

HAMPSHIRE COUNTY COUNCIL**Decision Report**

Decision Maker:	Audit Committee
Date:	05 February 2015
Title:	Local Audit & Accountability Act 2014 - Update
Reference:	6413
Report From:	Director of Corporate Resources – Corporate Services

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1. Executive Summary

1.1. The purpose of this paper is to provide the Audit Committee with an update against the provisions within the Local Audit & Accountability Act 2014 empowering local public bodies to appoint their own auditors.

2. Contextual information

- 2.1. In August 2010, the Secretary of State for Communities and Local Government announced the Government's plans to re-focus local public audit, allowing local public bodies to appoint their own auditors, which included safeguards to ensure the continuation of high standards, whilst ensuring that local people would be able to hold local public bodies to account. The Local Audit and Accountability Act 2014 (the Act) sets out the new local audit framework which gained Royal Assent on 30 January 2014.
- 2.2. The Act makes it possible for the Audit Commission to close, in line with Government expectations, on 31 March 2015. The new framework for local public audit, will commence after the Commission's current contracts with audit suppliers end in 2016/17, or potentially in 2019/20 if all the contracts are extended.
- 2.3. The primary focus of the Act places a requirement on relevant authorities to appoint an external and independent auditor on the advice of an independent audit panel.

2.4. This is further underpinned by a series of provisions to support the abolition of the Audit Commission and subsequent transfer of powers, including:

- The repeal of legislation under which the Audit Commission operates (the Audit Commission Act 1998).
- A requirement for relevant authorities in England to keep accounting records and to prepare an annual statement of accounts, which must be audited.
- A requirement that an audit of a relevant authority (referred to in the Act as a “local audit”) must include a value for money element.
- The creation of a regulatory framework whereby the Financial Reporting Council and professional accountancy bodies regulate the provision of local audit services.
- The transfer of responsibility for setting the code of audit practice and supporting guidance to the National Audit Office.
- The transfer of the Audit Commission’s data matching powers to the Cabinet Office.
- Comptroller and Auditor General to enable the National Audit Office to undertake examinations of thematic value for money issues.

2.5. The Act extends beyond solely the local appointment of auditors. Additional provisions include:

- Powers for the Secretary of State to issue codes of practice concerning the publication of information.
- Amends the Local Government Act 1986 to ensure that local authorities comply with some or all of a code of recommended practice on local authority publicity.
- Amends the council tax referendum provisions of the Local Government Finance Act 1992 so that levies are included in a local authority’s calculation of whether its council tax is excessive for the purpose of determining whether it is required to hold a council tax referendum.
- Allows the Secretary of State to make regulations to allow the public to film, blog and tweet at the public meetings of local government bodies, and to require written records to be kept of certain decisions taken by officers of these bodies.

2.6. This paper focuses primarily on the area most pertinent to the Audit Committee through their existing terms of reference and specifically their role *‘to liaise with the Audit Commission over the appointment of the County Council’s external auditor’*.

3. Appointment of a local auditor

- 3.1. An auditor must be appointed by 31st December in the financial year prior to the year which will be covered by the accounts to be audited. The appointment may last for more than one year but a new appointment must be made at least once every five years.
- 3.2. Each relevant authority must have an 'auditor panel'. The auditor panel can be a panel appointed as such, a shared auditor panel appointed by one or more other authorities, or an existing committee that complies with provisions applying to auditor panels.
- 3.3. An auditor panel must consist of at least a majority of independent members, and must be chaired by an independent member.
- 3.4. The auditor panel is in place to advise the relevant authority on maintaining an independent relationship with its auditor and on selection and appointment of its auditor. The Act requires the relevant authority to publish advice from its auditor panel.
- 3.5. The authority is required, on receiving a request from the auditor panel, to provide any information held by the authority that is of relevance to the auditor panel's work. The auditor panel may require a member or officer of a relevant authority to attend a meeting of the panel to answer questions.
- 3.6. A relevant authority must consult its auditor panel and take its views into account when selecting and appointing an auditor.
- 3.7. For local authorities operating executive arrangements the appointment of the auditor must be undertaken by Full Council and not the Executive.
- 3.8. To support transparency of the appointment, the relevant authority must publish a notice within 28 days of making the appointment that: states it has made the appointment; the term of that appointment; who the appointed auditor is; sets out the auditor panel's advice; and if that advice has not been followed, the relevant authority's reasons for not following it.

4. Failure to appoint a local auditor

- 4.1. Where a relevant authority fails to appoint an auditor they must inform the Secretary of State. In such an instance the Secretary of State may either direct the relevant authority to appoint a named auditor, or appoint an auditor on their behalf.
- 4.2. To exercise these powers, the Secretary of State must inform the relevant authority of his or her intention to do so not less than 28 days beforehand, and must also consider any representations made by the relevant authority. However there is provision for the Secretary of State to move more quickly, and without considering representations, if he thinks it likely that a function would need to be exercised by an auditor within 60 days of a direction to appoint being given or an appointment being made.

5. Collective Auditor Procurement

- 5.1. Section 17 of the Act provides the power to make provision for certain relevant authorities to have a local auditor appointed on their behalf by a body specified by the Secretary of State.
- 5.2. The regulations fulfil the Government's commitment to enable the establishment of sector-led collective procurement arrangements. Under such arrangements, authorities would be able to choose to 'opt-in' and have an auditor appointed on their behalf by a specified appointing person, rather than appoint their own auditor locally.
- 5.3. The regulations will set out a framework through which the Secretary of State may specify a body set up by the sector as an appointing person, and give them the powers and duties to operate collective procurement arrangements. In addition, the regulations will set out the process through which authorities may opt-in to such arrangements.
- 5.4. Participation in sector-led collective procurement arrangements will be optional. Under the proposed regulations the appointing person will be required to issue an 'invitation' to audited bodies, who will choose whether to 'opt-in' to sector-led arrangements. The 'invitation' will need to set out the proposed 'appointing period' for which an audited body will opt-in, and during which the appointing person will be responsible for appointing an auditor to any body which has opted in. Audited bodies will have at least eight weeks to respond to the invitation. Regulations require that any decision to 'opt-in' to collective procurement will need to be taken by Full Council.
- 5.5. Authorities that 'opt-in' will do so for the duration of the 'appointing period', which the Government intends to limit to a maximum length of five financial years. After the period has expired, the appointing person would be able to begin another appointing period, but would be required to run another 'opt-in' process first – giving the opportunity for audited bodies to choose whether to join sector-led arrangements for that period.
- 5.6. Any other audited body (for example one that initially chose not to participate when the invitation was issued) may *request* to 'opt-in', but it will be for the appointing person to decide if they accept or decline that request.

6. The Functions of an Appointing Person

- 6.1. The appointing person will be required to appoint an auditor to each 'opted-in' authority, and to do so by the 31 December of the financial year preceding the year that the appointed auditor is to audit. Before making appointments, the appointing person will be under a duty to consult each 'opted-in' body on the proposed appointment.

- 6.2. The appointing person will be required to consult on and then set scales of fees for audit, which 'opted-in' bodies will be required to pay. As under the current framework, while the scale of fees would set the 'standard' fee for 'opted-in' bodies, the appointing person will be able to charge a higher or lower fee if it appears to it that the work involved in an audit is more or less than expected. This enables the fee to account for any additional work that the auditor may carry out, such as considering objections or carrying out a public interest report. 'Opted-in' bodies will be under a duty to provide the appointing person with the information they need to carry out their functions, for example to determine the final fee.
- 6.3. The regulations give the appointing person three further general functions. These are to design and implement appropriate systems to:
 - Oversee the ongoing independence of the auditor;
 - Monitor the compliance of appointed auditor with contractual obligations; and
 - Deal with disputes or complaints relating to audit contracts and the carrying out of audits.
- 6.4. The draft regulations also include a series of modifications to the Act, which will apply in the case of those audited bodies that 'opt-in' to collective procurement arrangements under these regulations. Most significantly, those audited bodies that 'opt-in' will no longer be under a duty to have an auditor panel.
- 6.5. The conditions of the draft regulations to support the collective procurement of audit went out to consultation in June 2014, with responses required by 18 July 2014. Details from the consultation exercise have yet to be communicated.

7. Recommendation(s)

- 7.1. That the Audit Committee notes the update and requirements of the Local Audit & Accountability Act 2014.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	no
Maximising well-being:	no
Enhancing our quality of place:	no
OR	
This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because:	
There is a legislative requirement within the Local Audit & Accountability Act for the authority to make provision for the external audit of its accounts.	

Other Significant Links

Links to previous Member decisions:		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
Direct links to specific legislation or Government Directives		
<u>Title</u>		<u>Date</u>
Local Audit & Accountability Act 2014		April 2014

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equality Duty

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

1.2. Equalities Impact Assessment:

Equality objectives are not considered to be adversely affected by the proposals within this report.

2. Impact on Crime and Disorder:

2.1. The proposals in this report are not considered to have any direct impact on the prevention of crime, however internal audit work is planned to ensure that controls are in place to minimise the risk of fraud and corruption against the County Council.

3. Climate Change:

- a) How does what is being proposed impact on our carbon footprint / energy consumption?

No specific changes

- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

No specific proposals affecting adaptation to climate change