An appointment under subsection (2)(ab) takes effect on such terms as the Secretary of State may direct.”;
- (p) in subsection (3)(a), omit “relevant”;
- (q) in subsection (4)—
 - (i) omit “relevant” both times it occurs;
 - (ii) in paragraph (a), after “authority” insert “(and the specified person where the Secretary of State intends to direct the specified person)”; and
 - (iii) in paragraph (b), after “authority” insert “or the specified person”; and
- (r) in subsection (5), for “a relevant” substitute “an”.

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

In Schedule 3—

- (s) in paragraph 1(1), omit from “function of” to “accounts is”, and substitute “functions listed in sub-paragraph (5) are”;
- (t) in paragraph 1(2), omit from “function of” to the end, and substitute “functions listed in sub-paragraph (5)”;

- (u) for paragraph 1(4), substitute—
 - “(4) The functions listed in sub-paragraph (5), in relation to a parish meeting, must be performed by the parish meeting itself (and not by its chairman on behalf of the parish meeting).”; and
- (v) at the end insert—
 - “(5) The functions are—
 - (a) deciding to accept the specified person’s invitation to become an opted in authority under regulation (1)e) of the Local Audit (Specified Person) Regulations 2014;
 - (b) deciding to exercise a right to become an opted in authority under regulation (1)f) of the Local Audit (Specified Person) Regulations 2014; and
 - (c) deciding to exercise a right to request to become an opted in authority under regulation (1)g) of the Local Audit (Specified Person) Regulations 2014.”.

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

In Schedule 5—

- (w) after paragraph 4, insert—
 - “**4A.** In section 1213(2) (effect of ineligibility)—
 - (a) omit “and” at the end of paragraph (a);
 - (b) insert “and” at the end of paragraph (b); and
 - (c) after paragraph (b), insert—
 - “(c) where the local auditor was appointed by a specified person, give the notice in paragraph (b) also to the specified person.”.
- (x) in paragraph 5, in the text substituted for section 1214 (independence requirement) of the Companies Act 2006—
 - (i) in subsection (1), for “and (5)” substitute “, (5) and (5A)”;
 - (ii) after subsection (5), insert—
 - “(5A) This subsection applies if—
 - (a) P is an employee or a member of the specified person who is responsible for appointing the authority’s local auditor;
 - (b) P is a partner or employee of a person falling within paragraph (a), or a partnership of which such a person is a partner.”;
- (y) in addition to the modification made by paragraph 6 to section 1215 (effect of lack of independence), in subsection (1) of that section—
 - (i) omit “and” at the end of paragraph (a);
 - (ii) insert “and” at the end of paragraph (b); and
 - (iii) after paragraph (b), insert—
 - “(c) where the local auditor was appointed by a specified person, give the notice in paragraph (b) also to the specified person.”.
- (z) in relation to an opted in authority, in addition to the modification made by paragraph 7 to section 1216 (effect of appointment of a partnership), in subsection (5) of that section—
 - (i) for “relevant authority” the first time it occurs, substitute “specified person who appointed the local auditor”; and
 - (ii) in paragraph (b) for “relevant authority”, substitute “specified person”.
- (aa) in relation to an opted in authority, in paragraph 16, in the text substituted for section 1248 (Secretary of State’s power to require second audit)—
 - (i) in subsection (1), after “appointed” insert “by a specified person”;

- (ii) in subsections (2) and (5), for “relevant authority” substitute “specified person”;
 - (iii) in subsection (6) for “authority” substitute “specified person”; and
 - (iv) omit subsection (7);
- (bb) in relation to an opted in authority, in paragraph 17, in the text substituted for section 1249 (supplementary provision about second audits)—
- (i) for “relevant authority” the second time it appears, substitute “specified person who appointed the auditor”; and
 - (ii) in subsection (1), after “section 1248” insert “, and must ensure that the authority is either not required to pay a fee for the first audit, or is refunded any fee paid”; and
- (cc) in paragraph 27(3) of Schedule 5, add to the list of definitions to be inserted—
- | | |
|-----------------------|--|
| “smaller authority | section 6(1) of the Local Audit and Accountability Act 2014”; |
| “full audit authority | regulation 2 of the Local Audit (Specified Person) Regulations 2014” |
| “opted in authority | regulation 2 of the Local Audit (Specified Person) Regulations 2014” |
| “specified person | regulation 2 of the Local Audit (Specified Person) Regulations 2014” |

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

After paragraph 1(5)(e) of Schedule 6 insert—

- “(ea) a person specified under regulation 1(2) of the Local Audit (Specified Person) Regulations 2014.”.

Modification of Schedule 11 (disclosure of information)

After paragraph 1(3)(c) of Schedule 11 insert—

- “(ca) a person specified under regulation 1(2) of the Local Audit (Specified Person) Regulations 2014.”.

Section 4

4. Accounts and Audit regulations

Overview

- 4.1** The Accounts and Audit (England) Regulations 2011^f set out requirements on financial management, internal control, internal audit, the content of published accounts and procedures affecting the published accounts, public rights and the audit itself for all relevant authorities except health service bodies. New Accounts and Audit Regulations, to be made under Section 32 of the Local Audit and Accountability Act 2014, will play a similar role in the new local audit framework. The intention remains for there to be, as now, a single set of regulations to cover all relevant authorities (other than health service bodies).
- 4.2** The draft regulations define relevant authorities that are either required to be or choose to be subject to a full audit, as Category 1 authorities. All other authorities are classed as Category 2 authorities.
- 4.3** The draft regulations included in this consultation take account of the views of over 130 respondents who commented on the policy statement and questions in the earlier exercise^g. Since then, further discussions have taken place with a small advisory group containing representatives from the Chartered Institute of Public Finance and Accountancy, the National Audit Office and the Audit Commission and also with the representative bodies of smaller authorities in order to develop these draft regulations.
- 4.4** The two key changes proposed in the draft regulations are:
- An earlier timetable for the preparation and publication of the statements of accounts for Category 1 authorities; and
 - Reform of the rules on the exercise of the public's rights to inspect the accounting records and to put objections and questions to the auditor.
- 4.5** These two changes are discussed in the next two sections, followed by a summary of other changes incorporated in the draft regulations.

Timetable for accounts

- 4.6** In relation to the bringing forward of the timetable for Category 1 authorities; whilst Ministers acknowledge the challenge that this will involve both for the authorities affected and their auditors, the proposal is firmly in line with wider Government moves to improve local government accountability to the public. The points made in the consultation responses about the complexity and length of local authority accounts are acknowledged, and Government will be

^f Link to 2011 regulations: <http://www.legislation.gov.uk/uksi/2011/817/contents/made>

^g Link to November consultation: <http://localaudit.readandcomment.com/>

working with the Chartered Institute of Public Finance and Accountancy to support their current initiatives to simplify the accounts and make them easier for local people to understand. The introduction of a requirement for an explanatory narrative to accompany the statement of accounts is a first step in the necessary changes.

- 4.7** The Government proposes to bring forward the existing dates of 30 June and 30 September to 31 May and 31 July as from the accounts for 2017-18 for accounts being signed and certified by the Responsible Financial Officer and then approved and published. This period of notice is intended to give authorities time to make the necessary changes in their processes, and auditing firms time to adjust their business models accordingly. But it is hoped that authorities will move to the new timetable as soon as they can; some indeed already comply. No change is proposed in the timetable for Category 2 authorities.

Public rights

- 4.8** The previous consultation presented two options for the public inspection and objection periods, and no clear preference emerged in the responses. Subsequent discussions with the advisory group have led to the current proposal to run the accounts inspection and objection periods together from a date determined by the completion of the annual accounts. In summary, the proposal for Category 1 authorities is:

- Once the statement of accounts has been certified by the Responsible Financial Officer as giving a true and fair view it will be published on the authority's website, clearly marked to show that it has not been audited;
- With it a notice will be published stating that the public rights to inspect accounting records and to put objections and questions to the auditor will be available from the following day until a date specified in the notice, not less than 30 working days after the date of the notice;
- The right of inspection will be exercisable on giving reasonable notice to the authority, as is currently the case for smaller relevant bodies;
- As now, authorities will be required to give notice of the conclusion of the audit and of the availability of the audited statement of accounts.

- 4.9** These changes will also apply to Category 2 authorities, but the rights period will start from the date the annual return is made public after it has been approved by members for submission to the auditor. In line with new transparency requirements, the annual return will be made public, along with the notice of rights, either on a website or, where there is no website, on the website of the relevant billing authority. These arrangements will provide a clear and simple framework for the exercise of the public rights with benefits to the public and the authorities, and will remove the need for the auditor to be involved in the setting of the dates.

- 4.10** The Government attaches importance to these rights, which enable local people to retain a close involvement in the audit process. But at the moment the rights are available at different times for different authorities, which can be confusing for those who wish to take advantage of them. So it is proposed to add to the current draft regulations a requirement that authorities should

ensure that the period they set should include a common 10 working day period applicable to all authorities. This might, for example, be the first 10 working days in July. Authorities that had not published their unaudited statement of accounts by the beginning of that period would be required to provide the public rights both during the common period and the 30 working period required by the general rules above. During the common period everyone would know that they could inspect their local council's accounting records and documents and put questions and objections to the auditor.

Q7. Is 30 working days a suitable period for the accounts to be available?

Q8. Do you agree this information should be published electronically?

Q9. Do you agree that a common period for the exercise of public rights should be included in the regulations?

Other changes

4.11 A number of other changes are incorporated in the draft regulations. The most significant are:

- Regulations 4 and 5 (on responsibility for financial management and accounting records and control systems) of the 2011 regulations have been updated, as much is replaced by section 3 of the 2014 Act and other requirements are no longer considered necessary (new regulations 3 and 4);
- In regulation 6 (internal audit) of the 2011 regulations the role of internal audit has been restated to follow modern standards. The requirement for an annual review of internal audit has been removed because such a review will be part of the review of internal control required by regulation 4 (new regulation 5).
- The following regulations in the 2011 Regulations have been omitted:
 - 21, as public rights will no longer depend on a date specified by the auditor,
 - 23, as it is considered incompatible with the role of an auditor to approve a change in accounting records, and
 - 28, as there is no provision in the 2014 Act for extraordinary audits.
- Regulations 17 (passenger transport executives) and 18 (internal drainage boards) in the 2011 Regulations have been omitted as the 2014 Act (Schedule 12, paragraph 50) brings both types of body under the definition of "proper practices in relation to accounts" set out in section 21 of the Local Government Act 2003.

Exempt authorities

4.12 The draft regulations do not at this time set out the adjustments required for the very smallest authorities – those with annual turnover not exceeding £25,000 and otherwise meeting the criteria for exempt status. Although they will not be required to undergo an annual audit, these authorities will still be

required to prepare statements of accounts, and local people will retain rights of inspection and objection. As with other smaller authorities the intention is that the statement of accounts, once approved by members, would be made public and the public rights would be available for 30 working days from that date.

Q10. Do you have any views on the intentions for exempt authorities set out above?

Q11. Do you have any other comments on the proposed Accounts and Audit Regulations?

STATUTORY INSTRUMENTS

2014 No.

LOCAL GOVERNMENT, ENGLAND

Accounts and Audit (England) Regulations 2014

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

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 32 of the Local Audit and Accountability Act 2014^(h) and section 134(6) of the Greater London Authority Act 1999⁽ⁱ⁾, and after having consulted the Comptroller and Auditor General, such representatives of relevant authorities as the Secretary of State thought appropriate, and the recognised supervisory bodies in accordance with section 32(3) of the 2014 Act.

PART 3

Introductory

Citation, commencement and application

1. —(1) These Regulations may be cited as the Accounts and Audit (England) Regulations 2014 and shall come into force on 1st April 2015.

(2) These Regulations shall not apply to statements of accounts for periods beginning before 1st April 2015.

(3) These Regulations apply in relation to England only.

Interpretation

2. —(1) In these Regulations—

“the 1972 Act” means the Local Government Act 1972;

“the 1989 Act” means the Local Government and Housing Act 1989;

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

“billing authority” has the meaning given in section 1(2) of the Local Government Finance Act 1992^(j);

(h)
(i)
(j)

- “Category 1 authority” means a relevant authority that either—
- (a) is not a smaller authority; or
- (b) is a smaller authority that has chosen to prepare its accounts for the purpose of a full audit in accordance with regulation 3 of the Local Audit (Smaller Authorities) Regulations 2014
- “Category 2 authority” means a smaller authority which is not a Category 1 authority;
- “parish meeting” means a parish meeting of a parish not having a separate parish council;
- “period for the exercise of public rights” means the period of time for which local government electors may exercise rights of inspection or objection under sections 26 and 27 of the Act;
- “relevant authority” has the same meaning as the Act but does not include a health service body;
- “smaller authority” has the same meaning as the Act, but does not include a health service body;
- “unaudited accounts” means a statement of accounts that—
- (i) in relation to Category 1 authorities complies with regulations 8(1) and 8(2); and
- (ii) in relation to Category 2 authorities complies with regulation 10(1) and 10(2);
- but has not been subjected to the procedures referred to in section 20(2) of the Act;
- “working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England under the Banking and Financial Dealings Act 1971;
- “year” means the period of 12 months ending with 31st March.
- (2) Any reference in these Regulations to the “responsible financial officer” means—
- (a) The person who, by virtue of—
- (i) section 151 of the 1972 Act (financial administration);
- (ii) section 17(1) of the Norfolk and Suffolk Broads Act 1988 (accounts);
- (iii) section 112(1) of the Local Government and Finance Act 1988 (financial administration as to certain authorities);
- (iv) section 6(1) of the 1989 Act (officer responsible for financial administration of certain authorities);
- (v) paragraph 13(6) of Schedule 7 to the Environment Act 1995 (National Park Authorities);
- as the case may be, is responsible for the administration of the financial affairs of a relevant authority or, if no person is so responsible, the person who is responsible for keeping the accounts of such an authority; or
- (b) if the person referred to in sub-paragraph (a) is unable to act owing to absence or illness, such member of that person’s staff as is nominated by that person for the purposes of section 114 of the Local Government Finance Act 1988 (functions of responsible officer as regards reports) or, if no nomination is made under that section, such member of staff nominated by the person referred to in sub-paragraph (a) for the purposes of these Regulations.
- (3) Any reference in these Regulations to a relevant authority must, in the case of a parish meeting, be construed as a reference to the chairman of that meeting.
- (4) Any reference in these Regulations to an authority’s website must, in the case of a Category 2 authority without its own website, be construed as a reference to the website of a billing authority with an area which encompasses that Category 2 authority, in whole or in part.

PART 4

Financial Management and Internal Control

Responsibility for financial management and internal control

- 3.—**(1) The relevant authority is responsible for ensuring that—

- (a) the financial management of the authority is adequate and effective; and
 - (b) the authority has a sound system of internal control which facilitates the effective exercise of its functions and which includes arrangements for the management of risk.
- (2) The relevant authority must conduct a review of the effectiveness of its system of internal control at least once a year.
- (3) The findings of the review referred to in paragraph (2) must be considered—
- (a) in the case of a Category 1 authority, by the members of the authority meeting as a whole or by a committee; and
 - (b) in the case of Category 2 authority, by the members of the authority meeting as a whole; and following the review, the authority or committee (as the case may be) must approve an annual governance statement.

Accounting records and control systems

4.—(1) Subject to paragraphs (2) and (3), and, in so far as they are not in conflict with those paragraphs, to any instructions given by a relevant authority to its responsible financial officer, that officer must determine, on behalf of the authority—

- (a) the form of its accounting records and supporting records; and
- (b) its accounting control systems;

and such an officer must ensure that the accounting control systems determined by that officer are observed and that the accounting records of the authority are kept up to date.

(2) The accounting records must, in particular, contain—

- (a) entries from day to day of all sums of money received and expended by the authority and the matters to which its income and expenditure or receipts and payments relate; and
- (b) a record of the assets and liabilities of the authority.

(3) The accounting control systems determined in accordance with paragraph (1)(b) must include—

- (a) measures—
 - (i) to ensure that the financial transactions of the authority are recorded as soon as, and as accurately as, reasonably practicable;
 - (ii) to enable the prevention and the detection of inaccuracies and fraud, and the reconstitution of any lost records; and
 - (iii) to ensure that risk is appropriately managed;
- (b) identification of the duties of officers dealing with financial transactions and division of responsibilities of those officers in relation to significant transactions.

Internal audit

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

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

- (a) make available such documents and records; and
 - (b) supply such information and explanations;
- as are considered necessary by those conducting the internal audit on behalf of the authority.

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

PART 5

Published Accounts and Audit – Category 1 Authorities

Statement of accounts for Category 1 authorities

6.—(1) A statement of accounts prepared by a Category 1 authority under section 3(3) of the Act must be prepared in accordance with proper practices in relation to accounts and must include such of the following accounting statements as are relevant to its functions—

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

(2) The statement required by paragraph **Error! Reference source not found.** must include a note—

- (a) demonstrating whether the Dedicated Schools Grant (made under section 14 (power of Secretary of State to give financial assistance for purposes related to education or children etc) of the Education Act 2002(**k**)) has been deployed in accordance with regulations made under sections 45A (determination of specified budgets of local authority), 45AA (power to require local authorities to make initial determination of schools budget), 47 (determination of schools' budget share), 48(1) and (2) (local authorities' financial schemes) and 138(7) (orders and regulations) of, and paragraph 1(7)(b) of Schedule 14 to, the School Standards and Framework Act 1998(**l**);
- (b) except in relation to persons to whom paragraph (c) applies, of the number of employees or senior police officers in the year to which the accounts relate whose remuneration fell in each bracket of a scale in multiples of £5,000 starting with £50,000;
- (c) of the remuneration, set out according to the categories listed in paragraph (3), and the relevant authority's contribution to the person's pension, by the relevant authority during the relevant year of—
 - (i) senior employees, or
 - (ii) relevant police officers,

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

(3) The categories are:

- (i) the total amount of salary, fees or allowances paid to or receivable by the person in the current and previous year;
- (ii) the total amount of bonuses so paid or receivable in the current and previous year;
- (iii) the total amount of sums paid by way of expenses allowance that are chargeable to United Kingdom income tax, and were paid to or receivable by the person;
- (iv) the total amount of any compensation for loss of employment paid to or receivable by the person, and any other payments made to or receivable by the person in connection with the

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

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

termination of their employment by the relevant authority, or, in the case of a relevant police officer, the total amount of any payment made to a relevant police officer who ceases to hold office before the end of a fixed term appointment;

- (v) the total estimated value of any benefits received by the person otherwise than in cash that do not fall within (i) to (iv) above, are emoluments of the person, and are received by the person in respect of their employment by the relevant authority or in their capacity as a police officer; and
- (vi) in relation to relevant police officers, any payments, whether made under the Police Regulations 2003(m) or otherwise, which do not fall within (i) to (v) above.

(4) In this regulation—

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

- (a) in relation to contributions to the local government pension scheme established under section 1 of the Public Service Pensions Act 2013(n), the sum of—
 - (i) the primary and secondary rate of the employer’s contribution specified in the rates and adjustment certificate prepared under regulation 62 (actuarial valuations of pension funds) of the Local Government Pension Scheme Regulations 2013, being the amount appropriate for that authority calculated in accordance with the certificate and regulations 67(4) and 67(6) (employer’s contributions) of those Regulations, multiplied by the person’s pensionable pay; and
 - (ii) if applicable, any additional contribution under regulation 68(3) of those Regulations.
- (b) in relation to contributions to the firefighters’ pension scheme established under the Fire Services Acts 1947 and 1959(o), the percentage of the aggregate of the pensionable pay calculated for the purposes of paragraph G2(3) and (4) of Schedule 2 to the Firemen’s Pension Scheme Order 1992(p), multiplied by the person’s pensionable pay;
- (c) in relation to contributions to the firefighters’ pension scheme established under the Fire and Rescue Services Act 2004(q), the percentage of the aggregate of the pensionable pay calculated for the purposes of paragraphs (2) and (3) of Rule 2 of Part 13 of Schedule 1 to the Firefighters’ Pension Scheme (England) Order 2006(r), multiplied by the person’s pensionable pay;
- (d) in relation to contributions to police pension schemes established under the Police Pensions Regulations 1987(s) or the Police Pensions Regulations 2006(t), the percentage of pensionable pay specified in regulation 5(1) (police authority contributions) of the Police Pension Fund Regulations 2007(u), multiplied by the person’s pensionable pay;

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

“relevant police officer” means—

- (a) in relation to a police force maintained under section 2 (maintenance of police forces) of the Police Act 1996(v), the chief constable,
- (b) in relation to the metropolitan police force, the Commissioner of Police of the Metropolis,

(m) S.I. 2003/527. There are amendments not relevant to these Regulations.

(n) 2013 c. 25

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

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

(q) 2004 c. 21.

(r) S.I. 2006/3432.

(s) S.I. 1987/257.

(t) S.I. 2006/3415.

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

(v) 1996 c. 16.

(c) in relation to the City of London police force, the Commissioner of Police for the City of London, and

(d) any other senior police officer whose salary is £150,000 per year or more;

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

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

(a) a person employed by a relevant authority to which section 2 (politically restricted posts) of the 1989 Act applies who—

(i) has been designated as head of paid service under section 4(1)(a);

(ii) is a statutory chief officer within the meaning of section 2(6)(w) of that Act; or

(iii) is a non-statutory chief officer within the meaning of section 2(7) of that Act;

(b) a person who is the head of staff for any relevant authority to which section 4 of the 1989 Act does not apply; or

(c) a person who has responsibility for the management of the relevant authority to the extent that the person has power to direct or control the major activities of the authority (in particular activities involving the expenditure of money), whether solely or collectively with other persons; and

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

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

(a) a credit of an amount in respect of any charge for depreciation included in the housing revenue account for that year under item 8 of Part 2 of Schedule 4 to the 1989 Act;

(b) a debit in respect of any capital expenditure, within the meaning of section 16 (“capital expenditure”) of the Local Government Act 2003(y), which was—

(i) incurred in that year,

(ii) met by payments out of the major repairs reserve, and

(iii) in respect of any land, houses or other property to which section 74(1) of the 1989 Act for the time being applies, other than capital expenditure for the purpose of demolition of any such property;

(c) a debit in respect of any repayment, made in that year, of the principal of any amount borrowed where the repayment was met by payments out of the major repairs reserve; and

(d) a debit in respect of the meeting of any liability, in that year, in respect of credit arrangements, other than any liability which, in accordance with proper practices in relation to accounts, must be charged to a revenue account, where the meeting of that liability was met by payments out of the major repairs reserve.

(6) A Category 1 authority or responsible financial officer (as the case may be) must, when considering, approving, publishing or preparing for the exercise of public rights the statement of accounts prepared under this regulation, ensure that that statement of accounts is accompanied by—

(i) an annual governance statement under regulation 3(3); and

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

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

(y) 2003 c. 26.

- (ii) a narrative statement under regulation 7.

Narrative Statements

7.—(1) A Category 1 authority must prepare a narrative statement in accordance with paragraph (2).

(1) A narrative statement must include comment by the relevant authority on their financial performance and value for money outcomes over the year, in accordance with proper practices.

Signing, approval and publication of statement of accounts for Category 1 authorities

8.—(1) A Category 1 authority must ensure that the statement of accounts required by paragraph **Error! Reference source not found.** of regulation 6 is prepared in accordance with these Regulations.

(2) Before the approval referred to in paragraph (3) is given, the responsible financial officer of a Category 1 authority must, as soon is reasonably practicable but in any event no later than 31st May immediately following the end of a year—

- (a) sign and date the statement of accounts, and certify that it presents a true and fair view of the financial position of the authority at the end of the year to which it relates and of that authority's income and expenditure for that year;
- (b) commence the period for the exercise of public rights in accordance with regulation 12; and
- (c) as soon as reasonably practicable, notify the local auditor of the date on which that period was so commenced.

(3) Subject to paragraph (4), a Category 1 authority must, no later than 31st July in the year immediately following the end of the year to which the statement relates—

- (a) consider either by way of a committee or by the members meeting as a whole the statement of accounts;
- (b) following that consideration, approve the statement of accounts by a resolution of that committee or meeting;
- (c) following approval, ensure that the statement of accounts is signed and dated by the person presiding at the committee or meeting at which that approval was given; and
- (d) publish (which must include publication on the authority's website), the statement of accounts together with any certificate, opinion, or report issued, given or made by the auditor under section 20(2) of the Act (general report).

(4) The responsible financial officer must re-certify the presentation of the statement of accounts before the relevant authority approves it.

(5) Where an audit of accounts has not been concluded before the date specified in paragraph (3) the authority must publish (which must include publication on the authority's website) as soon as reasonably practicable on or after that date a notice stating that it has not been able to approve the accounts and its reasons for this.

(6) Following the publication of a notice under paragraph (5) the authority must comply with paragraph (3) as if for "no later than 31st July" there were substituted "as soon as reasonably practicable" where this is taken to mean as soon as reasonably practicable after the receipt of any report from the auditor which contains the auditor's final findings from the audit which is issued before the conclusion of the audit.

(7) Where documents are published under paragraph (3)(d), the authority must—

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

PART 6

Published Accounts and Audit – Category 2 Authorities

Statement of accounts for Category 2 authorities

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

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

prepared in accordance with, and in the form specified in any Annual Return required by, proper practices in relation to accounts;

(2) Where in relation to a Category 2 authority, the gross income or expenditure (whichever is the higher) was not more than £200,000 for the year or for either of the two immediately preceding years, the statement of accounts may, instead of complying with paragraph (1), take the form of a record of receipts and payments of the authority in relation to that year prepared in accordance with, and in the form specified in any Annual Return required by, proper practices in relation to accounts.

(3) A Category 2 authority or its responsible financial officer (as the case may be) must, when considering, approving, publishing or preparing for exercise of public rights the statement of accounts prepared under this regulation, ensure that that statement of accounts is accompanied by an annual governance statement as referred to in regulation 3(3).

Signing, approval and publication of statements of accounts for Category 2 authorities

10. (1) A Category 2 authority must ensure that the statement of accounts required by regulation 9 is prepared in accordance with these Regulations.

(2) Before the approval referred to in paragraph (3) is given, the responsible financial officer of the authority must—

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

(3) A Category 2 authority must, not later than 30th June—

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

(4) Once the obligations in relation to the statement of accounts under paragraph (3) have been fulfilled, the responsible financial officer must, as soon as is reasonably practicable but in any event not later than one week thereafter—

- (a) commence the period for the exercise of public rights in accordance with regulation 12; and
- (b) notify the local auditor of the date on which that period was so commenced.

(5) A Category 2 authority must, not later than 30th September in the year immediately following the end of the year to which the statement relates, publish (which must include publication on the authority's website) the statement of accounts together with any certificate, opinion, or report issued, given or made by the auditor under section 20(2) of the Act.

(6) Where documents are published under paragraph (5), the authority must—

- (a) keep copies of those documents for purchase by any person on payment of a reasonable sum; and

- (b) ensure that those documents published on the authority's website remain available for public access for a period of not less than five years from the date on which those documents were first published in accordance with that paragraph.

PART 7

Inspection and Notice Procedure

Procedure for public rights

11. —(1) Where the responsible financial officer commences a period for the exercise of public rights under these Regulations, the relevant authority for which that responsible financial officer acts must make the accounts and other documents mentioned in section 26 of the Act (inspection of documents etc) available for inspection on reasonable notice for 30 working days starting with the day following the day on which the period for public the exercise of public rights accounts is commenced by the responsible financial officer.

(2) The exercise of rights under sections 26 and 27 of the Act is limited to the period of 30 working days referred to in paragraph (1).

Commencement of period for the exercise of public rights

12. —(1) To commence a period for the exercise of public rights, the responsible financial officer must—

- (a) publish on the website of the authority for which that responsible financial officer acts the unaudited accounts accompanied by a declaration, signed by that officer confirming—
 - (i) the status of the statement of accounts as unaudited; and
 - (ii) that the statement of accounts as published may be subject to change; and
- (b) give notice of public rights in accordance with regulation 13.

and the period is treated as being so commenced only when all of the obligations referred to in this paragraph have been fulfilled.

Notice of public rights

13. —(1) A relevant authority must give notice of public rights in accordance with the remainder of this regulation.

(1) To give notice of public rights the relevant authority must, for such a period of time as it considers reasonable, publish (which must include publication on the authority's website) a statement of the matters set out in paragraph (3).

(2) The matters referred to in paragraph (1) are—

- (a) the period for the exercise of public rights;
- (b) details of the manner in which notice should be given of an intention to inspect the accounts and other documents;
- (c) the name and address of the auditor; and
- (d) the provisions contained in section 26 (inspection of documents etc) and section 27 (right to make objections at audit) of the Act.

Notice of conclusion of audit

14. —(1) As soon as reasonably possible after conclusion of an audit, a relevant authority must, for such a period of time as it considers reasonable, publish (which must include publication on the authority's website) a statement of the matters set out in paragraph (2).

(1) The matters referred to in paragraph (1) are—

- (a) a statement—
 - (i) that the audit has been concluded and that the statement of accounts is available for inspection by local government electors for inspection; and
 - (ii) of the rights conferred on local government electors by section 25 of the Act;
- (b) the address at which, and the hours during which, those rights may be exercised.

PART 6

Miscellaneous

Summary statement of accounts— Greater London Authority

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

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

Joint boards, combined authorities and National Park authorities

16. —(1) Any joint board, combined authority or National Park authority to which these regulations apply, must deposit with each constituent authority any documents it makes available for inspection under section 25(1) of the Act, as soon as reasonably practicable once notice has been given under regulation 14.

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

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

Publication of annual audit letter

17. —(1) As soon as reasonably practicable after receipt of any audit letter from the local auditor, the members of the Category 2 authority, or in the case of a Category 1 authority, a committee of that authority, must meet to consider that letter.

(2) Following consideration under paragraph (1) the authority must—

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

Transitional provisions

18. —(1) For an authority preparing accounts for the year commencing 1st April 2015 and 1st April 2016, regulation 8 applies with the following modifications—

^(z) 1999 c. 29.

- (a) Sub-paragraph (2) is to be read as if for the words “31st May” there were substituted “30th June”;
- (b) Sub-paragraph (3) is to be read as if for the words “31st July” there were substituted “30th September”.

Signatory text

Address	<i>Name</i>
Date	Parliamentary Under Secretary of State Department

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 5

5. Transparency Code for internal drainage boards, charter trustees and port health authorities with a turnover not exceeding £25,000

Overview

- 5.1** In the new audit framework, smaller authorities with an annual turnover not exceeding £25,000 will be exempt from routine external audit.^{aa} Instead, these authorities will be subject to the new transparency requirements laid out in the following draft Code.
- 5.2** Section 2 of the Local Government, Planning and Land Act 1980 (“the 1980 Act”) enables the Secretary of State to issue a code of recommended practice as to the publication of information by local authorities about the discharge of their functions and other matters which he considers to be related. Section 38 of the 2014 Act amends section 2 of the 1980 Act to include other categories of smaller authorities not previously covered by the 1980 Act. These include, but are not limited to, internal drainage boards, charter trustees and port health authorities.
- 5.3** The intention of these proposals is for this Code to act as an audit substitute, enabling local people to access the information they need about the body’s accounts and governance in order to hold them to account. It is issued to meet the Government’s desire to place more power into citizens’ hands to increase democratic accountability. Most of this information is already produced by the majority of smaller authorities, and the Government therefore considers that compliance with this Code will not place a significant burden on these authorities. A revised impact assessment on the 2014 Act will be published in mid-2014.
- 5.4** We have already consulted on the Government’s intention to introduce an audit-substitute transparency code for these smaller authorities. The Government consulted on these proposals in July- August 2012 and its response to the consultation was published in October 2012.^{bb} The government also consulted on a draft transparency code for parish councils in March and April 2014.^{cc}
- 5.5** In accordance with section 3(11) of the 1980 Act, the Government is consulting on a draft Code of recommended practice for internal drainage boards, charter trustees and port health authorities with an annual turnover

aa Turnover is defined as the higher of the authority’s gross income for the year and its gross expenditure for the year.

bb <https://www.gov.uk/government/consultations/draft-local-audit-bill>

cc <https://www.gov.uk/government/consultations/draft-transparency-code-for-parish-councils>

not exceeding £25,000 to publish the information specified in the Code. The Government intends to issue the following Code, subject to responses to the specific questions which are included at the relevant point of the draft Code below.

- 5.6** The Government proposes that the Code should be mandatory and therefore intends to make regulations under section 3 of the 1980 Act. Regulations would require internal drainage boards, charter trustees and port health authorities with an annual turnover not exceeding £25,000 to publish the data specified in the Code in the manner and form and on the occasions specified in the Code. This is considered necessary because the Code will be a direct substitute for routine external audit.
- 5.7** The Government is also consulting on whether the requirement to publish the location of public land and non-infrastructure building assets should apply to internal drainage boards and charter trustees. Specialist internal drainage board assets include land used for flood management and infrastructure such as watercourses, pumping stations, sluices, etc. The Government considers that it would be unreasonably onerous to place them under a duty to publish such information. Charter trustees are not permitted to own either land or buildings under the Charter Trustees Order (1974), and the requirement to publish this information would therefore not be relevant.

Draft transparency code for internal drainage boards, charter trustees and port health authorities with a turnover not exceeding £25,000

Part 1: Introduction

Policy context

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

Application

4. This Code is issued by the Secretary of State for Communities and Local Government in exercise of his powers under section 2 of the Local Government, Planning and Land Act 1980 ("the 1980 Act"), as amended by section 38 of the Local Audit and Accountability Act 2014, to issue a Code of Recommended Practice as to the publication of information by local authorities about the discharge of their functions and other matters which he considers to be related.
5. This Code does not replace or supersede the existing legal framework for access to and re-use of public sector information provided by the Freedom of Information Act 2000 (as amended by the Protection of Freedoms Act 2012), Environmental Information Regulations 2004, the Re-use of Public Sector Information Regulations 2005 and Infrastructure for Spatial Information in the European Community (INSPIRE) Regulations 2009.

^{dd} DCLG consulted on the specific circumstances where the exemption will not apply in 2013. A summary of responses to the consultation is available at: <https://www.gov.uk/government/consultations/future-of-local-audit-consultation-on-secondary-legislation>.

6. This Code applies to internal drainage boards, charter trustees and port health authorities in England with an annual turnover not exceeding £25,000. Turnover is defined as the higher of an authority's gross income for the year and its gross expenditure for the year.^{ee}

Q12. Do you agree that the Code should be mandatory for internal drainage boards, charter trustees and port health authorities with an annual turnover not exceeding £25,000?

Data protection

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

Part 2: Information which should be published

9. Smaller authorities should publish:
- a. all items of expenditure (see paragraphs 12 and 13);
 - b. end of year accounts (see paragraphs 14 and 15);
 - c. annual governance statement (see paragraphs 16 and 17);
 - d. internal audit report (see paragraphs 18 – 21);
 - e. agendas, approved minutes and papers of formal meetings (see paragraphs 22 and 23); and
 - f. list of councillor or member responsibilities (see paragraph 24).
- In addition, port health authorities should publish:

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

- g. the location of public land and building assets (see paragraphs 25 and 25).
- 10. The data and information referred to in this section should be published annually and no later than 1 July of each year. This is particularly important to enable local government electors, council tax payers and ratepayers to scrutinise financial information so that they are able to exercise their rights to question and make objections to the auditor.
- 11. Smaller authorities must publish the information specified in the Code on the occasions specified in the Code. Smaller authorities may wish to publish certain types of information, for example the agendas and approved minutes of formal meetings, more frequently than once a year.

All items of expenditure

- 12. Authorities should publish details of each individual item of expenditure.^{ff}
- 13. Copies of all books, deeds, contracts, bills, vouchers, receipts and other related documents do not need to be published, but should remain available for inspection by interested persons during the specified audit inspection period set out under regulation 14 of the Accounts and Audit (England) Regulations 2011, or under equivalent regulations to be made under section 32 of the Local Audit and Accountability Act 2014. The right to inspect can be exercised on giving reasonable notice.

Q13. Should there be a threshold above which individual items of expenditure must be published? If yes what should this threshold be (e.g. £50, £100)?

End of year accounts

- 14. Authorities should publish their statement of accounts according to the format included in the Annual Return audit form. Publication of the relevant page of the completed Annual Return form will meet this requirement. The statement of accounts must be approved and signed by the Responsible Financial Officer and the Chairman of the meeting approving the statement of accounts.
- 15. The statement of accounts should be accompanied by:
 - a. a copy of the bank reconciliation for the relevant financial year;
 - b. an explanation of any significant variances (e.g. more than 10-15 percent, in line with proper practices) in the statement of accounts for the relevant year and previous year; and
 - c. an explanation of any differences between 'balances carried forward' and 'total cash and short term investments', if applicable.

Annual governance statement

- 16. Authorities should publish their annual governance statement according to the format included in the Annual Return audit form. Publication of the relevant

^{ff} The amount should be, where possible, the net amount excluding recoverable Value Added Tax. Where Value Added Tax cannot be recovered – or the source of the data being used cannot separate out recoverable Value Added Tax – then the gross amount should be used instead with a note stating that the gross amount has been used.

page of the completed Annual Return form will meet this requirement. The annual governance statement should be signed by the Chairman and Clerk of the authority.

17. Where the governance statement contains any negative responses, these should be explained fully, including how any weaknesses will be addressed.

Internal audit report

18. Authorities should publish their annual internal audit report according to the format included in the Annual Return audit form. Publication of the relevant page of the completed Annual Return form will meet this requirement. The internal audit report should be signed by the person who carried out the internal audit.
19. Where the internal audit report contains any negative response to the internal controls objectives, these should be explained fully, including how any weaknesses will be addressed.
20. Where the response to any internal controls objectives is 'not covered', an explanation of when the most recent internal audit work was completed in this area and when it is next planned should be provided. If coverage is not required, an explanation stating why coverage is not needed should be provided.
21. Authorities should also publish any additional internal audit reports, where available.

Q14. What exemptions – if any – would need to be made to information published to explain negative responses to the internal controls objectives (e.g. information relating to a current fraud case)?

Minutes, agendas and papers of formal meetings

22. Authorities should publish the agenda and approved minutes from all formal meetings (full council or board, committee and sub-committee meetings).
23. The papers of formal meetings (other than the agenda and approved minutes) do not need to be published, but should be made available to interested parties upon request.

List of councillor or member responsibilities

24. Authorities should publish a list of councillor or member responsibilities. This includes the following information:
 - a. names of all councillors or members;
 - b. committee or board membership and function (if Chairman or Vice-Chairman); and
 - c. representation on external local public bodies (if nominated to represent the authority or board).

Location of public land and building assets

25. Authorities should publish details of all public land and building assets. Where this information is included in the authority's asset and liabilities register, this register may be published in its entirety or as an edited version displaying only public land and building assets.
26. In accordance with proper practices, an authority's asset and liabilities register should include the following information on public land and building assets:
 - a. description (what it is, including size/acreage);
 - b. location (address or description of location);
 - c. owner/custodian, e.g. the authority or board manages the land or asset on behalf of a local charity;
 - d. date of acquisition (if known);
 - e. cost of acquisition (or proxy value); and
 - f. present use.

Q15. The Government proposes that internal drainage boards will be exempt from publishing the details of public land and infrastructure assets. Do you agree?

Q16. The Government proposes that charter trustees will be exempt from publishing the details of public land and building assets. Do you agree?

Part 3: Method of publication

27. Public data should be as accurate as possible at first publication. While errors may occur, the publication of information should not be unduly delayed to rectify mistakes. Instead, publication should be used to help address any imperfections and deficiencies. The best way to achieve this is by having robust information management processes in place. Where errors in public data are discovered, or files are changed for other reasons (such as omissions), authorities should publish revised information making it clear where and how there has been an amendment.
28. The data must be published electronically. This could be achieved by publishing the data on the authority's website or that of the billing authority in its area (district or London borough or unitary council).

Q17. Do you agree this information should be published electronically?

Q18. How much additional staff time and cost will be involved for authorities in publishing the required data online?

Draft transparency code for internal drainage boards, charter trustees and port health authorities with a turnover not exceeding £25,000

Public data that internal drainage boards, charter trustees and port health authorities should publish:

Information title	Information which should be published
All items of expenditure	Annual publication no later than 1 July. Publish details of each individual item of expenditure or payment. Copies of all books, deeds, contracts, bills, vouchers, receipts and other related documents do not need to be published but should remain available for inspection.
End of year accounts	Annual publication no later than 1 July. Publish signed statement of accounts according to the format included in the Annual Return audit form. It should be accompanied by: <ul style="list-style-type: none"> a) a copy of the bank reconciliation for the relevant financial year; b) an explanation of any significant variances (e.g. more than 10-15 percent) in the statement of accounts for the relevant year and previous year; and c) an explanation of any differences between 'balances carried forward' and 'total cash and short term investments', if applicable.
Annual governance statement	Annual publication no later than 1 July. Publish signed annual governance statement according to the format included in the Annual Return audit form. Explain any negative responses to governance statements, including how any weaknesses will be addressed.
Internal audit report	Annual publication no later than 1 July. Publish internal audit report according to the format included in the Annual Return audit form. It should be signed by the person who carried out the internal audit. Explain any negative response to the internal controls objectives, including how any weaknesses will be addressed. Explain any 'not covered' responses to internal controls objectives. Publish any additional internal audit report, where available.
Agendas, approved minutes and papers of formal meetings	Annual publication of agenda and approved minutes from all formal meetings (full council or board, committee and sub-committee meetings). No requirement to publish papers of formal meetings, but make them available upon request.

Information title	Information which should be published
<p>List of councillor or member responsibilities</p>	<p>Annual publication of councillor or member responsibilities, including:</p> <ul style="list-style-type: none"> a) names of all councillors or members; b) committee or board membership and function (if Chairman or Vice-Chairman); and c) representation on external local public bodies (if nominated to represent the authority or board).
<p>Location of public land and building assets</p> <p>(Internal Drainage Boards to publish non-infrastructure building assets only; charter trustees are not required to publish this information)</p>	<p>Annual publication no later than 1 July.</p> <p>Publish details of all public land and building assets – either in the authority’s full asset and liabilities register or as an edited version. Information should include:</p> <ul style="list-style-type: none"> a) description (what it is, including size/acreage); b) location (address or description of location); c) owner / custodian, e.g. the authority manages the land or asset on behalf of a local charity; d) date of acquisition (if known); e) cost of acquisition (or proxy value); and f) present use.

List of Questions

Smaller Authorities

Q1. Do the regulations meet the Government's policy objective at Paragraph 2.1?

Q2. Do you have any other comments on the proposed smaller authorities regulations?

Q3. Do you agree with the differing proposals regarding the appointment of auditors to exempt authorities which are opted-in and those which are opted-out of the specified person's auditor appointment regime?

Collective Procurement

Q4. Should regulations require that the decision to opt-in to sector-led arrangements is made by full council?

Q5. Do you agree that the maximum length appointing period should be restricted to five years?

Q6. Do you have any other comments on the proposed collective procurement regulations?

Accounts and Audit Regulations

Q7. Is 30 working days a suitable period for the accounts to be available?

Q8. Do you agree this information should be published electronically?

Q9. Do you agree that a common period for the exercise of public rights should be included in the regulations?

Q10. Do you have any views on the intentions for exempt authorities set out above?

Q11. Do you have any other comments on the proposed Accounts and Audit Regulations?

Transparency Code

Q12. Do you agree that the Code should be mandatory for internal drainage boards, charter trustees and port health authorities with an annual turnover not exceeding £25,000?

Q13. Should there be a threshold above which individual items of expenditure must be published? If yes what should this threshold be (e.g. £50, £100)?

Q14. What exemptions – if any – would need to be made to information published to explain negative responses to the internal controls objectives (e.g. information relating to a current fraud case)?

Q15. The Government proposes that internal drainage boards will be exempt from publishing the details of public land and infrastructure assets. Do you agree?

Q16. The Government proposes that charter trustees will be exempt from publishing the details of public land and building assets. Do you agree?

Q17. Do you agree this information should be published electronically?

Q18. How much additional staff time and cost will be involved for authorities in publishing the required data online?

Keeling Schedule for the Local Audit (Smaller Authorities) Regulations 2014

This schedule shows, for the purposes of illustrating modifications made by the above named regulations, the text which results from the modifications. All provisions are in the Local Audit and Accountability Act 2014, except where indicated, where modifications have been made to the Companies Act 2006.

Part 3 (appointment etc of local auditors)

7 Appointment of local auditor [In relation to an opted in authority which is not an exempt authority]

- (1) The specified person must appoint a local auditor to audit the accounts of an opted in authority for a financial year not later than 31 December in the preceding financial year.
- (2) The specified person may appoint a local auditor to audit the accounts for more than one financial year; and in such a case—
 - (a) subsection (1) does not apply in relation to the second or any subsequent year for which the appointment is made, but
 - (b) the specified person must make a further appointment of a local auditor at least once every 5 years.
- (3) Subsection (2)(b) does not prevent the specified person from re-appointing a local auditor.
- (4) The Secretary of State may by regulations amend subsection (2)(b) so as to alter the period for the time being specified in it.
- (5) A local auditor appointed under this section—
 - (a) must be eligible for appointment as a local auditor (see Part 4), and
 - (b) must not be prohibited from acting as a local auditor of the accounts of the relevant authority by virtue of section 1214 of the Companies Act 2006 (independence requirement) as it has effect by virtue of Schedule 5.
- (6) Two or more local auditors may be appointed to audit the accounts of an authority, and those auditors may be appointed—
 - (a) to act jointly in relation to some or all parts of the accounts;
 - (b) to act separately in relation to different parts of the accounts;
 - (c) to carry out different functions in relation to the audit.
- (7) If, as a result of an appointment under subsection (6)(b) or (c), a function under this Act may be exercised by two or more local auditors—
 - (a) it may be exercised by both or all of them acting jointly or by such one or more of them as they may determine, and
 - (b) references (however expressed) to the local auditor by whom the function is or has been exercised are to the auditors by whom it is or has been exercised.
- (8) Schedule 3 makes further provision about the appointment of local auditors; and this section is subject to that Schedule and provision made under it.

7 Appointment of local auditor [in relation to an exempt authority]

- (5) A local auditor appointed under this section—
- (a) must be eligible for appointment as a local auditor (see Part 4), and
 - (b) must not be prohibited from acting as a local auditor of the accounts of the relevant authority by virtue of section 1214 of the Companies Act 2006 (independence requirement) as it has effect by virtue of Schedule 5.
- (6) Two or more local auditors may be appointed to audit the accounts of a relevant authority, and those auditors may be appointed—
- (a) to act jointly in relation to some or all parts of the accounts;
 - (b) to act separately in relation to different parts of the accounts;
 - (c) to carry out different functions in relation to the audit.
- (7) If, as a result of an appointment under subsection (6)(b) or (c), a function under this Act may be exercised by two or more local auditors—
- (a) it may be exercised by both or all of them acting jointly or by such one or more of them as they may determine, and
 - (b) references (however expressed) to the local auditor by whom the function is or has been exercised are to the auditors by whom it is or has been exercised.
- (8) Schedule 3 makes further provision about the appointment of local auditors; and this section is subject to that Schedule and provision made under it.

8 Procedure for appointment

[Omitted in relation to an exempt authority]

[In relation to an opted in authority other than an exempt authority]

- (2) The opted in authority must, within the period of 28 days beginning with the day on which the appointment is made, publish a notice that—
- (a) states that the specified person has made the appointment,
 - (b) identifies the local auditor that has been appointed, and
 - (c) specifies the period for which the local auditor has been appointed.
- (3) The notice must be published—
- (a) if the authority has a website, on its website;
 - (b) otherwise, in accordance with subsection (4).
- (4) An authority publishes a notice in accordance with this subsection if—
- (a) it publishes the notice in such manner as it thinks is likely to bring the notice to the attention of persons who live in its area;
- (5) The authority must exclude from the notice information whose disclosure would prejudice commercial confidentiality, unless there is an overriding public interest in favour of its disclosure.
- (6) This section is subject to Schedule 3 (further provision about appointment of local auditors) and provision made under it.

9 Requirement to have auditor panel

- (1) Each relevant authority other than an opted in authority must have an auditor panel to exercise the functions conferred on auditor panels by or under this Act.

(1A) An authority may have an auditor panel at any time, but that panel must not be consulted about—

- (a) whether or not the authority is to become an opted in authority; or
- (b) matters relating to an auditor appointed by a specified person; or
- (c) matters relating to an audit carried out by an auditor appointed by a specified person.

(2) This section does not apply to—

- (a) a chief constable, or
 - (b) the Commissioner of Police of the Metropolis.
- (3) Schedule 4 makes further provision about auditor panels.

10 Functions of auditor panel

(A1) This section is subject to section 9.

(1) A relevant authority's auditor panel must advise the authority on the maintenance of an independent relationship with the local auditor appointed to audit its accounts.

(2) Advice under subsection (1) to a police and crime commissioner for an area must include advice on the maintenance of an independent relationship between the local auditor and the chief constable for the area.

(3) Advice under subsection (1) to the Mayor's Office for Policing and Crime must include advice on the maintenance of an independent relationship between the local auditor and the Commissioner of Police of the Metropolis.

(4) A relevant authority's auditor panel must advise the authority on the selection and appointment of a local auditor to audit its accounts.

(5) Advice under subsection (1) or (4) must be given—

- (a) if the relevant authority asks for it, and
- (b) at other times, if the auditor panel thinks it is appropriate to do so.

(6) A relevant authority's auditor panel must advise the authority on any proposal by the authority to enter into a liability limitation agreement (see section 14).

(7) Advice under subsection (6) must be given if the authority asks for it.

(8) The Secretary of State may by regulations—

(a) provide more details about an auditor panel's functions under any of subsections (1) to (7);

(b) confer or impose other functions on a relevant authority's auditor panel in relation to the audit of the authority's accounts;

(c) enable a relevant authority to confer or impose other functions on its auditor panel in relation to the audit of its accounts.

(9) A relevant authority must publish advice from its auditor panel in accordance with subsection (10).

(10) A relevant authority publishes advice in accordance with this subsection if—

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

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

- (i) persons who live in the area of the group, and
- (ii) persons who do not live in the area of the group but for whom the group is responsible;

(c) in the case of special trustees for a hospital, they publish the advice in such manner as they think is likely to bring the advice to the attention of persons to whom services are provided at that hospital.

(11) The relevant authority must exclude from advice published under subsection (10) information whose disclosure would prejudice commercial confidentiality, unless there is an overriding public interest in favour of its disclosure.

(12) An auditor panel must have regard to any guidance issued by the Secretary of State in exercising, or deciding whether to exercise, its functions.

(13) A relevant authority must have regard to any guidance issued by the Secretary of State in exercising, or deciding whether to exercise, its functions in relation to its auditor panel.

12 Failure to appoint local auditor [If a specified person fails to appoint]

(1) If a specified person fails to appoint a local auditor to an opted in authority in accordance with this Part and the Local Audit (Smaller Authorities) Regulations 2014, the authority must immediately inform the specified person and the Secretary of State of that fact.

(2) If it appears to the Secretary of State that a specified person has failed to appoint a local auditor to an opted in authority in accordance with this Part and the Local Audit (Smaller Authorities) Regulations 2014, the Secretary of State may—

(a) direct the authority to appoint the auditor named in the direction,

(ab) direct that specified person to appoint an auditor, or

(b) appoint a local auditor on behalf of the authority.

(2A) An appointment under subsection (2)(ab) takes effect on such terms as the Secretary of State may direct.

(3) An appointment under subsection (2)(b) takes effect—

(a) as if it had been made by the authority, and

(b) on such terms as the Secretary of State may direct.

(4) The Secretary of State must—

(a) inform the authority (and the specified person where the Secretary of State intends to direct the specified person) of the intention to give a direction or appoint a local auditor under subsection (2) not less than 28 days before the direction is given or the appointment made, and

(b) consider any representations made by the authority or the specified person regarding the proposed direction or appointment.

(5) But the Secretary of State may give a direction or make an appointment under subsection (2) without having complied with subsection (4) if the Secretary of State thinks it is likely that a local auditor would have to exercise a function under this Act in relation to an authority within the period of 60 days beginning with the day on which the direction is given or the appointment is made.

12 Failure to appoint local auditor [If a smaller authority fails to appoint]

(1) If a smaller authority fails to appoint a local auditor in accordance with this Part and the Local Audit (Smaller Authorities) Regulations 2014, the authority must immediately inform the Secretary of State of that fact.

(2) If it appears to the Secretary of State that a smaller authority has failed to appoint a local auditor in accordance with this Part, the Secretary of State may—

(a) direct the authority to appoint the auditor named in the direction,

- (ab) direct the person who is specified under regulation 5(2) of the Local Audit (Smaller Authorities) Regulations 2014 in relation to the class of smaller authorities within which the authority falls, to appoint an auditor, or
- (b) appoint a local auditor on behalf of the authority.
- (2A) An appointment under subsection (2)(ab) takes effect on such terms as the Secretary of State may direct.
- (3) An appointment under subsection (2)(b) takes effect—
 - (a) as if it had been made by the authority, and
 - (b) on such terms as the Secretary of State may direct.
- (4) The Secretary of State must—
 - (a) inform the authority (and the specified person where the Secretary of State intends to direct the specified person) of the intention to give a direction or appoint a local auditor under subsection (2) not less than 28 days before the direction is given or the appointment made, and
 - (b) consider any representations made by the authority or the specified person regarding the proposed direction or appointment.
- (5) But the Secretary of State may give a direction or make an appointment under subsection (2) without having complied with subsection (4) if the Secretary of State thinks it is likely that a local auditor would have to exercise a function under this Act in relation to an authority within the period of 60 days beginning with the day on which the direction is given or the appointment is made.

Part 5 (conduct of local auditors)

20 General duties of auditors [In relation to a smaller authority other than a full audit or exempt authority]

- (1) In auditing the accounts of a smaller authority other than an exempt authority, a local auditor must, by examination of the accounts and otherwise, be satisfied—
 - (a) that the accounts comply with the requirements of the enactments that apply to them,
 - (b) that proper practices have been observed in the preparation of the statement of accounts, and
 - (c) that the authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
- (2) Subject as follows, when a local auditor has completed an audit of the accounts of an authority, the auditor must enter on the statement of accounts—
 - (a) a certificate that the auditor has completed the audit in accordance with this Act, and
 - (b) the auditor's opinion on the statement.
- (3) If, for any part of the period for which an authority is required to prepare a statement of accounts, the authority is required to maintain a pension fund under regulations under section 1 of the Public Service Pensions Act 2013 as they relate to local government workers (within the meaning of that Act), the authority's local auditor must give a separate opinion on the part of the statement that relates to the accounts of that pension fund.
- (4) A local auditor may enter an opinion on the statement of accounts on that statement before the audit is completed if—
 - (a) the audit has not been completed because an objection has been made under section 27 and that objection has not been disposed of, and

(b) the auditor thinks that, if the objection were resolved in the objector's favour, this would not affect the accuracy of the statement of accounts.

(5) A local auditor must, in carrying out the auditor's functions in relation to the accounts of an authority, comply with the code of audit practice applicable to the authority that is for the time being in force.

(6) A local auditor must, in carrying out functions under this Act, have regard to guidance issued by the Comptroller and Auditor General under paragraph 9 of Schedule 6.

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

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

20 General duties of auditors [In relation to exempt authorities]

(ZA1) A local auditor must not carry out an audit of the accounts of an exempt authority unless and until a local government elector—

(a) requests an opportunity to question an auditor about the authority's accounting records under section 26(2); or

(b) makes an objection under section 27(1).

(A1) Subject to paragraph (1), the audit of the accounts of an exempt authority is limited to responding appropriately to any—

(a) question raised under section 26(2); or

(b) objection made under section 27(1).

(1) In exercising functions under paragraph (A1), if a matter comes to the attention of the auditor which the auditor thinks merits further investigation, and it would be proportionate to do so, the local auditor may, by examination of the accounts and otherwise, consider whether—

(a) the accounts comply with the requirements of the enactments that apply to them,

(b) proper practices have been observed in the preparation of the statement of accounts, and

(c) the authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

(5) A local auditor must, in carrying out the auditor's functions in relation to the accounts of an exempt authority, comply with the code of audit practice applicable to the authority that is for the time being in force.

(6) A local auditor must, in carrying out functions under this Act, have regard to guidance issued by the Comptroller and Auditor General under paragraph 9 of Schedule 6.

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

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

Schedule 3

Further provisions about appointment of local auditors

Provisions applying to certain local authorities

1 (1) If a relevant authority is a local authority operating executive arrangements, the functions listed in sub-paragraph (5) are not the responsibility of an executive of the authority under those arrangements.

(2) If a relevant authority is a local authority within the meaning of section 101 of the Local Government Act 1972 (arrangements for discharge of functions), that section does not apply to the functions of the authority listed in sub-paragraph (5).

(3) A local auditor appointed to audit the accounts of the Greater London Authority must be appointed by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.

(4) The functions listed in sub-paragraph (5) must be exercised by the parish meeting itself (and not by its chairman on behalf of the parish meeting).

(5) The functions are—

(a) deciding to become a full audit authority under regulation 3 of the Local Audit (Smaller Authorities) Regulations 2014;

(b) deciding to self-certify as an exempt authority under regulation 6 of those regulations;

(c) a full audit authority deciding to become an opted in authority under regulation 8 of those regulations;

(d) [a smaller authority deciding to become an opted in authority under regulation 8 of those regulations;]

(e) deciding to reject an offer under regulation 9 of those regulations;

(f) deciding to exercise a right to become an opted in authority under regulation 11 of those regulations; and

(g) deciding to exercise a right to request to become an opted in authority under regulation 12 of those regulations.

Schedule 5

Eligibility and regulation of local auditors

(the provisions labelled 'section' are provisions of Part 42 Companies Act 2006 as modified, shown for ease of understanding rather than the modifications to Schedule 5 to the Act for those sections)

Section 1212 Individuals and firms: eligibility for appointment as a statutory auditor

(1) An individual or firm is eligible for appointment as a local auditor of a smaller authority other than a full audit authority if the individual or firm—

(a) (i) is a member of a recognised supervisory body, and
(ii) is eligible for appointment under the rules of that body,

by virtue of Chapter 2 of this Part; or

(b) (i) is a member of a recognised supervisory body, and
(ii) is eligible for appointment under the rules of that body as a statutory auditor,

by virtue of Chapter 2 of Part 42 of the Companies Act 2006 as it has effect apart from its application by virtue of Schedule 5 to the Local Audit and Accountability Act 2014 or by virtue of the Local Audit (Smaller Authorities) Regulations 2014.

Section 1213 Effect of ineligibility

- (1) No person may act as local auditor of an audited person if he is ineligible for appointment as a local auditor.
- (2) If at any time during his term of office a local auditor becomes ineligible for appointment as a local auditor, he must immediately—
 - (a) resign his office (with immediate effect),
 - (b) give notice in writing to the audited person that he has resigned by reason of his becoming ineligible for appointment, and
 - (c) where the local auditor was appointed by a specified person, give the notice in paragraph (b) also to the specified person.

Section 1214 Independence requirement

- (1) A person (“P”) may not act as local auditor of the accounts of a relevant authority if one or more of subsections (2), (3), (4), (5) and (5A) apply to P.
- (2) This subsection applies if—
 - (a) P is a member or officer of the relevant authority,
 - (b) where the relevant authority is a corporation sole, P is the holder of that office, or
 - (c) P is a partner or employee of a person within paragraph (a) or (b), or a partnership of which such a person is a partner.
- (3) This subsection applies if—
 - (a) the relevant authority is a clinical commissioning group, and
 - (b) P is a member of the group’s governing body (established pursuant to section 14L of the National Health Service Act 2006).
- (4) This subsection applies if—
 - (a) P is a person elected or appointed—
 - (i) as an entity connected with the relevant authority,
 - (ii) to such an entity, or
 - (iii) to an office of such an entity,
 - (b) P is an employee of such an entity, or
 - (c) P is a partner or employee of a person within paragraph (a) or (b), or a partnership of which such a person is a partner.
- (5) This subsection applies if there exists a connection of a prescribed description between—
 - (a) P or an associate of P, and
 - (b) the relevant authority or an entity connected with the relevant authority.
- (5A) This subsection applies if—
 - (a) P is an employee or a member of the specified person who is responsible for appointing the authority’s local auditor;
 - (b) P is a partner or employee of a person falling within paragraph (a), or a partnership of which such a person is a partner.
- (6) In subsection (5) “prescribed” means prescribed by regulations made by the Secretary of State.
- (7) Regulations under subsection (6) are subject to negative resolution procedure.

Section 1215 Effect of lack of independence

- (1) If at any time during his term of office a local auditor becomes prohibited from acting by section 1214(1), he must immediately--
- (a) resign his office (with immediate effect), and
 - (b) give notice in writing to the relevant authority that he has resigned by reason of his lack of independence, and
 - (c) where the local auditor was appointed by a specified person, give the notice in paragraph (b) also to the specified person.

Section 1216 Effect of appointment of a partnership [in relation to an opted in authority]

- (5) Where the partnership ceases and the appointment is not treated under subsection (3) as extending to any partnership or other person, the appointment may with the consent of the specified person who appointed the local auditor be treated as extending to an appropriate partnership, or other appropriate person, who succeeds to--
- (a) the business of the former partnership, or
 - (b) such part of it as is agreed by the specified person is to be treated as comprising the appointment.

Paragraph 8A *(inserted after paragraph 8 in Schedule 5 to the Local Audit and Accountability Act 2014)*

Section 1217, as it has effect apart from its application by virtue of Schedule 5 to the Local Audit and Accountability Act 2014 or by virtue of the Local Audit (Smaller Authorities) Regulations 2014, applies also for the purposes of those Regulations, so that a supervisory body under that section is also a supervisory body for the purposes of the Regulations.

Section 1248 Secretary of State's power to require second audit [in relation to an opted in authority]

- (1) This section applies where a person appointed by a specified person as a local auditor of the accounts of a relevant authority ("the first auditor") was not an appropriate person for any part of the period during which the audit was conducted.
- (2) The Secretary of State may direct the specified person to retain an appropriate person -
- (a) to conduct a second audit of the accounts in question, or
 - (b) to review the first audit and to report (giving the appropriate person's reasons) whether a second audit of those accounts is needed.
- (3) For the purposes of subsections (1) and (2) a person is "appropriate" if the person-
- (a) is eligible for appointment as a local auditor, and
 - (b) is not prohibited by section 1214(1) (independence requirement) from acting as a local auditor of the relevant authority.
- (4) The Secretary of State must send a copy of a direction under subsection (2) to the recognised supervisory body (if any) of which the first auditor is or was a member.
- (5) The specified person must-

- (a) send a copy of a report under subsection (2)(b) to the recognised supervisory body (if any) of which the first auditor is or was a member, and
 - (b) if the report states that a second audit is needed, take such steps as are necessary for the carrying out of that audit.
- (6) A direction under subsection (2) may specify when the specified person must comply with-
- (a) the requirements of the direction, or
 - (b) any requirement of subsection (5).

Section 1249 Supplementary provisions about second audits [in relation to an opted in authority]

(1) If a person accepts an appointment, or continues to act, as a local auditor of the accounts of a relevant authority at a time when the person knows the person is not appropriate, the specified person who appointed the auditor may recover from the person any costs incurred by it in complying with the requirements of section 1248, and must ensure that the authority is either not required to pay a fee for the first audit, or is refunded any fee paid.

For this purpose “appropriate” is to be construed in accordance with subsection (3) of that section.

(2) Where a second audit is carried out under section 1248, any statutory or other provision applying in relation to the first audit applies also, in so far as practicable, in relation to the second audit.

Section 1262 – index of defined expressions – *insert definitions*

“smaller authority	section 6(1) of the Local Audit and Accountability Act 2014”;
“full audit authority	regulation 2 of the Local Audit (Smaller Authorities) Regulations 2014”
“opted in authority	regulation 2 of the Local Audit (Smaller Authorities) Regulations 2014”
“specified person	regulation 2 of the Local Audit (Smaller Authorities) Regulations 2014”

**Schedule 6
Codes of audit practice and guidance**

Duty to prepare code

1 (1) The Comptroller and Auditor General must prepare one or more codes of audit practice prescribing the way in which local auditors are to carry out their functions under this Act.

(2) Different codes may be prepared for different relevant authorities (but the Comptroller and Auditor General must ensure that each kind of relevant authority is covered by a code).

(3) A code may contain different provision for different relevant authorities.

(4) A code must embody what the Comptroller and Auditor General considers to be the best professional practice with respect to the standards, procedures and techniques to be adopted by local auditors.

(5) Before preparing a code, the Comptroller and Auditor General must consult—
(a) such associations or representatives of relevant authorities as the Comptroller and Auditor General thinks appropriate,

(b) the recognised supervisory bodies,

(c) the persons appearing on the register of auditors kept under regulations under section 1239 of the Companies Act 2006 as it has effect by virtue of Schedule 5,

(d) the Secretary of State,

(e) the Treasury,

(ea) a person specified under regulation 0 of the Local Audit (Smaller Authorities) Regulations 2014,

(f) each body to whom the Secretary of State has delegated functions under section 1252 of the Companies Act 2006 as it has effect by virtue of Schedule 5, and

(g) such other bodies or persons as the Comptroller and Auditor General thinks appropriate.

[The rest of the Schedule applies without modification]

Schedule 11

Disclosure of information

Information to which this Schedule applies

1 (1) This Schedule applies to information relating to a particular body or person—

(a) that is obtained by a local auditor, or a person acting on behalf of a local auditor, under or by virtue of this Act or in the course of an audit under this Act, or

(b) that is obtained by an inspector or an assistant inspector, or a person acting on behalf of an inspector or an assistant inspector, under Part 1 of the Local Government Act 1999 (inspection of best value authorities) or in the course of an inspection under that Part.

(2) This Schedule also applies to information relating to a particular body or person that is obtained by an authority within sub-paragraph (3) in connection with the exercise of the authority's functions under or by virtue of this Act.

(3) Those authorities are—

(a) a recognised supervisory body,

(b) a recognised qualifying body,

(c) a body performing functions for the purposes of arrangements within paragraph 23(1) (independent monitoring of certain audits)

or 24(1) (independent investigation of public interest cases) of

Schedule 10 to the Companies Act 2006 as it has effect by virtue of Schedule 5,

(ca) a person specified under regulation 4(2) of the Local Audit (Smaller Authorities) Regulations 2014,

(d) the Secretary of State, and

(e) a body designated by the Secretary of State under section 1252 of the Companies Act 2006 (delegation of the Secretary of State's functions)

as it has effect by virtue of Schedule 5.

[The rest of the Schedule applies without modification]

Keeling Schedule for the Local Audit (Principal Authorities) Regulations 2014

(Where a provision of the Act is not modified, it is not included in this Keeling Schedule.)

Keeling schedule for the local audit (specified person) regulations 2014

This schedule shows, for the purposes of illustrating modifications made by the above named regulations, the text which results from the modifications. All provisions are in the Local Audit and Accountability Act 2014, except where indicated, where modifications have been made to the Companies Act 2006.

Part 3 Appointment etc of local auditors

7 Appointment of local auditor

- (1) The specified person must appoint a local auditor to audit the accounts of an opted in authority for a financial year not later than 31 December in the preceding financial year.
- (2) The specified person may appoint a local auditor to audit the accounts of an opted in authority for more than one financial year; and in such a case—
 - (a) subsection (1) does not apply in relation to the second or any subsequent year for which the appointment is made, but
 - (b) the specified person must make a further appointment of a local auditor at least once every 5 years.
- (3) Subsection (2)(b) does not prevent the specified person from re-appointing a local auditor to an opted in authority.
- (4) The Secretary of State may by regulations amend subsection (2)(b) so as to alter the period for the time being specified in it.
- (5) A local auditor appointed under this section—
 - (a) must be eligible for appointment as a local auditor (see Part 4), and
 - (b) must not be prohibited from acting as a local auditor of the accounts of the relevant authority by virtue of section 1214 of the Companies Act 2006 (independence requirement) as it has effect by virtue of Schedule 5.
- (6) Two or more local auditors may be appointed to audit the accounts of a relevant authority, and those auditors may be appointed—
 - (a) to act jointly in relation to some or all parts of the accounts;
 - (b) to act separately in relation to different parts of the accounts;
 - (c) to carry out different functions in relation to the audit.
- (7) If, as a result of an appointment under subsection (6)(b) or (c), a function under this Act may be exercised by two or more local auditors—

- (a) it may be exercised by both or all of them acting jointly or by such one or more of them as they may determine, and
 - (b) references (however expressed) to the local auditor by whom the function is or has been exercised are to the auditors by whom it is or has been exercised.
- (8) Schedule 3 makes further provision about the appointment of local auditors; and this section is subject to that Schedule and provision made under it.

8 Procedure for appointment

- (2) An opted in authority must, within the period of 28 days beginning with the day on which the appointment is notified to the relevant authority by the specified person, publish a notice that—
- (a) states that the specified person has made the appointment,
 - (b) identifies the local auditor that has been appointed,
 - (c) specifies the period for which the local auditor has been appointed,
- (3) The notice must be published—
- (a) if the relevant authority has a website, on its website;
 - (b) otherwise, in accordance with subsection (4).
- (4) A relevant authority publishes a notice in accordance with this subsection if—
- (a) in the case of a relevant authority other than a health service body, it publishes the notice in such manner as it thinks is likely to bring the notice to the attention of persons who live in its area;
 - (b) in the case of a clinical commissioning group, it publishes the notice in such manner as it thinks is likely to bring the notice to the attention of—
 - (i) persons who live in the area of the group, and
 - (ii) persons who do not live in the area of the group but for whom the group is responsible;
 - (c) in the case of special trustees for a hospital, they publish the notice in such manner as they think is likely to bring the notice to the attention of persons to whom services are provided at that hospital.
- (5) The relevant authority must exclude from the notice information whose disclosure would prejudice commercial confidentiality, unless there is an overriding public interest in favour of its disclosure.
- (6) This section is subject to Schedule 3 (further provision about appointment of local auditors) and provision made under it.

9 Requirement to have auditor panel

- (1) Each relevant authority other than an opted in authority must have an auditor panel to exercise the functions conferred on auditor panels by or under this Act.
- (1A) An authority may have an auditor panel at any time, but that panel must not be consulted about—
- (a) whether or not the authority is to become an opted in authority; or
 - (b) matters relating to an auditor appointed by a specified person; or
 - (c) matters relating to an audit carried out by an auditor appointed by a specified person.
- (2) This section does not apply to—
- (a) a chief constable, or
 - (b) the Commissioner of Police of the Metropolis.
- (3) Schedule 4 makes further provision about auditor panels.

10 Functions of auditor panel

(A1) This section is subject to section 9.

(1) A relevant authority's auditor panel must advise the authority on the maintenance of an independent relationship with the local auditor appointed to audit its accounts.

(2) Advice under subsection (1) to a police and crime commissioner for an area must include advice on the maintenance of an independent relationship between the local auditor and the chief constable for the area.

(3) Advice under subsection (1) to the Mayor's Office for Policing and Crime must include advice on the maintenance of an independent relationship between the local auditor and the Commissioner of Police of the Metropolis.

(4) A relevant authority's auditor panel must advise the authority on the selection and appointment of a local auditor to audit its accounts.

(5) Advice under subsection (1) or (4) must be given—

(a) if the relevant authority asks for it, and

(b) at other times, if the auditor panel thinks it is appropriate to do so.

(6) A relevant authority's auditor panel must advise the authority on any proposal by the authority to enter into a liability limitation agreement (see section 14).

(7) Advice under subsection (6) must be given if the authority asks for it.

(8) The Secretary of State may by regulations—

(a) provide more details about an auditor panel's functions under any of subsections (1) to (7);

(b) confer or impose other functions on a relevant authority's auditor panel in relation to the audit of the authority's accounts;

(c) enable a relevant authority to confer or impose other functions on its auditor panel in relation to the audit of its accounts.

(9) A relevant authority must publish advice from its auditor panel in accordance with subsection (10).

(10) A relevant authority publishes advice in accordance with this subsection if—

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

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

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

(ii) persons who do not live in the area of the group but for whom the group is responsible;

(c) in the case of special trustees for a hospital, they publish the advice in such manner as they think is likely to bring the advice to the attention of persons to whom services are provided at that hospital.

(11) The relevant authority must exclude from advice published under subsection (10) information whose disclosure would prejudice commercial confidentiality, unless there is an overriding public interest in favour of its disclosure.

(12) An auditor panel must have regard to any guidance issued by the Secretary of State in exercising, or deciding whether to exercise, its functions.

(13) A relevant authority must have regard to any guidance issued by the Secretary of State in exercising, or deciding whether to exercise, its functions in relation to its auditor panel.

12 Failure to appoint local auditor [If the specified person fails to appoint]

- (1) If a specified person fails to appoint a local auditor to an opted in authority in accordance with this Part and the Local Audit (Specified Person) Regulations 2014, the authority must immediately inform the specified person and the Secretary of State of that fact.
- (2) If it appears to the Secretary of State that a specified person has failed to appoint a local auditor to an opted in authority in accordance with this Part and the Local Audit (Specified Person) Regulations 2014, the Secretary of State may—
 - (a) direct the authority to appoint the auditor named in the direction,
 - (ab) direct the specified person to appoint an auditor, or
 - (b) appoint a local auditor on behalf of the authority.
- (2A) An appointment under subsection (2)(ab) takes effect on such terms as the Secretary of State may direct.
- (3) An appointment under subsection (2)(b) takes effect—
 - (a) as if it had been made by the authority, and
 - (b) on such terms as the Secretary of State may direct.
- (4) The Secretary of State must—
 - (a) inform the authority (and the specified person where the Secretary of State intends to direct the specified person) of the intention to give a direction or appoint a local auditor under subsection (2) not less than 28 days before the direction is given or the appointment made, and
 - (b) consider any representations made by the authority or the specified person regarding the proposed direction or appointment.
- (5) But the Secretary of State may give a direction or make an appointment under subsection (2) without having complied with subsection (4) if the Secretary of State thinks it is likely that a local auditor would have to exercise a function under this Act in relation to an authority within the period of 60 days beginning with the day on which the direction is given or the appointment is made.

12 Failure to appoint local auditor [If a principal authority fails to appoint]

- (1) If a principal authority, other than a clinical commissioning group, fails to appoint a local auditor in accordance with this Part, the authority must immediately inform the Secretary of State of that fact.
- (2) If it appears to the Secretary of State that a principal authority, other than a clinical commissioning group, has failed to appoint a local auditor in accordance with this Part, the Secretary of State may—
 - (a) direct the authority to appoint the auditor named in the direction,
 - (ab) direct the person specified under regulation 3(2) of the Local Audit (Specified Person) Regulations 2014 in relation to the class of principal authorities within which the authority falls, to appoint an auditor, or
 - (b) appoint a local auditor on behalf of the authority.
- (2A) An appointment under subsection (2)(ab) takes effect on such terms as the Secretary of State may direct.
- (3) An appointment under subsection (2)(b) takes effect—
 - (a) as if it had been made by the authority, and
 - (b) on such terms as the Secretary of State may direct.
- (4) The Secretary of State must—

- (a) inform the authority (and the specified person where the Secretary of State intends to direct the specified person) of the intention to give a direction or appoint a local auditor under subsection (2) not less than 28 days before the direction is given or the appointment made, and
 - (b) consider any representations made by the authority or the specified person regarding the proposed direction or appointment.
- (5) But the Secretary of State may give a direction or make an appointment under subsection (2) without having complied with subsection (4) if the Secretary of State thinks it is likely that a local auditor would have to exercise a function under this Act in relation to an authority within the period of 60 days beginning with the day on which the direction is given or the appointment is made.

Schedule 3

Further provisions about appointment of local auditors

Provisions applying to certain local authorities

- 1 (1) If a relevant authority is a local authority operating executive arrangements, the functions listed in sub-paragraph (5) are not the responsibility of an executive of the authority under those arrangements.
- (2) If a relevant authority is a local authority within the meaning of section 101 of the Local Government Act 1972 (arrangements for discharge of functions), that section does not apply to the authority's functions listed in sub-paragraph (5).
- (3) A local auditor appointed to audit the accounts of the Greater London Authority must be appointed by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.
- (4) The functions listed in sub-paragraph (5), in relation to a parish meeting, must be performed by the parish meeting itself (and not by its chairman on behalf of the parish meeting).
- (5) The functions are—
- (a) deciding to accept an invitation to become an opted in authority under regulation 6 of the Local Audit (Specified Person) Regulations 2014;
 - (b) deciding to exercise a right to become an opted in authority under regulation 8 of those regulations; and
 - (c) deciding to exercise a right to request to become an opted in authority under regulation 9 of those regulations.

Schedule 5

Eligibility and regulation of local auditors

(the provisions labelled 'section' are provisions of Part 42 Companies Act 2006 as modified, shown for ease of understanding rather than the modifications to Schedule 5 to the Act for those sections)

Section 1213 Effect of ineligibility

- (1) No person may act as local auditor of a relevant authority if he is ineligible for appointment as a local auditor.

- (2) If at any time during his term of office a local auditor becomes ineligible for appointment as a local auditor, he must immediately--
- (a) resign his office (with immediate effect),
 - (b) give notice in writing to the relevant authority that he has resigned by reason of his becoming ineligible for appointment, and
 - (c) where the local auditor was appointed by a specified person, give the notice in paragraph (b) also to the specified person.

Section 1214 Independence requirement

- (1) A person ("P") may not act as local auditor of the accounts of a relevant authority if one or more of subsections (2), (3), (4), (5) and (5A) apply to P.
- (2) This subsection applies if—
- (a) P is a member or officer of the relevant authority,
 - (b) where the relevant authority is a corporation sole, P is the holder of that office, or
 - (c) P is a partner or employee of a person within paragraph (a) or (b), or a partnership of which such a person is a partner.
- (3) This subsection applies if—
- (a) the relevant authority is a clinical commissioning group, and
 - (b) P is a member of the group's governing body (established pursuant to section 14L of the National Health Service Act 2006).
- (4) This subsection applies if—
- (a) P is a person elected or appointed—
 - (i) as an entity connected with the relevant authority,
 - (ii) to such an entity, or
 - (iii) to an office of such an entity,
 - (b) P is an employee of such an entity, or
 - (c) P is a partner or employee of a person within paragraph (a) or (b), or a partnership of which such a person is a partner.
- (5) This subsection applies if there exists a connection of a prescribed description between—
- (a) P or an associate of P, and
 - (b) the relevant authority or an entity connected with the relevant authority.
- (5A) This subsection applies if—
- (a) P is an employee or a member of the specified person who is responsible for appointing the authority's local auditor;
 - (b) P is a partner or employee of a person falling within paragraph (a), or a partnership of which such a person is a partner.
- (6) In subsection (5) "prescribed" means prescribed by regulations made by the Secretary of State.
- (7) Regulations under subsection (6) are subject to negative resolution procedure.

Section 1215 Effect of lack of independence

- (1) If at any time during his term of office a local auditor becomes prohibited from acting by section 1214(1), he must immediately--
- (a) resign his office (with immediate effect),

- (b) give notice in writing to the relevant authority that he has resigned by reason of his lack of independence, and
- (c) where the local auditor was appointed by a specified person, give the notice in paragraph (b) also to the specified person.

Section 1216 Effect of appointment of a partnership [in relation to an opted in authority]

- (5) Where the partnership ceases and the appointment is not treated under subsection (3) as extending to any partnership or other person, the appointment may with the consent of the specified person who appointed the local auditor be treated as extending to an appropriate partnership, or other appropriate person, who succeeds to--
- (a) the business of the former partnership, or
 - (b) such part of it as is agreed by the specified person is to be treated as comprising the appointment.

Section 1248 Secretary of State's power to require second audit [in relation to an opted in authority]

(1) This section applies where a person appointed by a specified person as a local auditor of the accounts of a relevant authority ("the first auditor") was not an appropriate person for any part of the period during which the audit was conducted.

(2) The Secretary of State may direct the specified person to retain an appropriate person -

- (a) to conduct a second audit of the accounts in question, or
- (b) to review the first audit and to report (giving the appropriate person's reasons) whether a second audit of those accounts is needed.

(3) For the purposes of subsections (1) and (2) a person is "appropriate" if the person-

- (a) is eligible for appointment as a local auditor, and
- (b) is not prohibited by section 1214(1) (independence requirement) from acting as a local auditor of the relevant authority.

(4) The Secretary of State must send a copy of a direction under subsection (2) to the recognised supervisory body (if any) of which the first auditor is or was a member.

(5) The specified person must-

- (a) send a copy of a report under subsection (2)(b) to the recognised supervisory body (if any) of which the first auditor is or was a member, and
- (b) if the report states that a second audit is needed, take such steps as are necessary for the carrying out of that audit.

(6) A direction under subsection (2) may specify when the specified person must comply with-

- (a) the requirements of the direction, or

(b) any requirement of subsection (5).

Section 1249 Supplementary provisions about second audits [in relation to an opted in authority]

(1) If a person accepts an appointment, or continues to act, as a local auditor of the accounts of a relevant authority at a time when the person knows the person is not appropriate, the specified person who appointed the auditor may recover from the person any costs incurred by it in complying with the requirements of section 1248, and must ensure that the authority is either not required to pay a fee for the first audit, or is refunded any fee paid.

For this purpose “appropriate” is to be construed in accordance with subsection (3) of that section.

(2) Where a second audit is carried out under section 1248, any statutory or other provision applying in relation to the first audit applies also, in so far as practicable, in relation to the second audit.

Section 1262 – index of defined expressions – *insert definitions*

“smaller authority	section 6(1) of the Local Audit and Accountability Act 2014”;
“full audit authority	regulation 2 of the Local Audit (Specified Person) Regulations 2014”
“opted in authority	regulation 2 of the Local Audit (Specified Person) Regulations 2014”
“specified person	regulation 2 of the Local Audit (Specified Person) Regulations 2014”

Schedule 6

Codes of audit practice and guidance

Duty to prepare code

1 (1) The Comptroller and Auditor General must prepare one or more codes of audit practice prescribing the way in which local auditors are to carry out their functions under this Act.

(2) Different codes may be prepared for different relevant authorities (but the Comptroller and Auditor General must ensure that each kind of relevant authority is covered by a code).

(3) A code may contain different provision for different relevant authorities.

(4) A code must embody what the Comptroller and Auditor General considers to be the best professional practice with respect to the standards, procedures and techniques to be adopted by local auditors.

(5) Before preparing a code, the Comptroller and Auditor General must consult—

(a) such associations or representatives of relevant authorities as the Comptroller and Auditor General thinks appropriate,

(b) the recognised supervisory bodies,

(c) the persons appearing on the register of auditors kept under regulations under section 1239 of the Companies Act 2006 as it has effect by virtue of Schedule 5,

(d) the Secretary of State,

(e) the Treasury,

- (ea) a person specified under regulation 4(2) of the Local Audit (Specified Person) Regulations 2014,
- (f) each body to whom the Secretary of State has delegated functions under section 1252 of the Companies Act 2006 as it has effect by virtue of Schedule 5, and
- (g) such other bodies or persons as the Comptroller and Auditor General thinks appropriate.

[the rest of the Schedule applies without modification]

Schedule 11

Disclosure of information

Information to which this Schedule applies

- 1 (1) This Schedule applies to information relating to a particular body or person—
- (a) that is obtained by a local auditor, or a person acting on behalf of a local auditor, under or by virtue of this Act or in the course of an audit under this Act, or
 - (b) that is obtained by an inspector or an assistant inspector, or a person acting on behalf of an inspector or an assistant inspector, under Part 1 of the Local Government Act 1999 (inspection of best value authorities) or in the course of an inspection under that Part.
- (2) This Schedule also applies to information relating to a particular body or person that is obtained by an authority within sub-paragraph (3) in connection with the exercise of the authority's functions under or by virtue of this Act.
- (3) Those authorities are—
- (a) a recognised supervisory body,
 - (b) a recognised qualifying body,
 - (c) a body performing functions for the purposes of arrangements within paragraph 23(1) (independent monitoring of certain audits) or 24(1) (independent investigation of public interest cases) of Schedule 10 to the Companies Act 2006 as it has effect by virtue of Schedule 5,
 - (ca) a person specified under regulation 3(2) of the Local Audit (Specified Person) Regulations 2014,
 - (d) the Secretary of State, and
 - (e) a body designated by the Secretary of State under section 1252 of the Companies Act 2006 (delegation of the Secretary of State's functions) as it has effect by virtue of Schedule 5.

[the rest of the Schedule applies without modification]