

2014 No. 2845

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Audit (Auditor Panel Independence) Regulations
2014**

Made - - - - *22nd October 2014*

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 46 of, and paragraph 2(9) of Schedule 4 to, the Local Audit and Accountability Act 2014^(a);

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

Citation and commencement

1. These Regulations may be cited as the Local Audit (Auditor Panel Independence) Regulations 2014 and come into force at the end of the period of 21 days beginning with the day on which they are made.

Definition of independence

2.—(1) Paragraph 2 of Schedule 4 to the Local Audit and Accountability Act 2014 (constitution of auditor panels) is amended in accordance with paragraphs (2) to (5).

(2) For sub-paragraphs (2) and (3) substitute—

“(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.”.
- (3) For sub-paragraphs (4) to (7) substitute—
- “(4) Sub-paragraphs (5) to (6D) modify the application of sub-paragraph (2) in relation to—
- (a) cases where the relevant authority referred to in the opening words of sub-paragraph (2) (the “relevant authority concerned”) is a police and crime commissioner, the Mayor’s Office for Policing and Crime, another functional body or the Greater London Authority, and
 - (b) relevant authorities that are corporations sole (including, but not limited to, corporations sole mentioned in paragraph (a)).
- (5) Where the relevant authority concerned is the police and crime commissioner for an area, references to “the authority” include the chief constable for the area.
- (6) Where the relevant authority concerned is the Mayor’s Office for Policing and Crime, references to “the authority” include the Commissioner of Police of the Metropolis and the Greater London Authority.
- (6A) Where the relevant authority concerned is a functional body other than the Mayor’s Office for Policing and Crime, references to “the authority” include the Greater London Authority.
- (6B) Where the relevant authority concerned is the Greater London Authority, references to “the authority” include a functional body and the Commissioner of Police of the Metropolis.
- (6C) Where a relevant authority is a corporation sole, references to “a member” of the relevant authority are to a holder of that office of corporation sole.
- (6D) Sub-paragraph (6C) applies regardless of whether the relevant authority is—
- (a) the relevant authority concerned,
 - (b) a relevant authority treated under any of sub-paragraphs (5) to (6B) as included in a reference to the relevant authority concerned, or
 - (c) a relevant authority that is connected with an authority falling within paragraph (a) or (b), or with which such an authority is connected.
- (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.”.

(4) In sub-paragraph (8), in the opening words, for “sub-paragraph (2)(c)” substitute “sub-paragraph (2)(d)”.

(5) After sub-paragraph (8) insert—

“(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(b);

“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(c) and other securities of any description, other than money deposited with a building society.”.

(6) For the italic cross-heading before paragraph 8 of Schedule 4 to the Local Audit and Accountability Act 2014, substitute “*Connected entities*”.

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

Kris Hopkins

Parliamentary Under Secretary of State

Department for Communities and Local Government

22nd October 2014

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about auditor panels established under Part 3 of the Local Audit and Accountability Act 2014 (“the Act”). Auditor panels give advice on the selection and appointment of an auditor to audit the accounts of relevant authorities (as to which, see section 2 of, and Schedule 2 to, the Act). Schedule 4 to the Act makes provision about auditor panels and paragraph 2 (which relates to relevant authorities which are not health service bodies within the meaning in section 3(9) of the Act) contains provision about members of auditor panels. Panels must consist of a majority of independent members; individuals who have been a member or officer of a relevant authority within 5 years of the time in question cannot be independent members of the audit panel that advises that authority.

These Regulations amend the definition, in paragraph 2 of Schedule 4 to the Act, of who is independent at any given time, by substituting sub-paragraph (2) and making modifications to that sub-paragraph as it applies to police and crime commissioners, the Mayor’s Office for Policing

(a) 2000 c.22; Part 1A was inserted by the Localism Act 2011 (c.20), Schedule 2, paragraph 1.

(b) 2014 c.14; see section 1 for the definition of “registered society”.

(c) 2000 c.8; see section 235 for the definition of “collective investment scheme”.

and Crime, other functional bodies of the Greater London Authority (“GLA”) and the GLA. Persons with relevant interests in the relevant authority as provided for by sub-paragraph (2)(f) (providing goods or services to the authority) or sub-paragraph (2)(g) and (h) (being, or being employed by, a current or prospective auditor of the authority) cannot be independent auditor panel members.

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

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