



National Audit Office

Council accounts: a guide to your rights

As a local resident you have legal rights to inspect your council's accounts and related documents.



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This guide covers your rights under the Audit Commission Act 1998, as transitionally saved, which continue to apply for the audit of 2014-15 accounts.

We will publish a new guide in autumn 2015 covering similar rights under the Local Audit and Accountability Act 2014 for the audit of accounts for 2015-16 onwards.

References throughout this document to the Audit Commission Act 1998, and to regulations made under the Act, should be read as references to the legislation as transitionally saved.

This document is available on our website at: www.nao.org.uk/code-audit-practice

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Summary

Councils and their accounts

Councils spend public money. The money comes from national and local taxes – as well as charges to service users. Councils must tell local residents and taxpayers how their money is spent. They do this by publishing yearly accounts and details of their spending.

Council accounts are the financial statements that most organisations must produce at the end of the year. These include a balance sheet and summary of income and expenditure along with supporting notes that give more details. The term also includes related documents used to make up the council's accounts and any report by the external auditor.

Your rights and the law

The Audit Commission Act 1998 governed and prescribed the work of the Audit Commission and of the auditors it appointed to councils and other local public bodies. The Audit Commission Act, and Accounts and Audit (England) Regulations 2011 issued under section 27 of the Act, also cover the duties, responsibilities and rights of councils, other organisations and the public concerning the accounts being audited.

The Audit Commission was abolished, with effect from 31 March 2015, through the Local Audit and Accountability Act 2014. However, the Audit Commission Act 1998 continues to apply to the audit of council accounts up to and including the financial year ended 31 March 2015. For accounts for the year ended 31 March 2016, the provisions of the Local Audit and Accountability Act 2014 will apply. We will update this guide with details of revised arrangements in summer 2015.

As a local resident, or an interested party, you have legal rights to inspect a council's accounts and related documents. If you are a local government elector for the area to which the accounts relate you can also:

- ask questions about the accounts; and
- object to them.

You do not have to pay directly for exercising your rights. However, any resulting costs incurred by the council form part of its running costs. Therefore, indirectly, local residents pay for the cost of you exercising your rights through their council tax.

About this guide

This guide:

- explains how to use your rights responsibly;
- explains what the law says about council accounts and your rights; and
- gives sources of advice and information for concerns about your council that don't relate to the accounts.

Part One shows you how to inspect, ask questions, and object to accounts. To ask the external auditor a question or make an objection about accounts, you need to know:

- who the council's external auditor is;
- your legal rights;
- when you can exercise them;
- what an external auditor can and cannot do; and
- the costs involved.

You may want to know something about your council which is not related to their accounts. Part Two gives contact details for bodies that may be able to help you.

If you just want information about your council's income or spending, first ask your council. Most local authorities publish spending details on their websites. If you do not have internet access, you can ask your council to send you a copy of what they publish. You might want to tell someone your view of how the council runs its services. You can tell the council or the external auditor about these issues at any time.

In this guide we refer to 'council accounts' throughout. But your rights also apply to certain other local public bodies, such as fire and rescue authorities, police and crime commissioners and chief constables. These are set out in schedule 2 of the Audit Commission Act 1998.

Please note, that none of your rights described in this guide apply to the accounts of any NHS body.

Part One

Inspecting accounts

You must read and inspect the accounts and ask relevant questions before objecting. Objecting to your council's accounts is a serious matter.

Q: What can I inspect?

A: You can inspect your council's accounts, any related documents, and any report the auditor made in that financial year.

The law says you may inspect the accounts to be audited and all books, deeds, contracts, bills, vouchers and receipts relating to them for that financial year. You can copy all, or part, of these accounts and related documents.

Q: Are there limits to what I can inspect?

A: Yes. The law limits what you can inspect or copy.

Your inspection must be about the accounts, or relate to an item in the accounts. You cannot, for example, inspect or copy documents unrelated to the accounts, or that include personal information about staff.

An exception to this is if the information relates to senior employees' salary and benefits. A senior employee is someone earning more than £150,000 a year, or someone earning at least £50,000 a year and holding a senior management position in the council.

Q: When can I inspect the accounts?

A: By the end of June, councils will usually have finished preparing accounts for the previous financial year ending on 31 March. Councils must then tell the public, by advertising on their website and in at least one local newspaper, that the accounts and related documents are available to inspect. You have 20 working days to inspect the accounts. This is called the 'inspection period'.

A council must publish the advertisement at least 14 days before the inspection period begins. The notice must show the dates, times and places where you can view and copy the accounts and related documents.

Parish councils can advertise the inspection period by putting up a notice in a public place instead of advertising in a newspaper or on their website.

Q: Where can I inspect the accounts?

A: Council accounts are important and valuable documents and must be safeguarded. You will usually have to inspect them at the council offices.

You can ask the council to send you copies of documents, but you may have to pay. Councils may also charge you for copying any documents.

Some parish councils do not have an office and so usually arrange for inspection in a local public place. You should not expect to go to anyone's home to inspect the accounts. The council will arrange a suitable place for you to inspect the accounts if they do not have an office.

Q: Can anyone help me to inspect the accounts?

A: Yes. You can ask someone to help you or appoint a representative.

You can ask another person to go with you to inspect the accounts. You can also ask someone to represent you and inspect the accounts for you. This person does not have to live in the area covered by your council. You must tell the council in good time that someone will go with you or represent you.

Q: What if I am denied my inspection rights?

A: If you disagree with a council about your inspection rights or cannot access the documents you want to inspect, first try to resolve this with the council.

Nobody should try to stop you from inspecting and copying documents, but you must always act reasonably.

Acting reasonably includes agreeing a time to inspect documents that suits the council as well as you.

Acting reasonably also means being responsible and specific about what you want to inspect. A council may consider a request to see 'everything' as unreasonable, and reject it.

Q: Can the external auditor help me to use my rights to inspect the accounts?

A: No. Your right to inspect the accounts is personal, which means the external auditor cannot get involved.

The auditor has no role in enforcing inspection rights. You can ask your local Citizens Advice Bureau for help, or a solicitor to enforce your rights. If this does not work, you may go through the courts.

Inspection rights are covered by [section 14](#) and [section 15](#) of the Audit Commission Act 1998, and the [Accounts and Audit \(England\) Regulations 2011](#).

Asking questions about accounts

Q: Who can ask questions about the accounts?

A: Anybody can ask a question, but only local electors can ask questions formally. You must first ask your council about the accounts. If you are a local elector, you can also ask the external auditor.

Your right to ask questions of the external auditor is enshrined in law. There is no corresponding duty on the external auditor to answer questions. This is because the law does not want to interfere with the external auditors' independence, or their freedom to exercise discretion in how they do their work.

Q: Who can answer questions about the accounts?

A: Give your council the opportunity to explain anything in the accounts that you are unsure about.

If you are not satisfied with the council's explanation, you can ask the external auditor to explain points in the accounts. The law limits the time available for you to ask questions. So let the external auditor know your concern as soon as possible.

Q: How can I find out who the external auditor is?

A: In this guide 'the external auditor' is the auditor appointed to the council by the Audit Commission or by Public Sector Audit Appointments Ltd (PSAA).

To find out who the auditor is you can:

- ask your council;
- look at the PSAA website; or
- email PSAA at auditorappointments@psaa.co.uk

The Local Government Association set up PSAA to manage the Commission's audit contracts after the closure of the Commission on 31 March 2015.

Q: When can I ask the external auditor questions about the accounts?

A: The advertisement or notice that tells you the accounts are available to inspect will also give the date the auditor sets on or after which you may ask them questions. There is a time limit for asking questions.

You can ask someone to represent you when asking the external auditor questions. Inspect the accounts fully, before you ask the external auditor any questions, so you know what they contain.

You can ask the external auditor questions about the accounts from the date set until the audit is complete and closed. Once the audit is closed you cannot ask the auditor questions about that year's accounts.

You may ask your council questions about their accounts for any year, at any time.

Q: What questions can I ask about the accounts?

A: You can ask the external auditor questions about an item in the accounts for the financial year being audited. However, your right to ask the external auditor questions is limited. The external auditor can only answer 'what' questions, not 'why' questions.

The external auditor cannot answer questions about the council's policies, finances, procedures or anything else that is not relevant to an item in the accounts.

Q: Can the external auditor answer questions about my view of the accounts?

A: No. Your questions must always be about facts, not opinions.

To avoid misunderstandings, we recommend that you always put your questions in writing.

Q: Can the external auditor raise my question with the council for me?

A: No. The external auditor cannot ask the council questions for you or give you the council's answers.

The external auditor acts independently of electors and the council when auditing the accounts. So the external auditor will not ask the council questions on your behalf.

For questions that are not about the accounts, the external auditor will suggest that you ask the council for the information you want.

Q: Will the external auditor answer my question about whether something in the accounts is lawful?

A: The fact that you disagree with something your council has done, or intends to do, does not necessarily mean it is unreasonable or unlawful. The auditor considers the legality of items of account brought to their attention but does not have to answer questions about whether something the council has done, or an item in its accounts, is lawful.

When thinking about asking questions, remember that councils can decide the best way to do things within the law. An external auditor can only question a council's policies, or decisions, if they are unlawful.

Asking the auditor questions about the accounts is covered by section 15 of the Audit Commission Act 1998 and in Chapter 5 of the 2010 Code of Audit Practice which is available on the Audit Commission's archived website, www.gov.uk/government/organisations/audit-commission.

Objecting to accounts

You have inspected the accounts and asked your questions. Now you may wish to object to the accounts or an item in them that you consider unlawful.

Q: What is an objection to the accounts?

A: A local government elector can ask the external auditor to apply to the High Court for a declaration that an item of account is unlawful, or to issue an immediate report in the public interest.

You can only object to a specific item in the accounts.

You must tell the external auditor which item in the accounts you object to and why you think the item is unlawful, or why you think that a public interest report should be made about it.

You must provide the external auditor with the evidence you have to support your objection.

Disagreeing with income or spending does not make it unlawful. An unlawful item of account is one, for example, that records spending or income that the council:

- spent or received without powers to do so;
- took from, or added to, the wrong fund or account; or
- spent on something that they had the power to spend on, but the decision to spend the money was wholly unreasonable or irrational.

'Unreasonable' has a special meaning in law in this context. A council acts 'unreasonably' when its actions are so wholly unreasonable that no reasonable person could have made that decision. This is sometimes called acting 'irrationally'.

Q: How do I object to the accounts?

A: To object to the council's accounts you must send the external auditor a written notice of an objection and a copy to the council.

The notice must include:

- why you are objecting to the accounts;
- details of any item in the accounts that you think is unlawful;
- details of any matter you think the external auditor should make a public interest report about; and
- what you would like the external auditor to do (see the next question).

Other than it must be in writing, there is no set format for objecting.

You can ask someone to represent you and deal with your objection. This person does not have to live in the area covered by your council.

Q: What can I ask the external auditor to do about my objection?

A: You must say which power or powers you would like the external auditor to consider using to deal with your objection. You can only ask the external auditor to act within the powers available under the Audit Commission Act 1998.

You can ask the external auditor to do either or both of the following:

- Issue a **report in the public interest**.
- **Apply to the courts for a declaration** that an item of account is against the law.

Each of these options is explained below.

Q: What does it mean if an external auditor issues a public interest report?

A: The external auditor can report 'in the public interest'.

On receipt of a public interest report, the council must call a public meeting to consider the external auditor's report and any recommendations in it.

The council must consider and respond publicly within a short time-frame of receiving a public interest report, usually a month.

The external auditor can send the public interest report to anyone they see fit, including the media and other local or national public bodies.

Reporting in the public interest is covered by section 8 of the Audit Commission Act 1998 and Chapter 4 of the 2010 Code of Audit Practice which is available on the Audit Commission's archived website together with previously published public interest reports, www.gov.uk/government/organisations/audit-commission.

Q: What does it mean for an external auditor to apply to the court for an item of account to be declared unlawful?

A: If the external auditor thinks that income or expenditure in the accounts may be unlawful, they can apply to the court for a judge to give a declaration to that effect.

If the court agrees with the external auditor, it can make this declaration and can order the council to correct the accounts.

When deciding whether to apply for a judge's declaration, the external auditor must consider several matters. These include weighing the possible public interest benefits of going to court against the likely costs.

Making a declaration is covered by section 17 of the Audit Commission Act 1998 and Chapter 5 of the 2010 Code of Audit Practice which is available on the Audit Commission's archived website, www.gov.uk/government/organisations/audit-commission.

Q: What do I do with my written objection?

A: Send it direct to the external auditor.

Also send a copy of your written objection to the council. If you do not, the external auditor will not be able to act on it. You must give the council proper notice by either leaving a copy of your objection at, or posting it to, their main office, or any other office where they accept documents.

If your objection has personal or sensitive information (for example, about you, or someone in the council) mark it as 'Private and Confidential – for the attention of the Chief Executive' (or the Clerk, in parish and town councils).

You cannot use the objection process to make a personal complaint or claim against a council.

Q: What will the external auditor do with my written objection?

A: The external auditor will first consider whether your objection meets the statutory requirements.

Before the external auditor can deal with your objection, they must confirm:

- you are a local elector of the area the accounts relate to; and
- the objection relates to an item in the year of account for which the audit is still open.

The external auditor will look at your objection. Neither the auditor nor the court can challenge a council's decision if it is lawful.

The external auditor must decide whether your objection is valid or not. If not, this may mean they won't take any further action. If that happens, the external auditor usually gives brief reasons for their decision.

Q: What happens next?

A: If your objection meets the requirements, the external auditor will decide how to deal with it.

The external auditor will decide if the matter you raised needs investigation and action under their specific powers. If the matter does not warrant the exercise of special powers, it may still be a matter that the auditor may wish to consider as part of their routine planned audit work.

The external auditor will look objectively at the evidence that an item of account may be unlawful. Disagreeing with something your council has done, or intends to do, does not necessarily mean it is unlawful or unreasonable.

Q: How does the auditor consider my objection?

A: In everything they do, external auditors must follow the 2010 Code of Audit Practice which is available on the Audit Commission's archived website, www.gov.uk/government/organisations/audit-commission. Under the Code, the external auditor must take a balanced approach in spending time and money examining an objection.

The external auditor will consider:

- how significant the matter is;
- whether there is wider public interest in the issues you raised;
- whether they, or another external auditor, have previously considered the matter;
- the costs of dealing with the matter; and
- your rights, and the council's, individual councillors' and council officers' rights.

The auditor will usually write to you to say how they have dealt with your objection and the outcome.

Q: Can I appeal against the external auditor's decision about my objection?

A: Yes, in certain circumstances, but you may have to pay a lot of money to do so.

When the external auditor decides on your objection, including a decision not to take any action, they will usually explain their decision in a 'statement of reasons'.

If your objection is that an item in the accounts is unlawful and the external auditor has not given reasons for deciding not to take action, you can ask the external auditor for the reasons in writing.

If you have asked the auditor to issue a report in the public interest and they decide not to do so, you cannot appeal that decision.

If you have asked the external auditor to apply to the court for a declaration that the item of account is unlawful and you disagree with the external auditor's decision not to do so, you can appeal but you will have to take the matter to court yourself.

You must file your appeal in the Administrative Court section of the High Court. The time limit for doing so is a matter of weeks and you should get legal advice as soon as possible.

An appeal can be expensive. **We strongly recommend that you take legal advice on the strengths of your case and the financial risk involved before filing an appeal.**

You may, if your appeal is not upheld, have to pay all of your costs associated with the appeal, and may also be ordered to pay the external auditor's and council's legal costs.

Your right to object to the accounts is covered by [section 16](#) (but see also [section 8](#) and [section 17](#)) of the Audit Commission Act 1998.

Q: Other than the legal power(s) I have asked the external auditor to use, does the auditor have any other powers to investigate my objection?

A: Yes.

You cannot ask statutorily for the auditor to use these powers, but the external auditor can also consider whether to do any or all of the following:

- Make a **written recommendation** which the council must consider and respond to publicly.
- Issue an **advisory notice**.
- Apply for a **judicial review** of the council's actions.

These three actions are explained below.

Q: What does it mean if an external auditor issues a written recommendation?

A: The external auditor has legal powers to make written recommendations to the council about any matter related to the audit of the accounts.

The external auditor's written recommendations can be in a separate report or within other reports that they produce.

The council must consider and respond to these recommendations.

Statutory recommendations are covered by section 11 of the Audit Commission Act 1998 and Chapter 5 of the 2010 Code of Audit Practice which is available on the Audit Commission's archived website, www.gov.uk/government/organisations/audit-commission.

Q: What does it mean if the external auditor issues an advisory notice?

A: The external auditor can issue an advisory notice if he or she has reason to believe a council or an officer of the council:

- is about to make, or has made, a decision that involves, or would involve, the body incurring unlawful expenditure;
- is about to take, or has begun to take, a course of action which, if continued to its conclusion, would be unlawful and likely to cause a loss or deficiency; or
- is about to enter an item of account, the entry of which is unlawful.

The effect of the advisory notice is to provide the council with some time for officers and members to reconsider their proposed actions and get professional advice. If they have not done so already, the council can ask for a second opinion.

Issuing an advisory notice is covered in sections 19A – 19C of the Audit Commission Act 1998.

Q: What does it mean if the external auditor applies for judicial review?

A: If matters are serious enough, and other special powers are inadequate or considered inappropriate, the external auditor can decide to apply to the court for judicial review.

Only a judge can decide whether a council's decision, or failure to decide something it should have, is unlawful.

The external auditor can apply for judicial review on any council decision, or council failure to act, which it is reasonable to believe would affect the council's accounts.

Judicial review is covered by section 24 of the Audit Commission Act 1998.

Q: How much will this cost and who pays?

A: Unless you appeal or get your own legal advice, there will be no direct cost to you. However, the auditor and the council will spend time answering questions or considering objections. The council pays for the auditor's time, which can sometimes be significant.

Councils generally meet their own and the external auditor's costs of dealing with questions and objections. However, you are responsible for paying all costs that you incur, even if the external auditor agrees to do what you have asked them to do.

You may also have to pay the external auditor's and the council's costs. For example, if you appeal to the courts against an external auditor's decision and lose the case.

Ultimately it is local taxpayers in the community that pay most of the costs of questions and objections through the council tax.

Please consider the financial effect on you and your community when deciding whether and how you use any of the rights covered by this guide.

Part Two

Concerns about something other than accounts

If you work for a council and suspect fraud

The Public Interest Disclosure Act 1998 (PIDA) is popularly known as a ‘whistleblowers’ protection act. The Act provides a right of redress in the event of victimisation or dismissal if workers raise their concerns in the ways specified in the legislation.

Whistleblowers can claim PIDA protection by disclosing their concerns either to their employer or, if they prefer, to another organisation authorised to receive disclosures (a ‘prescribed person’). The Comptroller and Auditor General is a ‘prescribed person’ under the Act to whom workers can make disclosures about the proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services. The Comptroller and Auditor General has a confidential public interest disclosure line for public service employees where they cannot, or do not want to, report to their employer.

Prescribed person status does not convey any powers to such persons to investigate matters that are disclosed to them, beyond such powers as they may already have as part of their core statutory functions.

Contact the National Audit Office’s dedicated Whistleblowers’ Hotline on 020 7798 7999.

Complaints

If you think something has gone wrong at your council, you should contact them. You can do this by writing to:

- the Chief Executive (or in parish and town councils, the Clerk); or
- your local councillor.

Most councils have a complaints handling system, which deals with nearly all complaints. Occasionally there are issues that someone else needs to deal with. Here are some suggestions to help you.

Public Sector Audit Appointments Limited

Contact Public Sector Audit Appointments Limited if you are unhappy with how the external auditor has handled your question or objection about a council's accounts.

Email: auditorappointments@psaa.co.uk

Local Government Ombudsman

Contact the ombudsman if you:

- think the way your council has gone about something is wrong;
- think the impact of a decision they have made is unfair; or
- are dissatisfied with how the council has dealt with your complaint.

The Ombudsman cannot deal with complaints about parish and town councils.

Phone: 0300 061 0614

Fax: 024 7682 0001

Website: [Local Government Ombudsman](#)

Fraud

Contact the council's internal auditor if you think the council has committed fraud or used money improperly. Your council will give you the internal auditor's name and address. If you have evidence of fraud, you should also contact the police.

Freedom of information

Your council is covered by the requirements of Freedom of Information legislation, so you can ask to see anything you want to see at any time. Your council will tell you if there is a reason why you may not see any information. If you need help getting information, the Information Commissioner may be able to help you.

Information Commissioner's Office

Helplines: 0303 123 1113 or 01625 545745

Website: [Information Commissioner](#)

Standards committees

Complain to the council's standards committee, if your council has one, if you think a councillor's behaviour is below the high standards expected. Standards committees publish their own information on how to make a complaint. They only deal with complaints about members (councillors) and not about officers or other employees.

If your complaint is about a parish or town councillor, contact the standards committee of the council that collects your council tax.

You can make a complaint about a member of other local public bodies such as fire authorities, national park authorities and passenger transport authorities. These local public bodies often have their own standards committees. If they do not have a committee or you cannot find the committee's address, send your complaint to the main office of the local public body.

Personal claims

Contact your local Citizens Advice Bureau, local law centre or a solicitor if you have a personal claim against the council. The Law Society has a list of solicitors in your area.



National Audit Office