

2014 No. 1710

LOCAL GOVERNMENT, ENGLAND AND WALES

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

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

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

Citation, commencement and interpretation

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

(2) In these Regulations—

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

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

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

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

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

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

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

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

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

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

(a) 2014 c.2 (“the 2014 Act”).

(b) 2006 c.46 (“the 2006 Act”).

(c) S.I. 2014/1627.

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

Application of these Regulations to policing bodies

2.—(1) Paragraph (2) applies to the resignation or removal of a local auditor of the accounts of—

- (a) a chief constable for an area in England;
- (b) the Commissioner of Police of the Metropolis.

(2) A relevant authority specified in paragraph (1) may not remove the local auditor of the accounts of that authority from that office.

(3) Anything that must or may be done under these Regulations by or in relation to a relevant authority in respect of a local auditor of the accounts of—

- (a) a chief constable for an area in England must or may be done by or in relation to the police and crime commissioner for that area;
- (b) the Commissioner of Police of the Metropolis must or may be done by or in relation to the functional body^(a) that is the Mayor’s Office for Policing and Crime.

(4) These Regulations have effect in relation to a police and crime commissioner and the Mayor’s Office for Policing and Crime (“specified relevant authorities”) subject to the following modifications—

- (a) the duty on the local auditor of the specified relevant authority under regulation 3(1) includes a duty, at the same time, to give a copy of—
 - (i) the notice of resignation; and
 - (ii) the statement referred to in regulation 3(2),to the chief constable for the area, or the Commissioner of Police of the Metropolis, as the case may be;
- (b) the duty on the specified relevant authority under regulation 3(4)(a) includes a duty, at the same time, to give a copy of the notice to the chief constable for the area or the Commissioner of Police of the Metropolis, as the case may be;
- (c) the duty on the auditor panel of the specified relevant authority under regulation 4(1)(c) includes a duty, within the period of three months beginning with the date the local auditor’s resignation takes effect, to give a copy of the statement to the chief constable for the area or the Commissioner of Police of the Metropolis, as the case may be;
- (d) the duty on the specified relevant authority under regulation 6(1) includes a duty, at the same time, to give a copy of the notice to the chief constable for the area or the Commissioner of Police of the Metropolis, as the case may be;
- (e) the duty on the specified relevant authority under regulation 6(3) includes a duty, as soon as practicable after receiving the local auditor’s response under regulation 6(2), to give a copy of the local auditor’s response to the chief constable for the area or the Commissioner of Police of the Metropolis, as the case may be;
- (f) the duty on the auditor panel of the specified relevant authority under regulation 6(4) includes a duty, at the same time, to send a copy of the panel’s advice to the chief constable for the area or the Commissioner of Police of the Metropolis, as the case may be.
- (g) the duty on the specified relevant authority under regulation 7(5)(a) to give a copy of the statement referred to in regulation 7(4) to the authority’s auditor panel includes a duty, at the same time, to give a copy of that statement to the chief constable for the area or the Commissioner of Police of the Metropolis, as the case may be.

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

Resignation of local auditor

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Removal of local auditor

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

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

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

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

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

Procedure for removal of local auditor from office

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

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

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

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

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

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

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

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

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

(a) See Part 1A of the Local Government Act 2000 (c.22), inserted by Schedule 2 to the Localism Act 2011 (c.20).
(b) 1972 c.70.

Steps to be taken after decision to remove local auditor

- 7.—(1) Where a relevant authority decides to remove a local auditor from office, it must—
- (a) notify the local auditor of the decision; and
 - (b) within the period of 28 days beginning with the date of the decision publish a statement—
 - (i) if the relevant authority has a website, on its website;
 - (ii) otherwise, in accordance with regulation 1(3).
- (2) The statement referred to in paragraph (1)(b) must contain—
- (a) any response, or a summary of the response, received from the local auditor under regulation 6(2);
 - (b) the advice, or a summary of the advice, received from the authority’s auditor panel under regulation 6(4); and
 - (c) if the relevant authority has not followed the advice referred to in sub-paragraph (b), its reasons for not doing so.
- (3) A relevant authority must exclude from the statement published under paragraph (1)(b) information whose disclosure would prejudice commercial confidentiality, unless there is an overriding public interest in favour of disclosure.
- (4) Where, within the period of 14 days beginning with the date on which the local auditor ceases to hold office—
- (a) a relevant authority receives from the auditor a written statement of matters connected with its removal from office, and
 - (b) the auditor considers the statement needs to be brought to the attention of the relevant authority or the relevant authority’s auditor panel,
- the authority must comply with paragraph (5).
- (5) The relevant authority must—
- (a) give a copy of the statement referred to in paragraph (4) to the authority’s auditor panel and, within the period of 14 days of receiving that statement—
 - (i) in the case of a major local audit of a relevant authority, to the Secretary of State or, where the Secretary of State has designated a body in an order under section 1252 of the 2006 Act (a), to that body; or
 - (ii) in any other case, to the supervisory body by which the local auditor is recognised; and
 - (b) publish the statement—
 - (i) if the relevant authority has a website, on its website;
 - (ii) otherwise, in accordance with regulation 1(3).

Notification on local auditor ceasing to hold office

- 8.—(1) The relevant authority must, not later than the end of the period of 14 days beginning with the date on which the local auditor ceases to hold office, notify—
- (a) in the case of a major local audit of a relevant authority, the Secretary of State or, where the Secretary of State has designated a body in an order under section 1252 of the 2006 Act, that body;
 - (b) in any other case, the supervisory body by which the local auditor is recognised,
- that the auditor has ceased to hold office as the authority’s local auditor.

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

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

Appointment of a local auditor following removal or resignation

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

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

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

(4) Where a relevant authority fails to comply with paragraph (1) the Secretary of State may—

- (a) direct the authority to appoint the auditor named in the direction; or
- (b) appoint a local auditor on behalf of the authority.

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

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

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

Brandon Lewis

Parliamentary Under Secretary of State

Department for Communities and Local Government

2nd July 2014

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

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

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

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

© Crown copyright 2014

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£6.00

UK2014070214 07/2014 19585

<http://www.legislation.gov.uk/id/uksi/2014/1710>

ISBN 978-0-11-111748-4



9 780111 117484