



Local Audit and Accountability Act 2014

2014 CHAPTER 2

PART 3

APPOINTMENT ETC OF LOCAL AUDITORS

7 Appointment of local auditor

- (1) A relevant authority must appoint a local auditor to audit its accounts for a financial year not later than 31 December in the preceding financial year.
- (2) A relevant authority may appoint a local auditor to audit its 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 authority must make a further appointment of a local auditor at least once every 5 years.
- (3) Subsection (2)(b) does not prevent the relevant authority 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 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.

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- (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

- (1) A relevant authority must consult and take into account the advice of its auditor panel on the selection and appointment of a local auditor under section 7.
- (2) The relevant 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 it 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,
 - (d) sets out the advice, or a summary of the advice, of its auditor panel about the selection and appointment of a local auditor, and
 - (e) if it has not followed that advice, sets out the reasons why it has not done so.
- (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 must have an auditor panel to exercise the functions conferred on auditor panels by or under this Act.
- (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

- (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

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- (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.

11 Relationship with relevant authority

- (1) A relevant authority other than a health service body must, if asked to do so by its auditor panel, supply to the panel any documents or information held by the authority and required by the panel for the exercise of its functions.
- (2) A relevant authority's auditor panel, other than the auditor panel of a health service body, may require a member or officer of the authority to come to a meeting of the panel to answer its questions.
- (3) In the application of subsection (2) to a corporation sole, the reference to a member is a reference to a holder of that office.
- (4) A person mentioned in subsection (2) must comply with a requirement imposed by an auditor panel under that subsection.
- (5) This does not require the person to answer any questions which the person would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.
- (6) The auditor panel of a police and crime commissioner for an area may also exercise the functions in subsections (1) and (2) in relation to the chief constable for the area.
- (7) The auditor panel of the Mayor's Office for Policing and Crime may also exercise the functions in subsections (1) and (2) in relation to the Commissioner of Police of the Metropolis.
- (8) The auditor panel of a parish meeting may only exercise the function in subsection (2) in relation to the chairman of the parish meeting or the proper officer of the district council within whose area the parish lies.

12 Failure to appoint local auditor

- (1) If a relevant 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 relevant 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, or
 - (b) appoint a local auditor on behalf of the authority.
- (3) An appointment under subsection (2)(b) takes effect—
 - (a) as if it had been made by the relevant authority, and
 - (b) on such terms as the Secretary of State may direct.
- (4) The Secretary of State must—
 - (a) inform the relevant authority 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 relevant authority 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 a relevant authority within the period of 60 days beginning with the day on which the direction is given or the appointment is made.

13 Failure of clinical commissioning group to appoint local auditor

- (1) If a clinical commissioning group fails to appoint an auditor in accordance with this Part, it must immediately inform the National Health Service Commissioning Board (“the Board”) of that fact.
- (2) If it appears to the Board that a clinical commissioning group has failed to appoint an auditor in accordance with this Part, the Board must inform the Secretary of State of that fact by the end of 25 March in the financial year preceding the financial year to which the accounts to be audited relate.
- (3) If the Secretary of State has been informed by the Board under subsection (2), the Secretary of State may—
 - (a) take either of the steps in subsection (4), or
 - (b) direct the Board to take whichever of the steps in subsection (4) the Board considers appropriate.
- (4) Those steps are—
 - (a) to direct the clinical commissioning group to appoint an auditor named in the direction given under this paragraph, or
 - (b) to appoint an auditor on behalf of the group.
- (5) An appointment under subsection (4)(b) takes effect—
 - (a) as if it had been made by the clinical commissioning group, and
 - (b) on such terms as the Secretary of State or (as the case may be) the Board may direct.
- (6) The Secretary of State or the Board must—

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- (a) inform the clinical commissioning group of the intention to give a direction or appoint an auditor under subsection (4) not less than 28 days before the direction is given or the appointment made, and
 - (b) consider any representations made by the group regarding the proposed direction or appointment.
- (7) But the Secretary of State or the Board may give a direction or make an appointment under subsection (4) without having complied with subsection (6) if the Secretary of State or the Board thinks it is likely that an auditor would have to exercise a function under this Act in relation to the clinical commissioning group within the period of 60 days beginning with the day on which the direction is given or the appointment is made.

14 Limitation of local auditor’s liability

- (1) This section applies in relation to an agreement (a “liability limitation agreement”) that purports to limit the amount of a liability owed to a relevant authority by its local auditor in respect of any negligence, default, breach of duty or breach of trust occurring in the course of the audit of accounts, of which the auditor may be guilty in relation to the authority.
- (2) A liability limitation agreement must comply with regulations made by the Secretary of State.
- (3) Regulations under subsection (2) may, in particular,—
- (a) make provision about the duration of a liability limitation agreement;
 - (b) make provision as to the amount to which a local auditor’s liability may be limited by a liability limitation agreement (which may be an amount that is specified in, determined under or described in general terms in the regulations).
- (4) Regulations under subsection (2) may—
- (a) require a liability limitation agreement to contain provisions, or provisions of a description, specified in the regulations;
 - (b) prohibit a liability limitation agreement from containing provisions, or provisions of a description, specified in the regulations.
- (5) Regulations under subsection (2) may provide—
- (a) that a liability limitation agreement that does not comply with the regulations is void;
 - (b) that a liability limitation agreement is effective only to the extent that it complies with the regulations;
 - (c) that, in the circumstances specified in the regulations, a provision of a liability limitation agreement that does not comply with the regulations is to have effect as if it complied with the regulations.
- (6) The Secretary of State may by regulations make provision requiring a relevant authority that has entered into a liability limitation agreement to disclose such information about the agreement as may be specified in the regulations in such manner as may be so specified.
- (7) A liability limitation agreement that complies with regulations under subsection (2) is not subject to section 2(2) or 3(2)(a) of the Unfair Contract Terms Act 1977.

15 Further provisions about liability limitation agreements

- (1) Before entering into a liability limitation agreement, a relevant authority other than a chief constable or the Commissioner of Police of the Metropolis must consult and take into account the advice of its auditor panel.
- (2) Before entering into a liability limitation agreement, a chief constable for an area must consult and take into account the advice of the auditor panel of the police and crime commissioner for the area.
- (3) Before entering into a liability limitation agreement, the Commissioner of Police of the Metropolis must consult and take into account the advice of the auditor panel of the Mayor's Office for Policing and Crime.
- (4) If a relevant authority is a local authority operating executive arrangements, the function of deciding whether to enter into a liability limitation agreement is not the responsibility of an executive of the authority under those arrangements.
- (5) 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 function of deciding whether to enter into a liability limitation agreement.
- (6) A decision to enter into a liability limitation agreement between a local auditor and the Greater London Authority must be taken by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.
- (7) A decision to enter into a liability limitation agreement between a local auditor and a parish meeting must be taken by the parish meeting itself (and not by its chairman on behalf of the parish meeting).

16 Resignation and removal of local auditor

- (1) The Secretary of State may by regulations make provision about—
 - (a) the resignation of a local auditor of the accounts of a relevant authority from that office;
 - (b) the removal of a local auditor of the accounts of a relevant authority from that office before the expiry of the term of that office.
- (2) Regulations under subsection (1)(a) may, in particular, make provision about—
 - (a) the steps that must be taken by a person who is a local auditor to resign from that office;
 - (b) the time at which the resignation takes effect;
 - (c) the steps that must be taken in connection with the resignation by the relevant authority;
 - (d) the role of the authority's auditor panel or of a recognised supervisory body in connection with the resignation;
 - (e) the steps that must be taken by the relevant authority after the resignation.
- (3) Regulations under subsection (1)(b) may, in particular, make provision about—
 - (a) the steps that must be taken to remove a local auditor from that office;
 - (b) the person or persons by whom those steps must be taken and the way in which they must be taken;

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- (c) the steps that may be taken by the local auditor in connection with the local auditor's removal from that office;
 - (d) the role of the relevant authority's auditor panel or of a recognised supervisory body in connection with the removal of the local auditor from that office;
 - (e) the steps that must be taken by the relevant authority after the removal of the local auditor from that office.
- (4) Regulations under subsection (1)(b) which make provision about the matter in subsection (3)(b) may provide, in relation to a local auditor of the accounts of a health service body, that some or all of the steps may be taken by the Secretary of State.
- (5) Regulations under subsection (1) may, in particular—
- (a) make provision for the Secretary of State to appoint, or direct the relevant authority to appoint, a replacement local auditor;
 - (b) make provision that permits or requires, or enables the Secretary of State to permit or require, that appointment to have effect for a limited period or limited purposes only.
- (6) Regulations under subsection (1) which make provision as mentioned in subsection (5)(a) may apply section 12(3), (4) or (5) with modifications to a direction given or appointment made by the Secretary of State under such regulations.
- (7) Regulations under subsection (1) that confer functions on a recognised supervisory body may make provision about the supply to the body by a relevant authority of documents or information relating to the resignation or removal of a local auditor.

17 Appointment of auditor by specified person

- (1) The Secretary of State may by regulations make provision for and in connection with the appointment, by a person (an “appointing person”) specified by the Secretary of State, of a local auditor to audit the accounts of a relevant authority to which the regulations apply.
- (2) Regulations under subsection (1) may, in particular—
- (a) make provision about the persons that may be specified as an appointing person;
 - (b) make provision about the procedure for specifying a person and for an appointing person's specification to come to an end in prescribed circumstances;
 - (c) make provision about the consequences of an appointing person's specification coming to an end, including—
 - (i) for the exercise of functions by the Secretary of State, and
 - (ii) for the transfer of the person's rights and liabilities arising by virtue of the regulations to the Secretary of State or another appointing person;
 - (d) confer functions on an appointing person, including in relation to—
 - (i) the appointment of local auditors under the regulations,
 - (ii) the activities of such auditors, and
 - (iii) the resignation or removal from office of such auditors;
 - (e) require an appointing person to consult prescribed persons before exercising prescribed functions.
- (3) Regulations under subsection (1) may, in particular—

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- (a) make provision about the relevant authorities to which the arrangements under the regulations apply, including provision for them to apply to an authority that has opted into them or has not opted out of them;
 - (b) make provision about the procedures to be followed in relation to opting into or out of those arrangements;
 - (c) impose duties on relevant authorities to which those arrangements apply, including duties as to—
 - (i) the payment of fees to the appointing person in respect of an audit carried out by a local auditor appointed by that person, and
 - (ii) the provision of information to the appointing person.
- (4) Provision made by regulations under subsection (1) by virtue of subsection (3)(c)(i) may, in particular—
- (a) provide for fees to be paid in accordance with a scale or scales of fees specified by the appointing person, and
 - (b) provide for the payment in prescribed circumstances of a larger or smaller fee than is specified by the appropriate scale.
- (5) Regulations under subsection (1) may, in particular, make provision about the functions of a local auditor appointed by an appointing person.
- (6) Regulations under subsection (1) may, in particular, make provision for the appointment of a local auditor of the accounts of a relevant authority to which arrangements made by the regulations apply where the appointing person does not make an appointment under the regulations.
- (7) Provision made by regulations under subsection (1) by virtue of subsection (6) may, in particular, provide for the appointment to be made by the authority or the Secretary of State.
- (8) Regulations under subsection (1) may, in particular provide—
- (a) for any provision of, or made under, this Part not to apply, or to apply with modifications, in relation to a relevant authority to which regulations under that subsection apply;
 - (b) for any other provision of, or made under, this Act not to apply, or to apply with modifications, in consequence of provision made by regulations under that subsection.
- (9) Subsection (8) applies to a provision of or made under this Act even if it makes specific provision about a relevant authority to which the regulations apply.
- (10) In this section “prescribed” means prescribed by regulations under subsection (1).