



April 2020

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# The Local Auditors (Transparency) Regulations 2020: Public Consultation

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## INTRODUCTION

### Scope of the consultation

This consultation seeks views on the Local Auditors (Transparency) Regulations 2020.

This consultation is open to the public. This consultation was launched on 28 April 2020 for a period of 4 weeks. It closes on 26 May 2020.

An impact assessment can be found in the second annex to this consultation.

### How to Respond

Responses should be sent by email to [LATransparencyRegsConsult@frc.org.uk](mailto:LATransparencyRegsConsult@frc.org.uk)

or in writing to:

Local Auditors Transparency Consultation  
Professional Oversight Team  
Financial Reporting Council  
8th Floor  
125 London Wall  
London  
EC2Y 5AS

After this consultation closes the responses will be analysed and a response to the consultation document will be published.

### Background to local audit transparency reports

The Local Audit and Accountability Act 2014 (the 2014 Act) regulates the auditors of local bodies in England (including local authorities, NHS Trusts, police and crime commissioners and clinical commissioning groups). In most respects this legislation applies to local audits the legal framework for company audits under the Companies Act 2006, as it applied when the 2014 Act came into force.

The Government has delegated to the Financial Reporting Council (FRC) certain powers relating to the regulation of auditors of local bodies (“local auditors”)<sup>1</sup>. The FRC has exercised these powers to require certain local auditors to produce reports known as “local audit transparency reports”.

This requirement applies to local auditors who audit major local bodies<sup>2</sup>.

Requirements relating to such transparency reports are currently set out in the Local Auditors (Transparency) Instrument 2015, issued by the FRC<sup>3</sup>.

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<sup>1</sup> The Local Audit (Delegation of Functions) and Statutory Audit (Delegation of Functions) Order 2014. (S.I. 2014/2009).

<sup>2</sup> Major local audits are defined in Regulation 12 of the Local Audit (Professional Qualifications and Major Local Audit) Regulations 2014 (S.I. 2014/1627).

<sup>3</sup> <https://www.frc.org.uk/getattachment/ab84c6df-9d48-4e11-9aba-dadd8aa163be/Local-auditors-transparency-instrument-2015.pdf>

## **Proposed alignment of requirements relating to transparency reports**

In order to lessen the regulatory burden on local auditors, reduce unnecessary duplication and more effectively and efficiently discharge FRC's regulatory and monitoring responsibilities, the FRC intends to further align the requirements for local audit transparency reports with the requirements for transparency reports issued by statutory auditors of public interest entities ("PIE transparency reports")<sup>4</sup>.

This alignment will be achieved by the Local Auditors (Transparency) Regulations 2020 ("the 2020 Regulations").

The 2020 Regulations will, in particular, align the deadlines for publishing transparency reports. At present, the deadline for publishing a local audit transparency report is three months. The 2020 Regulations will increase that deadline to four months. This will align with the deadline for PIE transparency reports.

The 2020 Regulations will also increase from two years to five years the period of time that a local audit transparency report must be made available. This will follow the equivalent requirement for PIE transparency reports.

This alignment will further facilitate the publication of a "joint transparency report" for those audit firms that are both local auditors and statutory auditors of public interest entities, provided that such a report satisfies the requirements of both the 2020 Regulations and of Article 13 of Regulation (EU) 537/2014. This will in turn facilitate public scrutiny of how firms comply with their transparency obligations.

Accordingly, the 2020 Regulations:

- Increase the deadline to publish a local audit transparency report to four months from the end of the local auditor's financial year, from three months;
- Increase the period of time that a local auditor transparency report must be available of the local auditor's website from two years to five years;
- Remove the requirement for a local auditor to send a copy of a local auditor transparency report to the FRC; and
- Contain various minor and clarificatory drafting changes to the Local Auditors (Transparency) Instrument 2015.

A draft version of the 2020 Regulations is available at Annex 1. These regulations are intended to apply to reports for financial years of local auditors commencing on or after 1 June 2019.

## **Consultation questions**

1. Do you agree that the FRC should align the requirements for local audit transparency reports with the requirements for PIE transparency reports?
2. Do you have any other comments regarding the draft 2020 Regulations?

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<sup>4</sup> These requirements are set out in Article 13 of Regulation (EU) 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC.

## **Groups affected by this consultation**

During the initial development of this consultation, the FRC has given due consideration to the impact it will have on different groups. It does not consider that the proposals in this consultation highlight any specific issues in relation to the protected characteristics:

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

We will take account of the evidence gathered through this consultation in developing final policy proposals and any potential impacts on the protected characteristics.

## **How responses to the consultation will be treated**

The FRC will process any personal data provided by you in accordance with the General Data Protection Regulation and the Data Protection Act 2018. More information about how we handle the personal data of stakeholders is contained in our Stakeholder Engagement Privacy Notice, available here: <https://www.frc.org.uk/getattachment/1bd76348-7e4d-488b-a89b-11959b0d1f6a/Stakeholder-Engagement-Privacy-Notice-Final-1-July-2018.pdf>

Information provided in response to this consultation may be subject to publication or disclosure in accordance with applicable access to information frameworks, primarily the Freedom of Information Act 2000 (FOIA) (which only applies to information held by us in relation to the exercise of some of our functions), the General Data Protection Regulation, the Data Protection Act 2018 and the Environmental Information Regulations 2004.

If you want certain information you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this you should explain to us why you regard any information you have provided as confidential. If we receive a request for disclosure of the information we will take due account of your explanation, but we cannot give an assurance that confidentiality will be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the FRC.

## **Respondent information**

1. Are you responding as an individual or a business?
2. Have you trained as, or do you practice as, an auditor?
3. Are you a registered as a local auditor?
4. Is your employer registered as a local auditor?
5. Do you operate, own or otherwise participate in the direction of the business affairs of a local auditor?
6. Are you responding on behalf of a business that will require its accounts to be audited by a local auditor?
7. Are you primarily a resident of the United Kingdom / an EEA state / other? (please delete as applicable)

## **Consultation questions**

1. Do you agree that the FRC should align the requirements for local audit transparency reports with the requirements for PIE transparency reports?
2. Do you have any other comments regarding the draft 2020 Regulations?

## **Next steps**

This consultation runs for 4 weeks, from the 28 April 2020 to 26 May 2020.

The FRC will carefully consider all submissions received in response to this consultation before finalising its policy approach.

# ANNEX 1 The Local Auditors (Transparency) Regulations 2020

## Financial Reporting Council

### THE LOCAL AUDITORS (TRANSPARENCY) REGULATIONS 2020

#### Powers exercised

- A. The Financial Reporting Council Limited makes these Regulations in exercise of the power conferred on the Secretary of State by section 1240 of the Companies Act 2006<sup>5</sup>, as applied in relation to local audits by Section 18 and paragraphs 1, 2 and 15 of Schedule 5 to the Local Audit and Accountability Act 2014<sup>6</sup>, to make regulations requiring a person eligible for appointment as a local auditor, or a member of a specified class of such persons, to keep and make available specified information to the public.
- B. The power to make such regulations was transferred to the Financial Reporting Council by Article 2 of The Local Audit (Delegation of Functions) and Statutory Audit (Delegation of Functions) Order 2014<sup>7</sup>, which came into force on 19 August 2014 for the purpose of the transfer.

#### Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Local Auditors (Transparency) Regulations 2020.

(2) These Regulations come into force on *[Date]*.

(3) In these Regulations, the financial year of a local auditor is any period in respect of which a profit and loss account of the local auditor is required to be produced (by its constitution or by the law under which it is established), whether that period is a year or not.

(4) In these Regulations –

“the 2006 Act” means the Companies Act 2006;

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

“the Audit Regulation” means Regulation (EU) 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC<sup>8</sup>;

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<sup>5</sup> 2006 c. 46.

<sup>6</sup> 2014 c. 2.

<sup>7</sup> S.I. 2014/2009.

<sup>8</sup> OJ L 158/77 27.05.14.

“the Financial Reporting Council” means the Financial Reporting Council Limited<sup>9</sup>;

“local audit” has the same meaning as in paragraph 1(2) of Schedule 5 to the 2014 Act;

“local auditor” has the same meaning as in section 4(1)(b) of the 2014 Act;

“major local audit” has the same meaning as in paragraph 13(10) of Schedule 10 to the 2006 Act, as it is applied to local audits by Section 18 and paragraphs 1, 2 and 28(7) of Schedule 5 to the 2014 Act;

“network” and “public interest entity” has the same meaning as in Regulation 2 of the Statutory Auditors and Third Country Auditors Regulations 2016<sup>10</sup>;

“statutory auditor” and “statutory audit” have the same meaning as in section 1210(1) of the 2006 Act;

“transparency reporting local auditor” is a local auditor that has issued an audit report in relation to one or more major local audits at any time during the financial year of that local auditor.

## **Application**

2. (1) These Regulations apply to transparency reporting local auditors.

(2) These Regulations apply in respect of each financial year of a transparency reporting local auditor commencing on or after 1 June 2019.

## **Obligation to prepare transparency report and its contents**

3. (1) A transparency reporting local auditor must prepare a transparency report for each financial year specified in regulation 2 above.

(2) Subject to paragraph (4) below, the transparency report must at a minimum contain the information set out in the Schedule to these Regulations.

(3) The transparency report must be approved by the transparency reporting local auditor and signed on its behalf.

(4) The information specified in paragraph (1)(g) of the Schedule to these Regulations may be omitted to the extent that the inclusion of that information in the transparency report would create, or be likely to create, a serious risk that any person would be subject to violence or intimidation.

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<sup>9</sup> A company registered in England and Wales with number 02486368.

<sup>10</sup> S.I. 2016/649.

(5) A transparency reporting local auditor that is also a statutory auditor that carries out statutory audits of public interest entities may prepare a single report that includes the information required by these Regulations and by Article 13 of the Audit Regulation.

### **Publication of transparency report**

4. (1) A transparency reporting local auditor must ensure that its transparency report is made available on a website that is maintained by or on behalf of the transparency reporting local auditor and identifies the transparency reporting local auditor in question.
  - (2) The transparency reporting local auditor must ensure that –
    - (a) The transparency report is made available on the website specified in paragraph (1) above not later than four months after the end of the financial year of the transparency reporting local auditor to which it relates; and
    - (b) It remains available for a period of five years from the date on which the period of three months specified in paragraph (a) above ends.
  - (3) The transparency reporting local auditor must notify the Financial Reporting Council when a transparency report required by regulation 3 is made available on the website together with an indication of where that website can be found.

### **Revocation**

5. The Local Auditors (Transparency) Instrument 2015 is revoked.

By Order of the Financial Reporting Council

*[DATE]*

Signed on behalf of the Financial Reporting Council

## SCHEDULE

1. The information that must be included in a transparency report is:
  - a. A description of the legal structure, governance and ownership of the transparency reporting local auditor;
  - b. Where the transparency reporting local auditor belongs to a network, a description of the network and the legal, governance and structural arrangements of the network;
  - c. A description of the internal quality control system of the transparency reporting local auditor and a statement by the administrative or management body on the effectiveness of its functioning in relation to local audit work;
  - d. A description of the transparency reporting local auditor's independence procedures and practices including a confirmation that an internal review of independence practices has been conducted;
  - e. Confirmation that all engagement leads are competent to undertake local audit work and staff working on such assignments are suitably trained;
  - f. A statement of when the last monitoring of the performance by the transparency reporting local auditor of local audit functions, within the meaning of paragraph 23 of Schedule 10 to the 2006 Act, as applied in relation to local audits by Section 18 and paragraphs 1, 2 and 28(7) of Schedule 5 to the 2014 Act, took place;
  - g. A list of major local audits in respect of which an audit report has been made by the transparency reporting local auditor in the financial year of the auditor; and any such list may be made available elsewhere on the website specified in regulation 4 provided that a clear link is established between the transparency report and such a list;
  - h. A statement on the policies and practices of the transparency reporting local auditor designed to ensure that persons eligible for appointment as a local auditor continue to maintain their theoretical knowledge, professional skills and values at a sufficiently high level;
  - i. Turnover for the financial year of the transparency reporting local auditor to which the report relates, including the showing of the importance of the transparency reporting local auditor's local audit work; and
  - j. Information about the basis for the remuneration of partners.

## **ANNEX 2 Preliminary Impact Assessment**

There are currently 7 firms which are auditors of major local bodies. These auditors are also all statutory auditors of companies that are Public Interest Entities (and as such all are also required to comply with transparency reporting requirements set out in Article 13 of Regulation (EU) 537/2014).

The changes to the transparency reporting regime for local auditors will further facilitate the submission of joint transparency reports. This is likely to reduce the regulatory burden on firms, while maintaining high standards of transparency.

Accordingly, this regulation does not lead to any significant impact on business.



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