

Council accounts: A guide to your rights

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www.nao.org.uk/code-audit-practice/council-accounts-a-guide-to-your-rights

If you have any enquiries regarding this document, email: LACG@nao.gsi.gov.uk or write to us at:
Local Audit Code & Guidance
National Audit Office
157–197 Buckingham Palace Road
Victoria
London
SW1W 9SP
Tel: 020 7798 5393

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As a local resident you have legal rights to inspect, ask questions about and challenge items in your council's accounts.

This guide covers your rights under the Local Audit and Accountability Act 2014 which applies for the audit of accounts for 2015-16 onwards.

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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 [Local Audit and Accountability Act 2014](#) (the Act) governs the work of auditors appointed to councils and other local public bodies. The Act, and [Accounts and Audit Regulations 2015](#) also cover the duties, responsibilities and rights of councils, other organisations and the public concerning the accounts being audited.

As a local resident, or an interested person (this term is explained further on page 4), you have certain legal rights in respect of the accounts of local councils.

As an interested person you can 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 (see page 7);
- 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 Local Audit and Accountability Act 2014.

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: Who can inspect the accounts?

A: Any interested person can inspect the accounts, which includes but is not limited to local electors. Local electors have further rights to ask the auditor questions about the accounts, and to object to them, that are not open to interested persons.

Whether or not someone is an interested person is a matter of law, so a person is not 'interested' for these purposes just because they say they are. However, persons with a connection to the area will often be interested persons, for example business-rate payers or those who pay fees and charges to the council.

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.

You may also not be able to inspect information which is protected by commercial confidentiality. This is information which would prejudice commercial confidentiality if it

was released to the public and there is not, set against this, a very strong reason in the public interest why it should nevertheless be disclosed.

Q: When can I inspect the accounts?

A: When councils have finished preparing accounts for the financial year they must make them available for inspection. There must be a 30 working day period, called the ‘period for the exercise of public rights’, during which you can exercise your statutory right to inspect the accounts.

Councils must tell the public, including advertising this on their website, that the accounts and related documents are available to inspect. You will then have 30 working days to inspect the accounts.

The 30 day period must include a common period of inspection during which all councils’ accounts are available to inspect. **This will be 1-14 July 2016 for 2015-16 accounts.**

The advertisement must set out the dates of the period for the exercise of public rights, how you can communicate to the council that you wish to inspect the accounts and related documents, the name and address of the auditor, and the relevant legislation that governs the inspection of accounts and objections.

Certain smaller councils that do not have their own websites must advertise the period for the exercise of public rights on another website, but this website must be accessible without having to register or pay. Parish meetings can do the same, or advertise the period for the exercise of public rights by putting up a notice in a public place for at least 14 days.

Most councils will have finished preparing their 2015-16 and 2016-17 accounts by the end of June 2016 and June 2017 respectively.

The timetable for larger councils will be brought forward for 2017-18 accounts and an updated version of this guide will be issued nearer the time to explain the changes.

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 the 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 26 of the Act](#) and the [Accounts and Audit Regulations 2015](#).

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 should 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. However, while the auditor will answer your questions where possible, they are not always obliged to do so. For example, the question might be better answered by another organisation, require investigation beyond the auditor's remit, or involve disproportionate cost (which is borne by the local taxpayer).

Q: Who can answer questions about the accounts?

A: Give your council the opportunity first 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 formally to ask questions. This must be done in the period for the exercise of public rights, 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 Public Sector Audit Appointments Ltd (PSAA).

To find out who the auditor is you can:

- ask your council;
- look at the PSAA website;
- phone PSAA on 020 7072 7445; or
- email PSAA at auditorappointments@psaa.co.uk

The Local Government Association set up PSAA to manage the former Audit 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 period for the exercise of public rights during which you may ask the auditor questions, which here means formally asking questions under the Act. You can formally ask the external auditor questions about the accounts, under the Act, during the period for the exercise of public rights.

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

Please remember that you cannot formally ask questions, under the Act, after the end of the period for the exercise of public rights. You may ask your council other questions about their accounts for any year, at any time. But these are not questions under the Act.

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 unless it is directly relevant to an item in the accounts. Remember that your questions must always be about facts, not opinions. To avoid misunderstanding, 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 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 look into a council's policies, or decisions, if they are clearly unlawful.

Asking the auditor questions about the accounts is covered by [section 26 of the Act](#) and in Chapter 5 of the 2015 [Code of Audit Practice](#).

Objecting to accounts

You have inspected the accounts and asked your questions. Now you may wish to object to the accounts on the basis that an item in them is in your view unlawful or there are matters of wider concern arising from the Council's finances.

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 a report on matters which are in the public interest.

You must tell the external auditor which specific 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 write to the external auditor stating you want to make an objection, including the information and evidence below and you must send a copy to the council.

The notice must include:

- confirmation that you are an elector in the council's area;
- why you are objecting to the accounts and the facts on which you rely;
- 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 Local Audit and Accountability Act 2014.

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

- issue a **report in the public interest**; and/or
- **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 publish the report on its website (or if it does not have one, in another way likely to bring it to the attention of people who live in its area), 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. The external auditor must also send a copy to the relevant Secretary of State.

Reporting in the public interest is covered by [Schedule 7 of the Local Audit and Accountability Act 2014](#) and Chapter 5 of the 2015 [Code of Audit Practice](#).

Previously published public interest reports are available on the [Audit Commission’s archived website](#) and [PSAA website](#).

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 [Schedule 7 of the Local Audit and Accountability Act 2014](#) and Chapter 5 of the 2015 [Code of Audit Practice](#).

Q: What do I do with my written objection?

A: Send it direct to the external auditor, no later than the end of the period for the exercise of public rights (see page 5).

You must 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 firstly decide whether your objection is eligible (i.e. meets the statutory requirements to be a valid objection) and then secondly, in their discretion whether they will accept the objection for consideration.

The auditor has a broad discretion as to whether or not to accept an objection for consideration. The grounds, amongst others, on which they may decide not to pursue the objection include:

- the cost of dealing with it would be disproportionate to the underlying sum (item of account) to which it relates;
- that it is frivolous or vexatious; and/or
- it is a repeat of an objection made in a prior year of account.

If the external auditor decides not to go ahead with the objection, they will usually give brief reasons for their decision.

Q: What happens next?

A: If your objection is accepted for consideration the external auditor will decide appropriate next steps.

The external auditor will decide if the matter you raised needs investigation and then whether a High Court declaration should be sought or a public interest report be issued.

If the matter does not warrant either of these outcomes, it may still be a matter that the auditor may wish to raise with the council (in a non-statutory objection recommendation) or 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.

Q: How does the auditor consider my objection?

A: In everything they do, external auditors must follow the Act and the [2015 Code of Audit Practice](#). Under the Code of Audit Practice, 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;
- whether the substance of the matter falls within the scope of work conducted by an inspectorate or other body;
- 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 should take legal advice as you may have to pay costs.

When the external auditor decides not to accept your objection or that they will not take any formal audit action, they will usually explain their reasons in writing.

If reasons have not been given and your objection is that an item in the accounts is unlawful (as opposed to asking for a public interest report), 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 consider your objection or not to seek a declaration, 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 27](#) (but see also [Schedule 7](#)) of the Local Audit and Accountability Act 2014.

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 as a matter of right and under statute ask the auditor to use these powers, but the external auditor can also consider whether to do any or all of the following:

- make a **statutory recommendation** which the council must consider and respond to publicly;
- issue an **advisory notice**; and/or
- 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 statutory recommendation?

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

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

The council must consider and respond to statutory recommendations.

Statutory recommendations are covered by [Schedule 7](#) of the Local Audit and Accountability Act 2014 and Chapter 4 of the 2015 [Code of Audit Practice](#).

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 [Schedule 8](#) of the Local Audit and Accountability Act 2014.

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 31](#) of the Local Audit and Accountability Act 2014.

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 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. PIDA 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 protection under PIDA 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 PIDA to whom external persons can make disclosures about the proper conduct of public business, value for money or 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. The Comptroller and Auditor General is supported by the NAO in exercising his responsibilities. If you wish to contact the NAO, you can call the dedicated Whistleblowers' Hotline on 020 7798 7999.

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.

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 Appointment Limited if you are unhappy with how the external auditor has handled your question or objection about a council's accounts.

Phone: 020 7072 7445

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 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

Website: [Information Commissioner](#)

Helplines: 0303 123 1113 or 01625 545745

Standards committees

Complain to the council's standards committee, if your council has one (or it may be a committee with a different name), 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.