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AUDIT PANEL

Day: Tuesday
Date: 1 November 2016
Time: 2.00 pm
Place: Lesser Hall - Dukinfield Town Hall

Item No.	AGENDA	Page No
5.	LOCAL AUDIT AND ACCOUNTABILITY ACT 2014 – APPENDIX 1 To consider the attached appendix, CIPFA Guide to Auditor Panels.	1 - 54

From: Democratic Services Unit – any further information may be obtained from the reporting officer or from Charlotte Forrest on charlotte.forrest@tameside.gov.uk or 0161 342 2346, to whom any apologies for absence should be notified.

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Guide to

auditor panels



Department for
Communities and
Local Government

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CHAPTER 1

Introduction

- 1.1** The Local Audit and Accountability Act 2014 (the Act) established new arrangements for the audit and accountability of relevant authorities as listed in Schedule 2 of the Act but including local authorities, clinical commissioning groups and police and crime commissioners in England.
- 1.2** These new arrangements include the ability of such bodies to appoint their own local public auditors via an auditor panel and this may be done either individually or jointly with one or more other authorities. Auditor panels must also advise the authority or authorities on the maintenance of independent relationships with the local auditor.
- 1.3** The Secretary of State for Communities and Local Government has decided to implement a phased introduction of the new local audit framework, with all health bodies¹ and smaller local government bodies moving to the new framework as planned on 1 April 2017 and larger local government bodies a year later, on 1 April 2018. In practice, this means that smaller local authorities must have appointed their local auditors by 31 December 2016 and larger principal authorities by 31 December 2017. The phased implementation for principal bodies will better enable audit firms to plan their workloads and retain suitably qualified staff, provide auditor stability for principal authorities for the 2017/18 audit period, and enable the sector to make timely arrangements for procurement under the new framework.
- 1.4** The purpose of this guidance is to set out the options available to local authorities in England for establishing an auditor panel; what form such a panel can take; the operation and functions of the panel; and the main task of the panel – that is, advising the authority in connection with the appointment of the local auditor.
- 1.5** The guidance is not statutory, nor does it prescribe any further requirements not already detailed in legislation. It has been drawn up to advise and inform authorities of what they need to be aware and bear in mind in this area.
- 1.6** Where explanations of the Act and associated regulations are given, these are not to be considered as legal interpretations. A list of the legislation referred to within this guidance is provided in chapter 8, with relevant extracts reproduced in appendix A.

1. Auditor Panel guidance for health bodies may be found at the HFMA website:
www.hfma.org.uk/NR/rdonlyres/67E73045-01FD-4B58-925D-C1FE0CA6078C/0/AuditorPanelGuidanceFINALSeptember2015.pdf

Establishing an auditor panel

CHAPTER SUMMARY

- Authorities may opt into any sector-led body that may be established as the appointing person under the Local Audit and Accountability Act and relevant regulations. If they decide to do so, they will not need an auditor panel.
- Authorities may also establish their own auditor panel to advise them on the appointment of their local auditor and there are four main options for this:
 - establish a separate and individual auditor panel, solely for the authority
 - set up a panel jointly with one or more other authorities
 - use an existing committee or sub-committee to act as the auditor panel (subject to compliance with the other provisions and regulations relating to auditor panels)
 - ask another authority's auditor panel to carry out the functions of the authority in question.
- There are possible advantages and disadvantages to each option but these are likely to vary according to the type of authority and its size, geographic location, etc.

- 2.1** In deciding whether and how to set up an auditor panel, relevant authorities (authorities) should consider the different options made available to them in the Local Audit and Accountability Act 2014 (the Act). The Act allows for flexibility in the arrangements, so authorities are able to choose which option will suit their local circumstances best.
- 2.2** Authorities may opt into any sector-led body that may be established to fulfil the 'appointing person' role as per section 17 of the Act and as detailed in the Local Audit (Appointing Person) Regulations 2015.² This guidance does not cover the operation of any sector-led body, nor does it set out the advantages or disadvantages of opting into such an arrangement, but authorities who do opt into such arrangements will not need to pursue further the options for establishing an auditor panel. Authorities are therefore advised to consider carefully all options available to them before making a final decision.
- 2.3** To summarise the options for establishing their own auditor panel, authorities may:
- a. set up their own separate and individual auditor panel
 - b. set up a panel with one or more other authorities
 - c. use an existing committee or sub-committee to act as the auditor panel (provided that it complies with the other provisions and regulations relating to auditor panels)
 - d. ask another authority's auditor panel to carry out the functions of the authority in question.

2. [www.legislation.gov.uk/uksi/2015/192/c/Part made](http://www.legislation.gov.uk/uksi/2015/192/c/Part%20made)

2.4 The main points to be taken into account when comparing the four main options for establishing an auditor panel are set out in the following table. For shorthand, the table refers to procuring but it should be remembered that auditor panels are acting in an advisory position. They will recommend to their authority or authorities which auditor to appoint but ultimately the responsibility for appointing the auditor rests with the authority itself.

CONSIDERING THE OPTIONS

2.5 Before authorities consider the possible advantages and disadvantages of each option, they will need to investigate whether there is an appetite to procure jointly with another authority or authorities, or solely. If there is a desire for a joint contract, it is more likely that a joint auditor panel will be best at advising on appointments under the same arrangements.

Option	Possible Advantages	Possible Disadvantages
Set up own separate and individual panel to oversee separate and individual procurement	<ul style="list-style-type: none"> ■ Full ownership of the process ■ Fully bespoke contract with the auditor ■ Tendering process more based on local circumstances (within EU procurement rules) 	<ul style="list-style-type: none"> ■ May experience difficulties in appointing majority independent panel members and independent panel chair as per the regulations ■ Will need to ensure that panel members are suitably qualified to understand and participate in the panel’s functions ■ Will have to cover panel expenses completely ■ May not be able to procure at a lower cost, for example, depending on authority location, where there will be a risk of limited provider choice and a single authority contract may be less attractive to some providers ■ Will not achieve economies of scale

Option	Possible Advantages	Possible Disadvantages
<p>Set up a panel jointly with other authority/ authorities as part of a procurement exercise for joint contract covering more than one authority or multiple separate contracts</p>	<ul style="list-style-type: none"> ■ Less administration than a sole auditor panel ■ Will be able to share the administration expenses ■ May be easier to attract suitable panel members <p>If procuring a joint audit contract:</p> <ul style="list-style-type: none"> ■ May still be a relatively locally tailored process ■ May be able to achieve some economies of scale <p>If procuring separate audit contracts:</p> <ul style="list-style-type: none"> ■ An opportunity for fully bespoke contracts with the auditor if the group of authorities can agree 	<p>If procuring a joint audit contract:</p> <ul style="list-style-type: none"> ■ May need to compromise on the arrangements or auditor contract ■ May not end up with first choice of auditor, compared to an individual auditor panel. If a large group of authorities work together and decide to appoint one joint audit contract across all the authorities, a joint panel may be more likely to advise appointment of an auditor it considers suitable for all authorities taken together ■ Need to agree appointment of members across multiple authorities and set up an appropriate joint decision-making process
<p>Use existing committee or sub-committee</p>	<ul style="list-style-type: none"> ■ Existing administrative structure in place ■ Existing (sub)committee should already have a better basic understanding of the authority's objectives and requirements 	<ul style="list-style-type: none"> ■ Possible need to appoint new (sub) committee members to comply with independence regulations
<p>Use another authority's panel</p>	<ul style="list-style-type: none"> ■ Will not have to set up an auditor panel ■ Arguably most independent option for the authority using the host authority's panel 	<ul style="list-style-type: none"> ■ The panel may not understand the specific needs of the authority ■ May need to enter into a formal arrangement with the other authority ■ May be difficult to find an authority willing to enter into such an arrangement ■ May be more difficult to ensure adequate liaison with authority's own audit committee (if one exists)

- 2.6** This is not an exhaustive list of the advantages and disadvantages of each option. Authorities may have other reasons to choose one option over another and the weighting that authorities place on each potential benefit or detriment may swing the balance to an overall decision one way or the other.
- 2.7** For example, it may be that a larger authority can attract not only a good level of competency in its auditor panel membership, but also a relatively high level of interest from audit providers keen to ‘win’ the authority’s audit. Such an authority may therefore believe that having the ability to fully own the appointment process will bring economic as well as other benefits specific to its own strategic objectives.
- 2.8** Conversely, for a smaller authority, the prospect of attempting to appoint a majority independent auditor panel and independent panel chair may prove challenging. In such cases, joint procurement with one or more other authorities or asking a larger authority’s panel to fulfil the role may be more appropriate.
- 2.9** An authority appointing panellists to its own auditor panel is required to take decisions on those appointments at full council. An authority choosing to share the auditor panel of another authority will want to satisfy itself that the decision to do so is being taken on an informed basis and at a level considered appropriate by the authority. Advice from relevant officers and members may have a role to play in making the decision.

JOINT PANELS OR USING THE PANEL OF ANOTHER AUTHORITY

- 2.10** When considering whether to create an auditor panel jointly with one or more other authority, the operational arrangements of such a panel needs to be taken into account in advance.
- 2.11** For example, it may be that one authority takes a nominated lead role in the establishment and running of the panel, or that each authority separately recruits a set share of the panel members.
- 2.12** Authorities will need to decide whether to procure jointly in a single tender process (ie for one audit contract that covers all the authorities) or whether to procure separately for each authority, as this will affect the operation of the panel. Authorities could tender the requirements through lots – these can be based on geographic location or for each individual authority. This decision may not need to be finalised until after the various options have been investigated.
- 2.13** A joint auditor panel, once established, can advise on the procurement of audit contracts by the authorities involved collectively and also on audit contracts to any subset of those authorities.
- 2.14** For example: A, B and C authorities jointly procure an audit contract for those authorities’ accounts; A and B jointly procure an audit contract for the accounts of a joint committee they share, while C, not being a constituent of that joint committee, does not take part.
- 2.15** Alternatively, A, B, and C might share the joint committee and procure an auditor jointly to audit that joint committee’s accounts, yet only A and B decide to procure their auditors jointly.

- 2.16** In both cases, the auditor panel of the authorities concerned will advise on any audit procurement by those authorities. The panel can also advise its authority on whether joint or separate audit procurement is ideal for that authority's circumstance.
- 2.17** It is possible for separate auditor panels to advise on a joint audit appointment, so long as the auditor panel's authority is involved in that appointment. However, this is clearly a logistically challenging approach and authorities will need to consider carefully whether the benefits of such an approach would outweigh the possible difficulties.

USING AN EXISTING AUTHORITY COMMITTEE OR SUB-COMMITTEE

- 2.18** Another option available to authorities is to use an existing committee or sub-committee, such as the audit committee. Authorities may also create a sub-committee of an existing committee and this may be the most sensible method to draw on the expertise of an existing committee since it allows the sub-committee membership to be small enough for the respective number of independent panel members to be manageable.
- 2.19** There are advantages to this approach, particularly where an authority already has an independent audit committee chair or independent committee members.
- 2.20** In any case, it will be necessary to change the terms of reference of the committee being utilised as the authority's auditor panel to reflect the additional responsibilities of the committee and its members. An accurate terms of reference document will assist members of the committee in performing their respective committee and auditor panel duties without conflict of interest.
- 2.21** Where an authority does choose to utilise an existing committee or sub-committee in this way, it is important not to overlook Schedule 4, paragraph 6 of the Act. This essentially means that where there is other legislation that particularly applies to committees of local authorities, such enactments may not apply to a committee or sub-committee when it is acting as the auditor panel, for example those set out in section 100 of the Local Government Act 1972, which relate to the admission of meetings and access to agendas and other reports. However, the Local Audit (Auditor Panel) Regulations 2014 9 and 10 do reapply some of the enactments and authorities will need to ensure that they comply with all relevant legislation.
- 2.22** The relationship between the auditor panel and the audit committee, where the two bodies remain completely separate, is discussed later in this guidance in chapter 4.

USING THE AUDITOR PANEL OF ANOTHER AUTHORITY

- 2.23** The Act has provided for the ability of one authority to use another authority's auditor panel to act as its own, without having to create a joint panel in the first instance.
- 2.24** For the commissioning authority, this may be considered to be the most independent option, given that the panel members will have been appointed in an entirely separate process. There is also the advantage of not having to go through the appointment process from the start, although the commissioning authority will need to ensure that there is still a majority of members of the panel that are independent of itself – members that are independent

of the host authority may not automatically be eligible as independent members to other authorities, so authorities that pursue this option either as the host or as the recipient will need to ensure that there are checks in place on this point.

- 2.25** As set out in the table above, it is likely that commissioning authorities will need to draw up a formal arrangement with the host or provision authority that covers the functions of the panel to be carried out and confidentiality and independence clauses as necessary.

Appointing and operating the auditor panel

CHAPTER SUMMARY

- The minimum number of members that an auditor panel must have is three.
- There must be a majority of independent members as well as an independent chair. For a panel meeting to be quorate, there must be a majority of independent members present at the meeting.
- For joint auditor panels, it is likely that each authority will want to have representative members. For each additional member, there will need to be an additional independent member.
- Specific regulations clarify how independence is to be defined for the purposes of auditor panels.
- Panel members should have a certain level of specific knowledge and experience to ensure that the panel carries out its duties effectively. Authorities will need to ensure that they draft panel member job descriptions carefully and advertise widely enough to reach those potential candidates with the correct skills and experience and maximise the number of suitable applicants for those vacancies.
- Panel members may be paid an allowance and any reasonable expenses covered, but it is for authorities to determine such arrangements themselves.

COMPOSITION OF THE PANEL

- 3.1** The composition of the panel will be a key factor in achieving the characteristics of a good auditor panel. The Local Audit (Auditor Panel) Regulations 2014 (the Auditor Panel Regulations) are clear that the minimum number for an auditor panel is three members, of which at least two must be considered independent in line with the Local Audit (Auditor Panel Independence) Regulations 2014 (the Independence Regulations).
- 3.2** Authorities should therefore not be put off with the idea that auditor panels will be large; the quality of the panel members is of more importance than having an excessive number of members round the table. However, it is worth noting that the depth of knowledge and experience that is desirable may be harder to achieve with a small number.
- 3.3** That said, the requirement for an independent majority of members has a clear purpose and this must not be undervalued: it is the key mechanism for maintaining independence and separation between the auditor and the auditee. It ensures that the panel is able to fulfil its

statutory duty to advise the authority on maintaining an independent relationship with its auditor as well as on selection and appointment of its auditor.

- 3.4** In the case of joint auditor panels, any number of authorities can share a three-person panel to advise on their audit appointment, but it may be anticipated that authorities will wish to appoint their own representative members (although this is not required), which may in turn increase the size of the panel. In such cases, authorities must ensure that for each additional member, there is an additional independent member who is independent of all the authorities involved.
- 3.5** Authorities will need to set up a process to address incidental vacancies in their auditor panel membership, especially in the case of panels with a smaller number of members.
- 3.6** It is important to note that proceedings of the auditor panel will not be valid unless the meeting is quorate; that is, it is not sufficient that there is a majority of independent members who have been appointed to the panel – the majority of those present at a meeting must be independent. Where the chair cannot attend a meeting for any reason, another independent member must assume that role.

INDEPENDENCE

- 3.7** The Independence Regulations amend the Act and clarify further how independence is to be defined for the purposes of auditor panels.
- 3.8** The main areas through which independence may be impaired are where the panel member has:
- previous involvement within the last five years as a member or officer with the authority or another, connected authority or an officer or employee of a connected entity
 - a relationship (familial or friendship) with a member or officer of the authority or a connected authority or with an officer or employee of a connected entity
 - a contractual (commercial) relationship with the authority – either as an individual or via a body in which the panel member has a ‘beneficial interest’, and
 - a possible conflict of interest through being a prospective or current auditor of the authority or, within the previous five years, is or has been:
 - an employee of such a person
 - partner in a firm, or
 - director of a body corporate³
- which is a prospective or current auditor of the authority at the given time.
- 3.9** ‘Prospective’ auditor is defined as having made a bid to be contracted as the authority’s auditor and this bid has yet to be declined or withdrawn. There is therefore a small but important difference between ‘prospective’ and ‘future’, where any audit provider could be considered to be a potential future auditor but would not fall under the definition of a prospective auditor under this legislation.

3. A company or other body recognised as such having its own legal identity and responsibilities.

- 3.10** Panel members can also be disqualified under section 104(1) of the Local Government Act 1972, which covers specific areas of disqualification for membership of committees and joint committees.
- 3.11** It should be noted that there is no precise definition of ‘close friend’, as mentioned in paragraph 2(2)(d) of the Independence Regulations. The term was first used within the Localism Act 2011, but without definition, and the Independence Regulations have not subsequently defined what constitutes a ‘close friend’. Therefore, authorities will have to take each panel member’s relationships with its members and officers, and those of other connected authorities and entities, on a case-by-case basis, taking legal advice where issues arise.
- 3.12** In order to facilitate this process, it is suggested that panel members make declarations of interest that cover their family relationships and friendships, as well as any commercial relationships that may bar them from sitting on an auditor panel for any particular authority.
- 3.13** There are other situations that, while not set out in legislation as being barriers to independence, nevertheless may provide apparent conflicts of interest. For example, appointments that are overtly political or made through personal association of any member or officer of the authority; an appointment of a member of another (unconnected) local authority; or appointment of a working auditor. Such positions may not completely disqualify a potential panel member, however, as only a majority of members are required to be independent under the legislation, but such individuals may still be able to contribute greatly to the working of the panel.
- 3.14** Authorities are reminded that such appointments may still lead to perceptions of partiality, even with a majority of independent members sitting on the panel, and are advised to draw up safeguards against such accusations. An example may be where a panel member satisfies the requirements for being an independent member but is separately a member of a political party or known to have views closely associated with the policy of a particular party. It is therefore a good idea for panel members or potential members to declare, even if in doubt, something that may constitute a conflict of interest.

KNOWLEDGE AND EXPERIENCE

- 3.15** An effective panel composition not only takes into account the independence of its members, but also considers their skills and abilities. There is a wide range of knowledge and experience that members can bring to a panel and that will enable it to perform effectively. No one panel member would be expected to be an expert in all areas, but there may be some core areas of knowledge that members will need to acquire.
- 3.16** In addition, there are also specific skills that the panel chair will need. Many of these skills are not unique to the role of auditor panel chair and experience in other positions or non-executive roles should have helped to build these skills.
- 3.17** Evidence of appropriate skills and knowledge should be sought when appointing members to the panel, particularly for independent members whose skills may not already be known to the authority.

- 3.18** The following list sets out some key areas in which at least some general knowledge and experience will be desirable in a panel member:
- a. local authority finance
 - b. accountancy (public sector or commercial)
 - c. audit processes and regulation (public or private sector, external/local audit or internal audit), including more specifically,
 - d. the role and responsibilities (statutory duties) of a local public auditor in local government.
- 3.19** Other useful knowledge and experience may include knowledge of the authority itself; local government governance arrangements; the role and operation of the auditor panel; procurement; values of good governance and ethics; and law.
- 3.20** Authorities can tailor these lists to their own local circumstances. They may also wish to distinguish between core areas of knowledge that all panel members should seek to acquire and a range of specialisms that can add value to the panel.

ROLE OF THE PANEL CHAIR

- 3.21** The legislation does not specify whether the panel chair should be recruited into the role or appointed from the existing independent members of the panel. Both methods are equally suitable and it is up to the authority (or authorities in the case of a joint panel) to decide whether to recruit for an independent chair separate to the other panel members or not.
- 3.22** Whether undertaken during recruitment or afterwards, ideally the selection of the chair will take into account the characteristics required of an effective chair. These include:
- a. ability to plan the work of the panel with a clear focus on its role
 - b. skills of managing meetings
 - c. ability to bring an objective, apolitical attitude
 - d. core knowledge and skills required of panel members
 - e. ability to form good working relationships within the authority
 - f. in the case of joint auditor panels especially, the ability to manage authorities' as well as members' potentially differing priorities.
- 3.23** The tenure of the panel chair remains a matter for the authority, just as it does for all panel members, as set out in the Auditor Panel Regulations. In making this decision, however, it should be recognised that providing continuity in the post of the chair can help the panel to develop greater knowledge and expertise.

AUDITOR PANELLIST APPOINTMENT PROCESS

- 3.24** A panel member job description should be drawn up and agreed before commencing recruitment and the requirement or desire for relevant knowledge or expertise should be clearly determined. Vacancies must be publicly advertised, as is good practice for any public appointment, but particularly as a person may only be appointed as an independent member

of an auditor panel if that vacancy has been advertised in accordance with the Auditor Panel Regulations.

- 3.25** Panel vacancies must be advertised to reach those potential candidates with the correct skills and experience and to maximise the number of suitable applicants for those vacancies.
- 3.26** The primary considerations when considering panel membership should be independence, then maximising the panel's knowledge base and skills in line with its functions. Candidates should be able to demonstrate their independence, and their suitability should be checked.
- 3.27** Terms of office should be decided upon in advance by the authority and provision should be made for early termination and extension to avoid lack of clarity in the future.
- 3.28** Authorities will need to ensure that they begin the recruitment process in a timely manner so that the auditor panel is in operation with sufficient time allocated to tender, receive bids and ultimately provide a recommendation for appointment to the authority before the deadline set out in legislation.⁴ (It should be noted that the auditor appointment process itself is likely to take months rather than weeks and therefore a project timetable will be of use.)
- 3.29** In any year of auditor appointment, the time commitment required of panel members is likely to be greater than in intervening years, extraordinary events notwithstanding. However, that is not to discount the general role that the panel has to play in advising the authority on maintaining an independent relationship with its auditor.
- 3.30** As mentioned in 3.27, the Auditor Panel Regulations state that it is the duty of the authority to set the terms of office for panel members. There are different options available to authorities, such as aligning the terms to the length of the audit contract, but it may also be advantageous to ensure that panel members are not replaced or recruited just before the audit appointment process is to begin as it will arguably be more useful for panel members to be familiar with the authority and their role during that process.
- 3.31** Authorities may also wish to consider whether terms of office will be renewable after a fixed length of time and whether those fixed terms will be the same for each panel member. If terms are to be renewable or differ in length, this will most likely cause variances in terms of office between members and will need to be monitored and managed by the administrative authority to ensure continuity.

SELF-ASSESSMENT AND TRAINING

- 3.32** Panel members should be willing to review their knowledge and skills over their term of office, for example as part of a self-assessment process or training needs analysis. Regardless of the knowledge and skills a member has when joining the panel, there needs to be a commitment to participate in training and development to ensure that knowledge is kept up to date.
- 3.33** This may include, for example, being kept informed of the authority's strategic objectives and financial position; the role of the public sector local auditor; or training on specific areas such as limited liability agreements or procurement. Carrying out a skills gap analysis when

4. *7(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.* Source: Local Audit and Accountability Act 2014.

a panel is appointed and monitoring knowledge and competencies during the tenure of the panel will assist in this.

- 3.34** The next chapter looks into the type of support that authorities should provide their auditor panel.

THE RESIGNATION OR REMOVAL OF MEMBERS

- 3.35** The legislation does not mention what may occur when a member resigns, although, as mentioned in 3.5 above, arrangements for such occasions should be considered and drawn up at the establishment of the auditor panel itself.
- 3.36** The Auditor Panel Regulations refer to the removal of panel members on disqualification, but it is assumed that this will be a highly unusual occurrence. However, authorities should maintain a register of any potential conflicts of interest and monitor this regularly for any possible impairment of panel member independence.

ALLOWANCES AND EXPENSES

- 3.37** The Auditor Panel Regulations state that it is for the authority to determine what allowances it will pay to the members of its auditor panel. The Act also states that authorities must meet the 'reasonable expenses' of its auditor panel when carrying out its duties.
- 3.38** Such expenses and allowances may include payments for travel and subsistence when attending auditor panel meetings, but this is for each authority to decide in advance of establishing their auditor panel and must be agreed with any other authority concerned in the case of joint auditor panels. Authorities will probably wish to ensure that these allowances are consistent with other similar allowances it pays.

The functions of the auditor panel

CHAPTER SUMMARY

- The auditor panel must advise the authority on:
 - the selection and appointment of the auditor
 - whether the authority should adopt a policy on obtaining non-audit services from the auditor, including the contents of such a policy
 - any proposal by the authority to enter into a liability limitation agreement
 - maintaining an independent relationship with its auditor
 - the outcome of any investigation of an auditor’s resignation from office, if this occurs, or on any proposal to remove a local auditor from office.
- Authorities need to provide administrative/secretariat support as well as direct officer support in the form of providing advice on certain areas both during and outside of panel meetings.
- Where an audit committee exists, there may be some overlap between the auditor panel and the committee. There are specific issues to bear in mind whether the panel and committee are separate, or where an existing audit committee undertakes to fulfil the statutory auditor panel role.

WHAT THE PANEL DOES, AND HOW IT DOES IT

- 4.1** The functions of the auditor panel are set out in Local Audit and Accountability Act 2014 (the Act) and also the Local Audit (Auditor Panel) Regulations 2014 (the Auditor Panel Regulations).
- 4.2** In summary, the auditor panel must advise the authority on:
- the selection and appointment of the auditor
 - whether the authority should adopt a policy on obtaining non-audit services from the auditor, including the contents of such a policy
 - any proposal by the authority to enter into a liability limitation agreement (see chapter 7 for more information on this)
 - maintaining an independent relationship with its auditor
 - the outcome of any investigation of an auditor’s resignation from office, if this occurs, or on any proposal to remove a local auditor from office.

- 4.3 The auditor panel is also included under legislation in any discussions and receipt of relevant documents relating to public interest reports. See chapter 7 for more on this area.
- 4.4 There is no specific mention of the auditor panel carrying out oversight of contract management for the life of the auditor appointment, but it would be helpful for the panel to be involved in this role. Further on this can be found later in this chapter.

ADMINISTRATIVE ARRANGEMENTS

- 4.5 The frequency of meetings is a matter for each authority to determine, based on where in the audit contract cycle it is and any other circumstances that may require the panel to discharge some of its other functions. The scheduling of meetings may be further complicated where the panel is jointly run with another authority or authorities and where the panel role is performed by an existing committee or sub-committee of the authority.
- 4.6 Typically, it would be expected that when undertaking the auditor appointment process, the panel will need to meet more frequently with several meetings concentrated in a shorter time period. Conversely, in the middle of an effective auditor contract, with no additional complications such as public interest reports or an abrupt end to the auditor contract, the panel will wish to meet more infrequently, focusing on the monitoring of the contract's operation.
- 4.7 As mentioned in chapter 3, the panel will not be quorate unless there is a majority of independent panel members present at the meeting. It is not sufficient to have a majority of independent members appointed to the panel. Therefore, once meeting dates have been finalised, in order to minimise the need to reschedule meetings, the importance of attending meetings in person should be impressed upon panel members.
- 4.8 Overall, care should be taken to balance the frequency of meetings against the need to give the business of the panel sufficient focused attention without lengthy and unproductive meetings. Equally, the panel should review whether some time-consuming aspects of its business could be more effectively addressed elsewhere. In making such judgements, the panel must have regard to its statutory duties. Care should be taken to avoid straying into matters of operational detail that should be resolved by officers or committees of the authority.
- 4.9 The skilful chairing of meetings with well-planned agendas should provide one mechanism for avoiding this danger but officer support also plays a key role here, as such support will include providing clarity about the panel's role during and outside of meetings. Not only will the authority need to supply a room in which the panel can hold its meetings, plus secretariat support including the assembling of papers and meeting agendas, in conjunction with the panel chair, but direct officer support will also be required.

INDEPENDENCE FROM AND THE RELATIONSHIP WITH THE AUTHORITY

- 4.10** It is likely that there will be occasions when it will be desirable or even necessary to hear evidence from external sources, including the current auditor or prospective auditors and possibly the chair of the audit committee. A number of officers will have an important relationship with the panel, including:
- a. head of paid service or chief executive officer (CEO)
 - b. chief financial officer (s151 officer)
 - c. head of internal audit
 - d. head of procurement or the lead procurement officer for the audit contract.
- 4.11** The panel will need specific, direct officer support to allow it to function effectively. In addition to the secretariat support needed to run such a panel, it will be crucial for there to be an officer on whom the panel can call for advice as needed both during and outside of meetings. This advice may cover areas such as factual advice around the legislation, an authority's standing financial orders, procurement policy, etc, and it is imperative that such advice remains independent.
- 4.12** In the course of monitoring the audit contract, it may be helpful to invite other officers to meetings to give context to any discussions about quality. See paragraphs 4.16 onwards for further guidance in this area.
- 4.13** In the case of a joint auditor panel, it may be that the authority desires for a senior officer to attend meetings as an observer, if not as a full member of the panel. However, the panel chair will need to pay attention that meetings do not get overcome with the contributions of non-members to the detriment of the panel's business and independence.
- 4.14** It may be appropriate to consider how the panel operates outside formal meetings. There may be a need to keep panel members briefed on issues that are on the agenda and other matters may be too detailed for inclusion on the agenda. For example, external audit reports may be provided in full to panel members, but may be included on the meeting agenda only where there are significant matters to be discussed.
- 4.15** Further details on the relationship with the authority are set out in Part 3, paragraph 11 of the Act.

MONITORING THE AUDITOR CONTRACT

- 4.16** The auditor panel may find it valuable to draw up a range of performance metrics by which the auditor contract can be measured. The website of the transitional body Public Sector Audit Appointments Ltd (PSAA),⁵ set up to make appointments, set the terms of those appointments and decide on fees in the interim period before the new arrangements come into force, contains examples of such monitoring reports covering the past few years. Although these are at a higher level than auditor panels may want to use, they are still a useful indicator of the types of performance areas on which the panel may need to focus.

5. www.psaa.co.uk

- 4.17 When the auditor panel is reviewing the contents of any policy relating to purchasing non-audit services that the authority may adopt, and whether the authority should adopt that policy, it may be beneficial to obtain the advice of the audit committee, whose members should have experience and knowledge of the types of non-audit work that may be undertaken.
- 4.18 Specifically, the Auditor Panel Regulations state that the auditor panel should advise the authority on the contents of the policy, including the circumstances in which the authority should ask the panel for advice in purchasing non-audit services and in which the authority should or should not purchase such services from the auditor. These are areas of which the audit committee should have knowledge and experience and its input will be useful.
- 4.19 However, regardless of any advice that the audit committee can give in this area, it is important that panel members are familiar with the regulatory framework within which local auditors operate and in particular the ethical standards. This will enable panel members to have the background knowledge required to fulfil the panel's role in advising the authority on adopting a policy on the purchasing of non-audit services and the content of such a policy, if adopted.
- 4.20 In addition, in recognition of the extra responsibilities placed on local auditors in relation to the proper expenditure of public money and achieving value for money, PSAA place requirements on auditors above and beyond those set out in the ethical standards, which the panel may wish to consider. These are detailed in the terms of appointment published on the PSAA website,⁶ with paragraphs 2.6 and 2.7 and 2.22 to 2.38 of particular relevance to panel members.

RELATIONSHIP WITH AUDIT COMMITTEE

- 4.21 The auditor panel and the authority's audit committee, where one exists, will have a close working relationship in some areas of the panel's duties. This will be the case whether the panel is a standalone group or a sub-committee of the audit committee and closest where the audit committee is fulfilling the role of the auditor panel.
- 4.22 It would be useful to set out the audit committee's core role in relation to external audit, as detailed in CIPFA's publication *Audit Committees: Practical Guidance for Local Authorities and Police*:

The audit committee's core role in relation to external audit

4.35 The audit committee's role should include receiving and considering the work of the external auditor. The committee should receive the planned work programme to support the opinion and receive reports following the completion of external audit work in order to monitor the action to be taken. The committee should contribute to the authority's response to the annual audit letter.

4.36 The audit committee should support the quality and effectiveness of the external audit process through:

6. www.psa.co.uk/wp-content/uploads/2006/09/5-0-2-Appointment-from-1-April-2015.pdf

- Expressing an opinion on the selection and rotation of the external auditor.
- Reviewing how external audit plans fit with the agreed engagement and being satisfied that the planned resources and team composition have the required seniority, expertise and experience to undertake the engagement.
- Assessing the effectiveness of the external audit process, including whether the external auditor has a good understanding of the authority, how the external auditor has met the audit plan, and feedback from key people such as the responsible financial officer and the head of internal audit.
- Reporting to full council or the police and crime commissioner or chief constable or other body as appropriate on the results of the review.
- Supporting the implementation of recommendations from the external auditor.
- Reviewing the authority's policy on non-audit work by external audit and details of any non-audit work actually undertaken.

4.37 In monitoring the quality of the external audit provision, the audit committee should be briefed on any relevant issues around quality that emerge from the regulation of external audit – for example, the quality reports from the Financial Reporting Council.

4.38 There should be an opportunity for the audit committee to meet privately and separately with the external auditor, independent of the presence of those officers with whom the auditor must retain a working relationship.

4.39 Reports from inspection agencies can be a useful source of assurance about the authority's financial management and governance. The audit committee should have access to inspection reports as a source of assurance and compare the findings with any relevant internal audit and external audit reports. Inspection reports will need to be actioned by the corporate or appropriate departmental management team, but the audit committee has a role in monitoring such action to ensure that a consistent approach is adopted and that the various agencies have one recognisable point of entry into the authority.

Source: Audit Committees: Practical Guidance for Local Authorities and Police (2013 Edition), CIPFA, 2013

- 4.23 There are three clear overlaps with the audit committee and auditor panel's duties, including:
- a. The quality and effectiveness monitoring role undertaken by the audit committee which will feed into the panel's contract monitoring.
 - b. The audit committee should be able to express an opinion on the selection and rotation of the auditor.
 - c. The audit committee reviews the authority's policy on non-audit work carried out by external audit whereas the auditor panel has to advise the authority on the contents of any non-audit work policy and whether the authority should adopt such a policy.

4.24 There are specific points to be mindful of with regards to these three areas, both where the audit committee is carrying out the functions of the auditor panel and where they are completely separate entities.

SEPARATE AUDITOR PANEL AND AUDIT COMMITTEE

- 4.25** While the audit committee has a more regular and detailed role in monitoring the quality and effectiveness of the external auditor, the auditor panel's monitoring role is mainly going to be most important when nearing the end of the auditor contract, especially if the auditor indicates that they wish to bid to extend or renew their contract.
- 4.26** In that situation, communication between the audit committee and the auditor panel, most likely via the respective chairs, needs to include open sharing of any performance data related to the audit process collected by the audit committee and possibly informal or formal discussions with the panel about the auditor's effectiveness over the lifespan of the contract. This will allow the audit committee to express an opinion on the selection and rotation of the auditor, at least where the current (and possibly prospective) auditor is concerned.

AUDITOR PANEL PERFORMED BY THE AUDIT COMMITTEE OR WHERE THE PANEL IS A SUB-COMMITTEE OF THE AUDIT COMMITTEE

- 4.27** Legislation is clear that where the auditor panel function is performed by an existing committee or sub-committee of the authority, that committee has to ensure that it discharges the auditor panel duties separately, as if it were not a ratified committee of the authority.
- 4.28** Therefore, in relation to the three key areas of overlap between an auditor panel and the audit committee, if that is the committee chosen to fulfil the role of the panel, there needs to be clear demarcation between the respective duties of the panels.
- 4.29** The role of the chair in such a situation is vital, ensuring that members are clear about their purposes at any given time and that while their role in one entity can inform their position in the other, the decisions are to be made independently from each other. As mentioned previously, officer support will also be key.

Appointing the auditor

CHAPTER SUMMARY

- Although authorities will need to comply with their own policies and procedures, there are five key stages of the appointment process which are likely to be common across authorities:
 - decide on the appointment process
 - determine the important criteria to be considered when selecting the auditor
 - evaluate expressions received
 - final evaluation of tenders
 - recommendation to the authority.
- There are two main types of output from the appointment process: that coming from the auditor panel and that which is issued by the authority.

THE MAIN STATUTORY DUTIES OF THE AUDITORS

- 5.1** The Local Audit and Accountability Act 2014 (the Act) sets out the general duties of 'local auditors' in respect of authorities as follows:
- a. The auditor must, by examination of the accounts and otherwise, be satisfied that the accounts comply with any legislative requirements that apply to them; that proper practices have been observed in the preparation of the statement of accounts; and that the statement presents a true and fair view.
 - b. The auditor must also be satisfied that the authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
- 5.2** Auditors have to follow the National Audit Office's (NAO) *Code of Audit Practice*, which came into force on 1 April 2015, as well as having regard to any supporting guidance issued by the NAO.⁷ This is a principles-based statutory Code that prescribes the way auditors must carry out their functions.
- 5.3** The main statutory duties are summarised at appendix C, but can be divided into three main areas:
- a. audit scope

7. The Comptroller and Auditor General (C&AG) has legal responsibility for the production and maintenance of the *Code of Audit Practice*. The NAO undertakes operational work in respect of the Code on behalf of the C&AG and is the body that readers of this guidance should engage with in respect of Code-related matters. Consequently, this guidance refers to 'the NAO's *Code of Audit Practice*' throughout.

- b. reporting – to express an audit opinion, consider issuing a public interest report, etc
- c. additional powers and duties – such as giving electors the power to inspect the draft accounts and make objections against those accounts.

KEY STAGES OF THE APPOINTMENT PROCESS

5.4 Authorities will have their own procurement/appointment policies and it is paramount that they comply with such prerequisites but, in general, there will be five main stages, as summarised in the following table:

Stage	
1	<p>Decide on the appointment process</p> <p>The first step is for the authority to decide whether to appoint an auditor panel using one of the four options (set out in chapter 2) or whether to use the sector-led body to appoint the auditor.</p> <p>Next, the timetable must be drawn up, taking into account EU procurement rules.⁵</p> <p>At this stage, the authority may wish to decide upon the contract length.</p> <p>The authority will need to issue an Office of the Journal for the European Union (OJEU) Contract Notice and within 24 hours of this being published (or if not published, within 48 hours), publish the notice in Contracts Finder.</p>
2	<p>Determine the important criteria to be considered when selecting the auditor</p> <p>It is likely that authorities will use the restricted procedure under the Public Contracts Regulations 2015. This is a two-stage tender process: at the first stage, bidders complete a Pre-Qualification Questionnaire (PQQ) and this will be assessed (it is used to establish an organisation’s commercial, technical and financial capabilities and provides a method of shortlisting interested parties meeting the required minimum qualification criteria). During this first stage, there is no assessment of how the bidders will meet the tender requirements.</p> <p>Under the new Public Contracts Regulations 2015, authorities have to get all the tender documents ready before they issue the contract notice. This includes all the evaluation criteria, descriptive documents and audit specifications.</p> <p>This stage may involve obtaining input from sources external to the auditor panel, for example the audit committee, the CEO and the CFO.</p> <p>Criteria may include such areas as:</p> <ul style="list-style-type: none"> ■ audit team experience ■ quality of service ■ price ■ added value ■ range of non-audit services. <p>The factors decided upon should be given a weighting so that each tender can be fairly assessed.</p>

8. European Union procurement rules require authorities to advertise in OJEU where the estimated total contract value (over the duration of the contract) exceeds £172,514 for other public bodies and £111,676 for Schedule 1 entities. Contracts for external audit services tend to exceed the OJEU threshold.

Stage	
2	<p>Determine the important criteria to be considered when selecting the auditor (continued)</p> <p>The authority will have to comply with strict procurement timescales where they must allow 30 days for bidders to express an interest and then allow another 30 days for submission of tenders (this can be reduced by five days where the tender can be received electronically).</p> <p>Another option is the open procedure, which is a one-stage procedure where bidders complete all tender documents (the PQQ and tender response) at the same time. The authority evaluates the bids and then evaluates the PQQ part of the submission. The disadvantage with this procedure is that the authority may be inundated with large numbers of tenders, and will be required to evaluate all the bidders.</p> <p>Once the PQQ shortlisting has been completed, only invited bidders under the restricted procedure will complete the Invitation To Tender.</p>
3	<p>Evaluate expressions received</p> <p>The auditor panel should evaluate the tenders against the published criteria established at the outset of the procurement exercise.</p> <p>Under the procurement rules, authorities are not allowed to hold presentation meetings and award marks for the pitch. Presentation meetings can only be used for the purposes of clarifying the written tender submissions. The evaluation criteria that are used will be as stated in the original procurement documents.</p>
4	<p>Final evaluation of tenders</p> <p>Once the tender submissions have been evaluated, the authority will have to undergo a mandatory ten-day 'standstill period'. It will inform all bidders who have not been successful by sending them an Award Decision Letter.</p> <p>Once this formality has been completed, the authority can enter into the contract with the successful bidder. It will be required to issue a Contract Award Notice in OJEU and now also through the Contracts Finder portal.</p>
5	<p>Recommendation to the authority</p> <p>The auditor panel must give advice to the authority on the selection and appointment of the auditor. This advice, or a summary of it, must be published within 28 days of appointing the auditor.</p> <p>When the authority does not follow the advice given to it by the panel, it must also set out the reasons why it has not done so in the same notice.</p>

- 5.5** It is important to design the process for decision making in stages 1 and 2. Ensuring that the evaluation criteria and weighting are absolutely clear and resilient at an early stage, applying them consistently and fully documenting them, will make the process more secure against possible challenge.
- 5.6** If taking advice from officers on the evaluation criteria, the panel needs to be mindful as to whether any of these criteria might disadvantage some suppliers; for example, if too much weight is placed on track record of equivalent contracts and national capacity, this might exclude smaller regional suppliers.
- 5.7** An authority's auditor must be eligible for appointment in accordance with the Act. However, in addition to the statutory baseline set out in the legislation, the auditor panel may also wish to look at other desirable qualities that the audit firm or team possesses. This would fall under the criteria established in stage 2 of the appointment process.

- 5.8** For example, the firm may have expertise in a specific non-audit area in which the authority needs specialist advice. Or perhaps the audit team has particular local knowledge or experience of similar or neighbouring authorities that the procuring authority believes would be of great benefit.

KEY PROCUREMENT PRACTICALITIES

- 5.9** First, it is important to note that procurement regulations as set out above as well as the authority's own procurement rules and standing financial orders must be followed. Joint committees will need to establish whether to follow the procurement rules of the lead authority or agree rules between the constituent authorities. Such discussion will need to take place early on in the process, with the involvement of the authorities' procurement and legal departments.
- 5.10** It may be necessary to enlist the help of the authority's procurement specialists to give the auditor panel the essential knowledge it will need to direct the appointment process effectively. Where more than one authority has collaborated to create a joint auditor panel, for advising on the appointment of either a joint contract or multiple separate contracts, potentially with different audit firms, care will need to be taken to ensure that arrangements do not contravene an individual authority's own rules and standing financial orders.
- 5.11** Areas of procurement that the panel may need advice or training on include, but are not limited to:
- a. the legal framework of procurement
 - b. value for money (for example by focusing on outcomes and selecting on quality as well as price)
 - c. evaluating tenders
 - d. commercial confidentiality
 - e. conflicts of interest.
- 5.12** Careful preparation of the invitation to tender documents is also of great importance. A clearly set out scope for the service to be provided will assist the auditor panel in evaluating the bids that are received and also gives prospective auditors a specific idea of what is important to the authority and what it wants most from its auditor.
- 5.13** The desired contract length will obviously need to have been decided at an early stage in the process. A term of three to five years would be appropriate as the Act states that authorities must make an appointment at least once every five years, but the contract duration is for the authority to determine.
- 5.14** Authorities may also consider the possibility of including additional audit-related work within the scope of the appointment (for example, grant claims work). This may avoid separate procurement exercises being required should additional assurance requirements be introduced once audit contracts are in place.
- 5.15** For authorities who have joint committees, they will be aware that such committees no longer need to produce separate accounts and therefore are no longer required to be separately audited. However, they may already have existing obligations to produce audited accounts

and authorities must check whether their existing joint committees have such obligations in place. Even if they do not exist, constituent authorities may consider it appropriate to arrange for dedicated audit scrutiny of their joint committees, in addition to the statutory audit of their own accounts. Where authorities intend to take this route in addition to making their own auditor appointment, they should consider taking the advice of their auditor panel, although for a joint committee with a large number of constituent authorities, this may be difficult logistically.

- 5.16** Chapter 6 looks more closely at auditor resignation and removal but authorities should note that the appointment process after the resignation or removal of the auditor must take no longer than three months from the date when the auditor ceases to hold office. If the replacement auditor is not appointed within that time, the authority must notify the secretary of state.

OUTPUTS FROM THE APPOINTMENT PROCESS

- 5.17** There are two main types of output from the appointment process – that coming from the auditor panel and that which is issued by the authority.
- 5.18** The auditor panel will produce its advice on the selection and appointment of the auditor, whereas the authority has to publish a notice, within 28 days of the appointment being made, that includes information such as the name of the auditor; the length of the appointment; the advice, or a summary of the advice, from the auditor panel; and, where it has not accepted that advice, the reasons why not. (Note that the full list of contents is set out in the Act.)
- 5.19** This notice must be published on the authority's website or in another format if the authority considers that it will reach the people who live within its area. The notice may leave out any information that could prejudice commercial confidentiality, unless it is in the public interest to publish such information.
- 5.20** Where the authority disagrees with the auditor panel's proposed selection and appointment recommendation, the legislation simply states that it must state publicly the 'reasons why'. Evidently these reasons must originate in discussions that have taken place within the authority but it could be expected that such reasons may be made on the basis of:
- a. the cost of the proposed appointment
 - b. a change in circumstances at the authority that makes the suggested selection no longer valid
 - c. a change in the evaluation criteria or weightings that lead to another bid being more acceptable (although the criteria and weightings should be drawn up robustly and tested to avoid such an occurrence), or
 - d. some misunderstanding on behalf of the auditor panel, as perceived by the authority.
- 5.21** Before an authority decides to reject the advice of its auditor panel, it must bear in mind that the key principle of having a majority independent auditor panel is to provide separation and objectivity in the appointment process and to safeguard against partiality, real or perceived, affecting the process.

Resignation or removal of the auditor

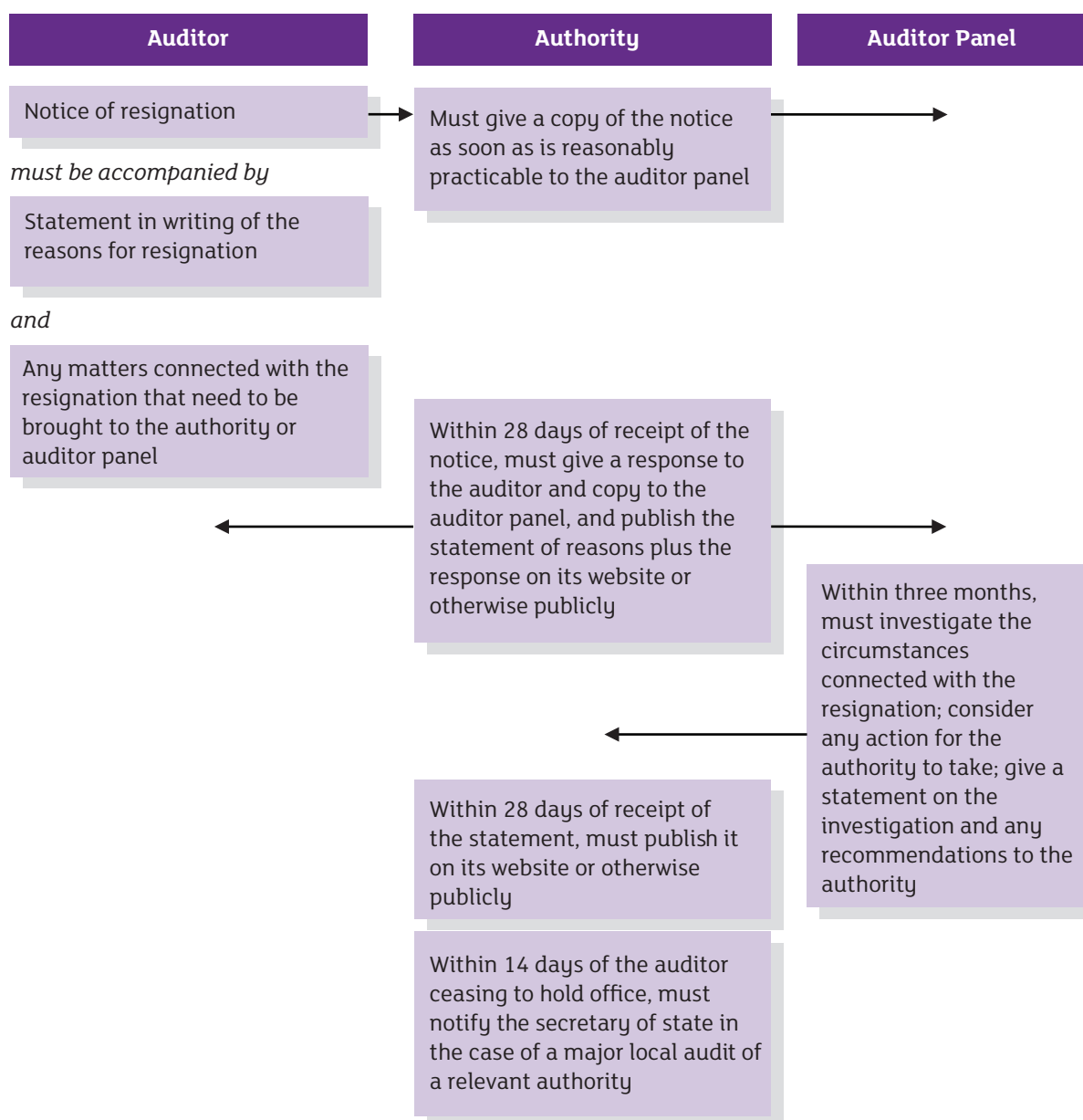
CHAPTER SUMMARY

- Both resignation and removal of the auditor are expected to be very rare occurrences and there is no specific guidance to assist in identifying when such instances may arise.
- Legislation sets out specific steps that auditors, authorities and the auditor panel must undertake in each circumstance.
- There may be an interim period of up to three months from when an auditor ceases to hold office after resignation or removal and when a new auditor must be appointed. If any queries are received for the auditor or potential objections raised by a local elector, these should be held over until the arrival of the new auditor.

- 6.1** Resignation or removal of an auditor is expected to be a very rare occurrence. The arrangements for resignation and removal provide for transparency in the process so that both the authority and the auditor can make the reasons for their decisions public, and so that the auditor panel can provide independent advice to the organisation on any decision about removal of the auditor, or the circumstances around the auditor's resignation.

RESIGNATION OF THE AUDITOR

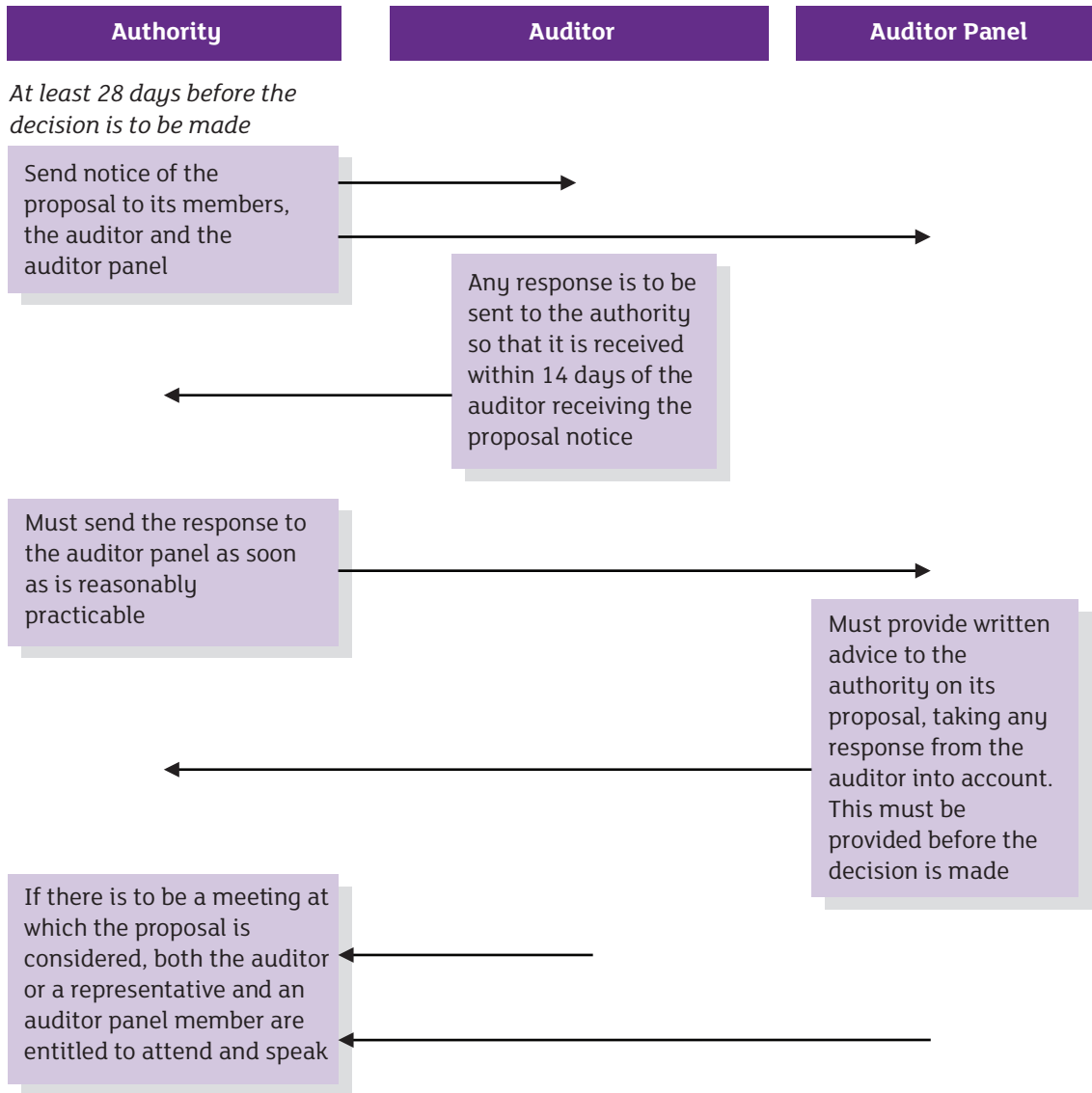
- 6.2** The legislation does not set out reasons why an auditor is likely to resign but reasons may include conflicts of interest that may arise or limitations of scope that mean the auditor believes it is no longer possible to carry out the work for which they have been contracted.
- 6.3** There are certain steps that the auditor and the authority must take in a situation when the auditor decides to resign their office. These are set out in the following diagram:



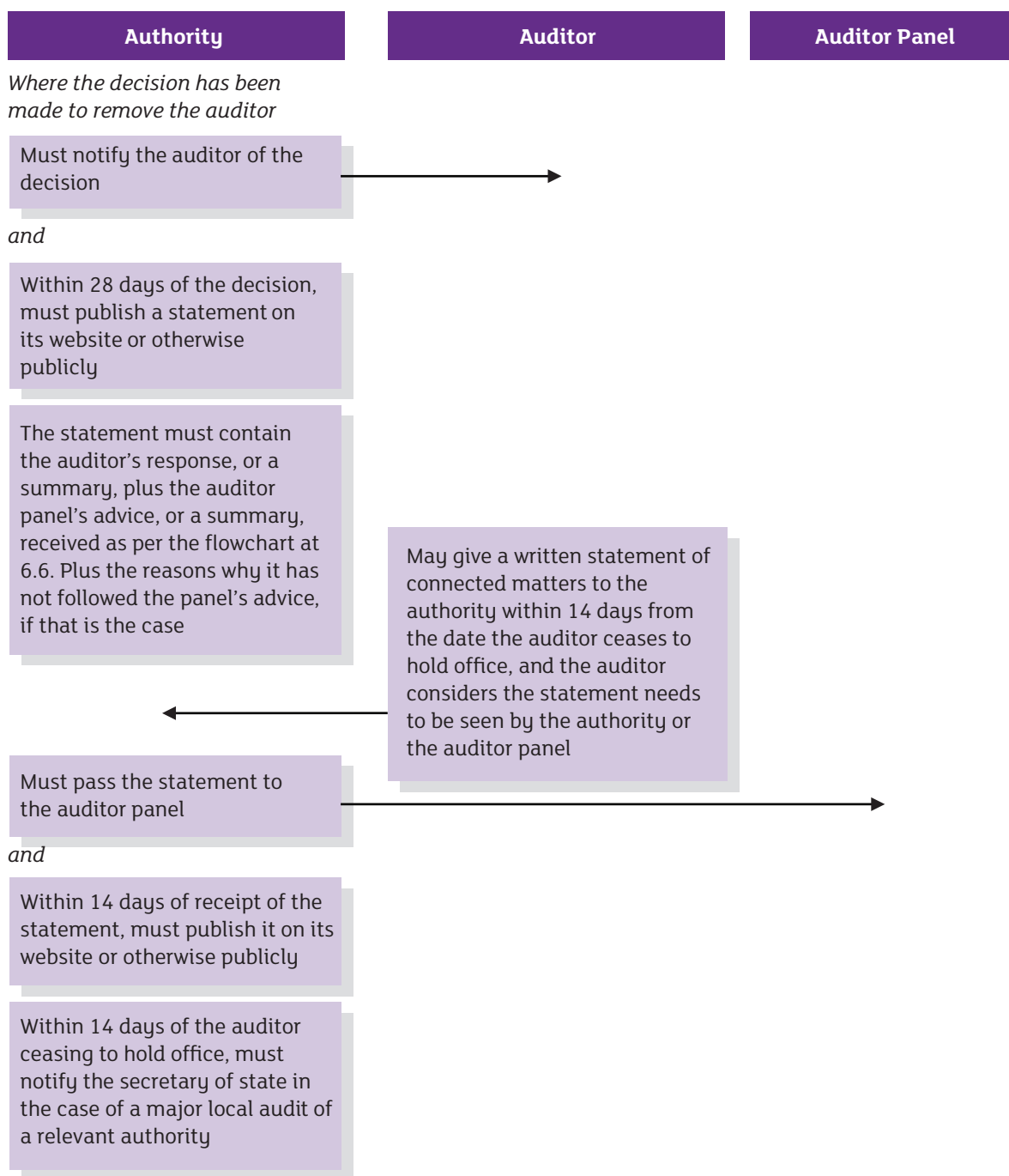
6.4 The diagram does not replace the detail contained within the legislation and authorities must refer to the Act and the Local Audit (Auditor Resignation and Removal) Regulations 2014 in these situations.

REMOVAL OF THE AUDITOR

- 6.5 As for the resignation of the auditor, the legislation does not set out circumstances in which removing the auditor would be an appropriate step. In-contract removal should be an exceptional occurrence and a last resort action and as such, it is not possible to set out potential triggers for such a situation.
- 6.6 The steps that the authority, the auditor and the auditor panel are required to or may take before making the decision to remove the auditor from office are set out in the following diagram:



- 6.7 It would be expected that the authority and the auditor enter mediation if appropriate, to try to resolve any disputes. In such a case, it may be preferable to enlist the help of a third party and the auditor panel could fulfil that role.
- 6.8 The steps that the authority, the auditor and the auditor panel are required to or may take after making the decision to remove the auditor from office are set out in the following diagram:



INTERIM ARRANGEMENTS BETWEEN RESIGNATION AND REMOVAL AND REPLACEMENT

- 6.9 If possible, the length of time that an authority does not have an appointed auditor must be minimised. However, there may be very rare periods in which an auditor vacancy is unavoidable.
- 6.10 In such a situation, the authority should have arrangements for sending holding replies to queries received for the auditor and ensuring that any queries, potential objections to the accounts⁹ and other such matters are held safely until the new auditor's arrival.

9. As per paragraphs 25 to 27 of the Local Audit and Accountability Act 2014.

Other functions of the auditor panel

CHAPTER SUMMARY

- Auditor panels have a statutory duty to give advice to the authority if it proposes to enter into a liability limitation agreement. If panel members lack knowledge or experience in this area, it is recommended that training is sought that may assist them in this duty.
- It is important that auditor panels not only see any public interest report that has been made by the auditor, but that they are also seen to have received the public interest report. That is why the legislation requires both the auditor and the authority to ensure that the auditor panel has received a copy of any such report.
- Auditor panels should take a public interest report into account when advising the authority on its relationship with the auditor. Public interest reports also inform the panel's monitoring of the quality and effectiveness of the auditor.

LIABILITY LIMITATION AGREEMENTS

- 7.1** Section 14 of the Local Audit and Accountability Act 2014 (the Act) explains that liability limitation agreements seek to limit the amount of a liability owed to a relevant authority by the 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.
- 7.2** Auditor panels have a statutory duty to give advice to the authority if it proposes to enter into a liability limitation agreement. It is not the role of this guidance to give specific legal advice on such agreements. Instead, authorities must take proper advice from their legal team if they are considering entering into such an agreement, as well as considering the advice obtained from the panel.
- 7.3** Auditor panel members may not have any knowledge or experience of such agreements. It is therefore recommended that any training given to panel members includes liability limitation agreements to ensure that they are able to discharge their duty in this area to the best of their ability.
- 7.4** The Local Audit (Liability Limitation Agreements) Regulations 2014 (the LLA Regulations) give some additional information in this area, including that any agreement must not extend past the duration of the auditor contract to which it relates; and that the agreement can only limit

the auditor's liability to an 'amount as is fair and reasonable in all the circumstances of the case'.

PUBLIC INTEREST REPORTS

- 7.5** The responsibility of the auditor panel in respect of public interest reports (PIRs) is a relatively small one. When a PIR relating to the authority, or an entity connect to it, has been made by the auditor, the auditor must notify the panel as soon as is reasonably practicable afterwards.
- 7.6** The Act underlines the importance of the auditor panel receiving the PIR by also stating that the authority must send a copy of the report to the panel as soon as is practicable after receiving it.
- 7.7** While it is the responsibility of the authority to respond to and act upon any PIR relating to itself, or a connected entity, the report may raise issues or concerns relating to the authority's independent relationship with the auditor, on which the auditor panel must advise the authority. It is key that the panel sees when something unusual and potentially challenging to this relationship has occurred.
- 7.8** Issues arising from a PIR may also inform the auditor panel's monitoring of the quality and effectiveness of the auditor's term of office and any reappointment, if sought. The auditor panel will take any PIR into account when advising the authority on subsequent auditor appointment, for example where they may detect an authority does not want to reappoint an auditor that it perceives as challenging owing to a PIR. The panel can also provide balanced advice if, following a PIR, there is a proposal to remove the auditor or there are conditions that lead to the auditor resigning. The auditor panel's influence here will be in their advice, and that advice is being made public.

Other sources of guidance and assistance

- Local Audit and Accountability Act 2014
- Local Audit and Accountability Act 2014 Explanatory Notes
- Local Audit (Auditor Panel) Regulations 2014
- Local Audit (Auditor Panel Independence) Regs 2014
- Local Audit (Auditor Resignation and Removal) Regulations 2014
- Local Audit (Liability Limitation Agreements) Regulations 2014
- Local Audit (Smaller Authorities) Regulations 2015
- *Audit Committees: Practical Guidance for Local Authorities and Police (2013 Edition)*, CIPFA, 2013
- *Code of Audit Practice*, National Audit Office, 2015

APPENDIX A

Legislation relating to auditor panels

Appendix A reproduces sections of the legislation that are relevant to auditor panels. The appendix is not intended to be a substitute for the detailed requirements of the legislation itself.

ESTABLISHING AN AUDITOR PANEL

What does the legislation say?

Local Audit and Accountability Act 2014

Section 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.*

SCHEDULE 4 FURTHER PROVISIONS ABOUT AUDITOR PANELS

Options for auditor panels

Para 1 (1) *The auditor panel of a relevant authority (“R”) must be—*

- (a) *a panel appointed as an auditor panel by R,*
 - (b) *a panel appointed as an auditor panel by R and one or more other relevant authorities,*
 - (c) *a committee of R to which sub-paragraph (2) applies, or*
 - (d) *a panel to which sub-paragraph (3) applies.*
- (2) *This sub-paragraph applies to a committee of R (however described) which has not been appointed as an auditor panel if—*
- (a) *R determines that the committee should be R’s auditor panel,*
 - (b) *the committee agrees to be R’s auditor panel, and*
 - (c) *the committee complies with the other provisions applying to auditor panels made by or under this Schedule.*
- (3) *This sub-paragraph applies to a panel if—*
- (a) *the panel is (by virtue of any of paragraphs (a) to (c) of subparagraph (1)) the auditor panel of a relevant authority other than R,*
 - (b) *R determines that the panel should be R’s auditor panel,*
 - (c) *the panel agrees to be R’s auditor panel, and*
 - (d) *the panel complies (as regards R) with the other provisions applying to auditor panels made by or under this Schedule.*
- (4) *References in sub-paragraphs (1) and (2) to a committee of R include a subcommittee of a committee of R.*

APPOINTING AND OPERATING AN AUDITOR PANEL

What does the legislation say?

Local Audit and Accountability Act 2014

SCHEDULE 4 FURTHER PROVISIONS ABOUT AUDITOR PANELS

Constitution of auditor panels

Para 2 (1) A relevant authority's auditor panel, other than a health service body's auditor panel—

- (a) must consist of a majority of independent members (or wholly of independent members), and
 - (b) must be chaired by an independent member.
- (2) A member of a relevant authority's auditor panel, other than a health service body's auditor panel, is "independent" at any given time if the following conditions are met—
- (a) the panel member has not been a member or officer of the authority within the period of 5 years ending with that time (the "last 5 years"),
 - (b) the panel member has not, within the last 5 years, been a member or officer of another relevant authority that is (at the given time) connected with the authority or with which (at the given time) the authority is connected,
 - (c) the panel member has not, within the last 5 years, been an officer or employee of an entity, other than a relevant authority, that is (at the given time) connected with the authority,
 - (d) the panel member is not a relative or close friend of—
 - (i) a member or officer of the authority,
 - (ii) a member or officer of another relevant authority that is connected with the authority or with which the authority is connected, or
 - (iii) an officer or employee of an entity, other than a relevant authority, that is connected with the authority,
 - (e) the panel member is not the authority's elected mayor,
 - (f) neither the panel member, nor any body in which the panel member has a beneficial interest, has entered into a contract with the authority—
 - (i) under which goods or services are to be provided or works are to be executed, and
 - (ii) which has not been fully discharged,
 - (g) the panel member is not a current or prospective auditor of the authority, and
 - (h) the panel member has not, within the last 5 years, been—
 - (i) an employee of a person who is (at the given time) a current or prospective auditor of the authority,
 - (ii) a partner in a firm that is (at the given time) a current or prospective auditor of the authority, or
 - (iii) a director of a body corporate that is (at the given time) a current or prospective auditor of the authority.

Inserted by the Local Audit (Auditor Panel Independence) Regulations 2014 (2014/2845)

(7) In sub-paragraph (2)— “elected mayor” has the same meaning as in Part 1A of the Local Government Act 2000(a);

“officer”, in relation to an entity other than a relevant authority, means a person elected or appointed as, or to, that entity.

Local Audit and Accountability Act 2014

(8) For the purposes of sub-paragraph (2)(d), a person (“R”) is a relative of another person (“P”) if R is—

- (a) P’s partner,
- (b) P’s parent or grandparent,
- (c) P’s son, daughter, stepson, stepdaughter or grandchild,
- (d) P’s brother or sister,
- (e) P’s uncle, aunt, nephew or niece,
- (f) a parent, son, daughter, brother or sister of P’s partner, or
- (g) a partner of any person within paragraphs (b) to (f), and for this purpose “partner” means a spouse, civil partner or someone a person lives with as if they were husband and wife or civil partners.

Inserted by the Local Audit (Auditor Panel Independence) Regulations 2014 (2014/2845)

(8A) For the purposes of sub-paragraph (2)(f) to (h)—

“body in which the panel member has a beneficial interest” means a body in which the panel member is a partner, or of which the panel member is a director, or in the securities of which the panel member has a beneficial interest; “current or prospective auditor”, in relation to a relevant authority, means—

- (a) the person appointed to act as the authority’s local auditor, or
- (b) a person who has made a bid, which has not been declined or withdrawn, for a contract of appointment as the authority’s local auditor;

“director” includes a member of the management committee or other directing body of a registered society, and a member of a limited liability partnership;

“registered society” means a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Local Audit and Accountability Act 2014**SCHEDULE 4 FURTHER PROVISIONS ABOUT AUDITOR PANELS****Status of auditor panels**

- Para 6 (1) Where a relevant authority other than a health service body has determined that a committee of that authority should be its auditor panel, the panel when acting as such is not to be treated as a committee of the authority for the purposes of any enactment.*
- (2) *Sub-paragraph (1) is subject to provision made by regulations under paragraph 5.*
- (3) *References in this paragraph to a committee of a relevant authority include a sub-committee of such a committee.*

Inserted by the Local Audit (Auditor Panel) Regulations 2014 (2014/3224)**Members of auditor panels**

- 2.**—(1) *An auditor panel of a relevant authority must have three or more members.*
- (2) *A person may only be appointed as an independent member of an auditor panel if—*
- (a) *the vacancy for an independent member has been advertised by the relevant authority in such manner as it considers is likely to bring the vacancy to the attention of the public; and*
- (b) *the person submitted an application to fill the vacancy to the relevant authority.*
- (3) *If the relevant authority is a local authority operating executive arrangements, the function of appointing members of an auditor panel is not the responsibility of an executive of the authority under those arrangements.*
- (4) *If the relevant authority is a local authority within the meaning of section 101 of the 1972 Act (arrangements for discharge of functions), that section does not apply to the authority's function of appointing members of an auditor panel.*
- (5) *If the relevant authority is the Greater London Authority, the function of appointing members of an auditor panel to fill casual vacancies must be exercised by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.*
- (6) *If the relevant authority is a parish meeting, the function of appointing members of an auditor panel to fill casual vacancies must be exercised by the parish meeting itself (and not by its chairman on behalf of the parish meeting).*

Term of office of panel members

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

Removal of panel members on disqualification

4. Where a member of an auditor panel, or its chair, becomes disqualified from being a member of an auditor panel by virtue of regulation 8, the relevant authority which appointed that member must—
- (a) remove the disqualified member or chair from the auditor panel where that member has not already resigned or agreed to resign; and
 - (b) appoint a person to fill the vacancy.

Allowances of panel members

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

Proceedings and validity of proceedings of auditor panels

- 6.— (1) Subject to paragraph (2), an auditor panel may determine its own proceedings.
- (2) In relation to any meeting of an auditor panel—
- (a) the quorum is three, and
 - (b) the proceedings of the panel are valid if the majority of members present at the meeting are independent members of the panel.

Local Audit and Accountability Act 2014

SCHEDULE 4 FURTHER PROVISIONS ABOUT AUDITOR PANELS

Expenses of auditor panels

Para 7 A relevant authority must meet the reasonable expenses of its auditor panel incurred by the panel when acting as such.

THE FUNCTIONS OF THE AUDITOR PANEL

What does the legislation say?

Local Audit and Accountability Act 2014

Procedure for appointment

Section 8(2)(d) sets out the advice, or a summary of the advice, of its auditor panel about the selection and appointment of a local auditor.

Functions of auditor panel

Section 10(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.

- (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(2)(d) sets out the advice, or a summary of the advice, of its auditor panel about the selection and appointment of a local auditor.*

Relationship with relevant authority

Section 11(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.*

Local Audit (Auditor Panel) Regulations 2014 (2014/3224)**Functions of auditor panels: further details**

- 7.—(1) *In complying with its duties under section 10(1) to (3) of the Act a relevant authority's auditor panel must advise the authority on—*
- (a) *whether to adopt a policy on the purchasing, from the authority's local auditor, of non-audit services;*
 - (b) *if the authority proposes to adopt such a policy, on its contents, including—*
 - (i) *the circumstances in which the authority should ask the auditor panel for advice in connection with the purchasing of non-audit services; and*
 - (ii) *the circumstances in which the authority should or should not purchase non-audit services from the authority's local auditor.*
- (2) *In this regulation "non-audit services" in relation to a relevant authority means services provided by the authority's local auditor to the authority other than in the exercise of the functions of the local auditor under the Act.*

APPOINTING THE AUDITOR**What does the legislation say?****Local Audit and Accountability Act 2014****Procedure for appointment**

Section 8(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.

Section 8(2)(d) sets out the advice, or a summary of the advice, of its auditor panel about the selection and appointment of a local auditor

Local Audit (Auditor Resignation and Removal) Regulations 2014 (2014/1710)**Appointment of a local auditor following removal or resignation**

Section 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.*
- (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.*

RESIGNATION OR REMOVAL OF THE AUDITOR

What does the legislation say?

The Local Audit (Auditor Resignation and Removal) Regulations 2014 (2014/1710)

Role of the auditor and the relevant authority in respect of the auditor panel

- 3(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(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.
- 3(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;

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.

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.
- 6(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.
- 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.
- 7(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, 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).

LIABILITY LIMITATION AGREEMENTS AND PUBLIC INTEREST REPORTS

What does the legislation say?

Local Audit and Accountability Act 2014

Section 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.

SCHEDULE 7 REPORTS AND RECOMMENDATIONS

Public Interest Reports

- Para 1(4) A local auditor must notify a relevant authority's auditor panel (if it has one) as soon as is reasonably practicable after making a public interest report relating to the authority or an entity connected with it.
- 4(3) As soon as is practicable after receiving the report, the relevant authority must supply a copy of the report to—
- (a) each of its members (if it has members), and
 - (b) its auditor panel (if it has one).

The auditor's statutory duties

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The auditor's statutory responsibilities

Schedule 1 aims to provide an accessible view of auditors' responsibilities. To achieve this, the schedule summarises (rather than reproduces) relevant sections of the Act. The schedule is not intended to be a substitute for consideration of the detailed requirements of the Act itself.

Schedule 1

The auditor's statutory responsibilities

Audited bodies other than health service bodies	Statute
Audit scope	
To be satisfied that the accounts comply with the requirements of the enactments that apply to them	Section 20(1)(a) Local Audit and Accountability Act 2014
To be satisfied that proper practices have been observed in the preparation of the statement of accounts and that the statement presents a true and fair view	Section 20(1)(b) Local Audit and Accountability Act 2014
To be satisfied that the audited body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources	Section 20(1)(c) Local Audit and Accountability Act 2014
Reporting	
To express an opinion on the accounts	Section 20(2)(b) Local Audit and Accountability Act 2014
To certify completion of the audit	Section 20(2)(a) Local Audit and Accountability Act 2014
Where appropriate, to give an opinion on the part of the financial statements that relates to a pension fund maintained by the authority under regulations under section 1 of the Public Service Pensions Act 2013	Section 20(3) Local Audit and Accountability Act 2014
To consider the issue of a report in the public interest	Section 24, Schedule 7 paragraph 1(1) Local Audit and Accountability Act 2014
To consider whether to make a written recommendation to the audited body, copied to the Secretary of State	Section 24, Schedule 7 paragraph 2 Local Audit and Accountability Act 2014
Additional powers and duties	
To give electors the opportunity to raise questions about the accounts and consider and decide upon objections received in relation to the accounts	Sections 26 and 27 Local Audit and Accountability Act 2014
To apply to the court for a declaration that an item of account is contrary to law	Section 28 Local Audit and Accountability Act 2014
To consider whether to issue and, if appropriate, to issue an advisory notice or to make an application for judicial review	Sections 29 and 31, Schedule 8 Local Audit and Accountability Act 2014
To comply with the Code of Audit Practice prepared by the Comptroller and Auditor General and approved by Parliament	Section 20(5) Local Audit and Accountability Act 2014
To have regard to any guidance to auditors issued by the Comptroller and Auditor General	Section 20(6) Local Audit and Accountability Act 2014



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