



National Audit Office

Guide

by the National Audit Office

Local authority accounts: A guide to your rights

MARCH 2017

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Our public audit perspective helps Parliament hold government to account and improve public services.

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National Audit Office

As a local resident you have legal rights to inspect, ask questions about and challenge items in your authority'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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This document can be found on the
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[www.nao.org.uk/code-audit-practice/
council-accounts-a-guide-to-your-
rights/](http://www.nao.org.uk/code-audit-practice/council-accounts-a-guide-to-your-rights/)

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Summary

Local authorities and their accounts

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

Parts One and Two of this guide relate to all local authorities, large or small. There are, however, slightly different provisions in relation to smaller local authorities and if your issue relates to an authority within that category, please read the Annex, in addition to Parts One and Two.

Smaller authorities are defined under the 2014 Act as those local authorities where for three years (or one or two years if the body has existed for less than three years) the higher of gross income or expenditure does not exceed £6.5 million.

Local authority accounts are the financial statements that most organisations must produce at the end of the year. At larger authorities 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 authority's accounts and any report by the external auditor.

Smaller authorities publish an annual return that includes a summary of the authority's income and expenditure (or receipts and payments), its assets and other balances.

All authorities also complete an annual governance statement setting out the arrangements they have in place to ensure that the authority and its business is properly managed.

Your rights and the law

The [Local Audit and Accountability Act 2014](#) (the Act) governs the work of auditors appointed to authorities and other local public bodies. The Act the [Accounts and Audit Regulations 2015](#) and the [Local Audit \(Public Access to Documents\) Act 2017](#) also cover the duties, responsibilities and rights of local authorities, other organisations and the public concerning the accounts being audited.

As a local resident or an interested person or journalist (these terms are explained further on page 7) you have certain legal rights in respect of the accounts of local authorities.

As an interested person or journalist you can inspect an authority'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 (this term is explained later in the guide).

Your rights to inspect the accounts and related documents, ask questions or make objections, however, can only be exercised during a single 30 working-day period that is set by the authority ('the inspection period'). It is vital, therefore, that if you intend to exercise any of the rights explained in this guide, you contact the authority to find out the dates set for the inspection period each year.

You do not have to pay directly for exercising your rights. However, any resulting costs incurred by the authority (which can be very large) form part of its running costs. Therefore, indirectly, local residents pay for the cost of you exercising your rights through their council tax. Please bear this in mind if the issue of concern could be dealt with in a more proportionate way, such as by direct communication with the authority or via an organisation listed in Part Two.

About this guide

This guide:

- explains how to use your rights responsibly;
- explains what the law says about local authority accounts and your rights; and
- gives sources of advice and information for concerns about your local authority that do not 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 authority's external auditor is (see page 10);
- 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 local authority which is not related to their accounts. Part Two gives contact details for bodies that may be able to help you.

The Annex, as mentioned above, sets out the arrangements relevant to smaller authorities where these differ.

If you just want information about your local authority's income or spending, first ask the authority. Most local authorities publish details of their spending on their websites. If you do not have internet access, you can ask the authority to send you a copy of what they publish.

You might want to tell someone your view of how the authority runs its services. You can, without exercising legal rights, tell the authority about these issues at any time.

If you are concerned about the way in which the authority is managing its business or finances, or are dissatisfied with the action the authority has taken in response to an issue you have raised, you can bring your concerns to the attention of the local external auditor at any time, and not just in the inspection period.

You should always raise your concerns with the authority and attempt to resolve the issue with the authority directly in the first instance.

In this guide we refer to 'local authority accounts' throughout. Your rights also apply to other local public bodies as set out in [Schedule 2](#) to the Local Audit and Accountability Act 2014. For example, in addition to local authorities, your rights apply to bodies such as fire and rescue authorities, police and crime commissioners, national park authorities, combined authorities and internal drainage boards.

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

Part One

Inspecting accounts

This section of the guide covers inspecting the accounts and supporting records, asking questions about the accounts and objecting to accounts. If you are reading this guide in connection with an issue at a smaller authority, you should also read the Annex at the back of this guide. The Annex contains additional information specifically relating to smaller authorities. You can find a definition of a smaller authority in the summary section on page 4 of this guide.

You will be expected to have read and inspected the accounts and asked relevant questions before objecting. Objecting to your authority's accounts is a serious matter.

Q: Who can inspect the accounts and accounting records?

A: Any interested person or journalist can inspect the accounts during the inspection period, 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 or journalists.

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 authority.

The [Local Audit \(Public Access to Documents\) Act 2017](#) extends public inspection rights to journalists. The Act defines a journalist as "*any person who produces for publication journalistic material (whether paid to do so or otherwise)*".

Q: What can I inspect?

A: You can inspect your authority's accounts, any related documents, and, if a local elector, 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 (but you may have to pay for copies).

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 that there will be information in the statement of accounts relating to senior employees' salary and benefits and you can ask to see the relevant entries in the statement. 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 authority.

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 and accounting records?

A: When authorities 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 'inspection period' or the 'period for the exercise of public rights', during which you can exercise your statutory right to inspect the accounts.

Authorities must tell the public, including putting the information on their website (unless it is a smaller authority without a website – see the Annex), that the accounts and related documents are available to inspect. You will then have 30 working days to inspect the accounts. This is a strict period which the auditor has no power to extend. It is extremely important therefore that you do not delay inspecting the authority's accounts, particularly if you intend to either ask a question or make an objection. You will have no right of inspection of the unaudited accounts outside of this limited period.

The inspection period must include a common period during which all local authority accounts are available to inspect. **This will, for larger authorities, be 3-14 July 2017 for the year of accounts 2016-17 and 1-14 June 2018 for the year of account 2017-18. The Annex sets out the dates for smaller authorities.**

The information which the authority publishes must set out the dates of the period for the exercise of public rights, how you can communicate to the authority 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.

Most authorities will have finished preparing their accounts by the end of June.

Q: Where can I inspect the accounts and accounting records?

A: Local authority accounts are important and valuable documents and must be safeguarded. You will usually have to inspect them at the authority's offices.

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

Q: Can anyone help me to inspect the accounts and accounting records?

A: Yes. You can ask someone to help you.

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

Q: What if I am denied my inspection rights?

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

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 authority as well as you.

Acting reasonably also means being responsible and specific about what you want to inspect. An authority 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 and accounting records?

A: Anybody can ask a question, but only local electors can ask questions formally. You should first ask your authority 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 and accounting records?

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

If you are not satisfied with the authority’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 authority.

Arrangements for appointing auditors are changing, depending on the body concerned. The table below sets out the arrangements for 2016-17, 2017-18 and 2018-19 onwards:

Financial year	Local authorities, except smaller authorities	Smaller authorities
2016-17	Appointment made by Public Sector Audit Appointments Ltd (PSAA)	Appointment made by PSAA
2017-18	Appointment made by PSAA	Appointments mostly made by Smaller Authority Audit Appointments Ltd (SAAA), but some smaller authorities may have opted to appoint their own auditor.
2018-19 onwards	Local authorities are free to appoint their own auditor, or may opt-in to a collective scheme. Appointments for opted-in authorities will be made by PSAA.	Appointment mostly made by SAAA, but some smaller authorities may have opted to appoint their own auditor.

To find out who the auditor is you can:

- ask your authority;
- look at the PSAA website (www.psaa.co.uk);
- phone PSAA on 020 7072 7445; or
- email PSAA at auditorappointments@psaa.co.uk
- [look at the SAAA website \(www.localaudits.co.uk\)](http://www.localaudits.co.uk)
- Phone SAAA on 020 7543 5817
- email SAAA at admin@localaudits.co.uk

You will need to know to which financial year your issue relates in order to identify the correct contact.

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, you should 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 authority 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 authority’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 authority for me?

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

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

For questions that are not about the accounts, the external auditor will suggest that you ask the authority 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 authority 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 authority has done, or an item in its accounts, is lawful.

When thinking about asking questions, remember that authorities can decide the best way to do things within the law. An external auditor can only look into an authority's policies, or decisions, if there is a clear indication of unlawfulness or a serious issue with regard to corporate governance or value-for-money arrangements.

If you believe that something in the accounts is unlawful, you should refer to the following section on 'objecting to accounts'.

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, in your view, there is an item in the accounts that is unlawful; there are issues relevant to the authority's arrangements for securing value for money or that are referred to in an authority's annual governance statement; or there are matters of wider concern arising from the authority's finances.

Remember you can only make an objection within the inspection period; the auditor has no discretion to extend this period. It is really important, therefore, that you do not delay corresponding with the auditor. If you leave this to the last minute and submit an ineligible objection, there may not be time to re-submit an eligible objection before the end of the inspection period, and you may lose your right to object.

Q: Who can object to the accounts?

A: You can only object to the accounts if you are an elector for the body in question; that is to say you must be registered on the electoral register for the geographical area covered by the authority.

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 ('a public interest report').

You must, so far as is possible, tell the external auditor in writing 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. Simply disagreeing with the merits of any decision taken regarding income or spending does not make it unlawful.

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

An unlawful item of account is one that, for example, records spending or income that the authority:

- spent or received without powers to do so;
- took from, or added to, the wrong fund or account; or
- spent on something that it 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 and is a high threshold. An authority acts 'unreasonably' when its actions are so wholly unreasonable that no reasonable person could have made that decision. This is sometimes called acting 'irrationally'.

You may want to raise issues relating to matters that the auditor might consider issuing a report in the public interest. This could include issues relevant to the authority's

arrangements for securing value for money, matters that are referred to in an authority's annual governance statement, or matters of wider concern arising from the authority's finances. Again, the auditor will not take action simply because you disagree with any income or spending, nor is the auditor likely to get involved where you argue that particular spending is not value for money. The auditor's concerns will be with the adequacy of the authority's general arrangements for securing value for money.

Auditors have a range of ways in which to bring matters of concern to the attention of authorities and to then take steps to follow up on any recommendations. The Code of Audit Practice requires auditors to consider what would be the most appropriate and effective means of reporting. When doing so, auditors consider issues such as:

- the significance of the matter or weakness in arrangements;
- whether the body already recognises the need to address the matter and is taking appropriate action;
- what information is already in the public domain and whether further reporting to bring the matter to the attention of the public is appropriate;
- which form of reporting is likely to be most effective in helping the audited body to understand the significance of the matter and the need to take action; and
- whether previous reporting has been acted upon and, if not, whether more prominent reporting – such as issuing a statutory recommendation or a report in the public interest – is now necessary.

It is therefore possible that even where the auditor has considered an objection and finds in favour of the objector they may consider a different form of reporting to be more appropriate to the particular circumstances – or more cost-effective – than an application to a court for a declaration or a report in the public interest.

Q: How do I object to the accounts?

A: To object to the authority'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 authority.

The notice must include:

- confirmation that you are an elector in the authority'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 authority.

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

A: You should 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.

If you are objecting you should specifically 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’.

When an auditor exercises their discretion to report in the public interest, there are actions that the authority must take. On receipt of a public interest report, the authority 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 authority 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 authority 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. The costs of going to court are high and there needs to be a considerable public interest involved before this outweighs the legal costs of applying to court.

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 authority. If you do not, the external auditor will not be able to act on it. You must give the authority proper notice by either leaving a copy of your objection at, or posting it to, its main office, or any other office where it accepts documents.

If your objection has personal or sensitive information (for example, about you or someone in the authority) 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 an authority.

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 an authority's decision if it is lawful.

After first deciding whether your objection is eligible (that is, it meets the statutory requirements to be a valid objection), the auditor will then decide in their discretion whether they will accept the objection for consideration.

Where the auditor decides that the objection is ineligible, they may still decide to treat the issue as a 'matter brought to their attention' and consider it as part of their routine planned work.

Even where the objection is eligible, the auditor has a broad discretion as to whether or not to accept it for consideration. The grounds, among 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. You have a legal right to appeal against the auditor's decision not to go ahead with the objection, but to do this you would need to secure your own legal advice and representation.

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 authority 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 or any other issues you have raised that could be the subject of a public interest report. Disagreeing with something your authority 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, the 2015 Code of Audit Practice and any statutory guidance issued in support of the Code. 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 authority's, individual councillors' and authority 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 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 either 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.

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.

You must file your appeal in the Administrative Court section of the High Court. The time limit is 21 days, so 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 authority'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?

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 authority must consider and respond to publicly;
- make other recommendations to the authority they consider appropriate;
- issue an **advisory notice**; and/or
- apply for a **judicial review** of the authority's actions.

These four 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 authority 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 authority 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 other recommendations can the auditor make?

A: The external auditor can issue recommendations arising from the work they have undertaken.

In addition to their power to issue statutory recommendations as explained above, auditors may also decide to issue other recommendations in light of the work they have undertaken while considering the matter or objection. These recommendations, made under [Section 27 of the 2014 Act](#), differ from statutory 'Schedule 7' recommendations, in that they do not require the authority to take specific actions as a result of receiving them, but the auditor would expect them to be considered by the authority as would be the case with any other audit recommendations during the year.

The auditor may choose to issue either type of recommendation, or both types, in response to their consideration of a matter. Equally, they may choose not to make any recommendations at all.

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

A: The external auditor can issue an advisory notice if they have reason to believe an authority or an officer of the authority:

- **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 authority with some time for officers and members to reconsider their proposed actions and get professional advice. If it has not done so already, the authority 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 an authority's decision, or failure to decide something it should have, is unlawful.

The external auditor can apply for judicial review on any authority decision, or authority failure to act, which it is reasonable to believe would affect the authority'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 authority will spend time answering questions or considering objections. The authority pays for the auditor's time, which can sometimes be significant.

Authorities 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 authority'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. There may be a more proportionate and cost-effective way of dealing with your issue – for instance, dealing directly with the authority or via another body – please see Part Two.

Part Two

Concerns about something other than accounts

This section of the guide contains suggestions for actions you might take, or other organisations you might wish to contact, if you have concerns about something other than the accounts. If you are reading this guide in connection with an issue at a smaller authority, you should also read the Annex at the back of this guide. The Annex contains additional information specifically relating to smaller authorities. You can find a definition of a smaller authority in the summary section on page 4 of this guide.

If you work for an authority 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 National Audit Office (NAO) in exercising their 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 authority, 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 authorities 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 (PSAA)

If you are unhappy with how the external auditor has handled your question or objection about an authority's accounts, you should contact the audit firm and make a formal complaint.

If, having followed the firm's complaints procedure, you remain unhappy with the actions the auditor has taken, or the firm's response to your complaint, you can contact PSAA.

Phone: 020 7072 7445

Email: auditorappointments@psaa.co.uk

Smaller Authority Audit Appointments Limited (SAAA)

In respect of auditors' work on annual returns for smaller authorities from 2017-18 onwards, if you are unhappy with how the external auditor has handled your question or objection about a authority's accounts, you should contact the audit firm and make a formal complaint.

If, having followed the firm's complaints procedure, you remain unhappy with the actions the auditor has taken, or the firm's response to your complaint, you can contact SAAA.

Phone: 020 7543 5817

Email: admin@localaudits.co.uk

Local Government Ombudsman

Contact the Ombudsman if you:

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

Please note, however, that the Ombudsman cannot deal with complaints about parish and town councils.

Phone: 0300 061 0614

Website: Local Government Ombudsman

Fraud

Contact the authority's internal auditor if you think the authority has committed fraud or used money improperly. Your authority 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 authority 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 authority 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](#)
Helpline: 0303 123 1113

Standards committees

Complain to the authority's standards committee, if your authority 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 authority 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 authority. The [Law Society](#) has a list of solicitors in your area.

Annex

Specific arrangements for smaller authorities

Smaller authorities are defined under the 2014 Act as those local authorities where for three years (or one or two years if the body has existed for less than three years) the higher of gross income or expenditure does not exceed £6.5 million. In this section, all references to 'the authority' refer to smaller authorities.

In almost all respects, your rights as set out in the main part of this guide are unchanged where the authority in question is a smaller authority. However, the nature and scope of the work carried out by the auditor differs according to the type of authority.

Smaller authorities are subject to a limited assurance review, which is not a 'full' audit, and is proportionate to the size and undertakings of the authority. Auditors review the authority's annual return (consisting of an annual governance statement and statement of accounts) in accordance with guidance issued by the NAO on behalf of the Comptroller and Auditor General. Their work does not constitute an audit carried out in accordance with International Standards on Auditing and does not provide the same level of assurance.

All smaller authorities are required to publish their annual return locally, including on a website. Certain types of smaller authorities that do not have their own websites must still inform the public of the inspection period on a website, but this website does not have to be their own. It must, however, be publicly accessible without having to register or pay. Parish meetings can do the same, or advertise the inspection by putting up a notice in a conspicuous public place in the area of the authority for at least 14 days.

All smaller authorities must also publish details of the dates they have set for the inspection period. This must cover the 'common inspection period' of the first 10 working days of July.

Some authorities 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 authority will arrange a suitable place for you to inspect the accounts if it does not have an office.

If an auditor receives a question or objection from a local elector in relation to a smaller authority it will consider the matter in the same way as is set out in the main part of this guide. The only difference will be that, given the size of the authority, the relative costs of the action that may need to be taken by the auditor in response to an objection as against the amounts of money involved is more likely to be a material factor in determining the auditor's decision as to whether or not to accept the objection.

Please bear in mind that the costs of any action taken are borne by local taxpayers, and local public auditors have a duty to ensure that their response is proportionate and that they remain mindful of the amounts of public money involved.

Exempt authorities

From 2017-18, the very smallest local authorities (those with annual gross income and annual gross expenditure below £25,000) are potentially exempt from even the annual limited assurance review required at other smaller authorities.

For the great majority of these authorities (there are a few exceptions – see below) there will be no requirement to have a limited assurance review or to submit an annual return to the auditor, provided that the authority submits an exemption certificate to the auditor. Authorities that submit an exemption certificate and are otherwise eligible (see below) become ‘exempt authorities’. Authorities will have to wait until the end of their financial year before they can determine whether or not they are otherwise exempt, when they will know their income and expenditure totals for the year.

For exempt authorities, the ability of local electors and other interested persons to exercise their public rights to inspect the accounts and supporting records, ask questions, or make objections is the same as has already been set out in Part One of this guide in respect of other authorities and in the main part of this guide. You will still be able to contact the appointed auditor to bring matters to their attention, ask formal questions or make objections. The name of the appointed auditor and the auditor’s contact details should be included on the notice published by the body when it commences the inspection period.

Note that just because an authority was an exempt authority in a previous year does not mean that it will necessarily be exempt in relation to the current year of account.

As noted above, there are certain circumstances in which an authority cannot certify itself as exempt, even where it is below the £25,000 income and expenditure threshold and has submitted an exemption certificate. These circumstances are:

- the year of account is one of the first three years of the authority’s existence; and
- in relation to the year of account or the previous year of account the auditor has taken formal legal steps in relation to the authority including issuing a public interest report, seeking a declaration from the High Court, or making a written recommendation under Schedule 7 of the 2014 Act (you can check this with the auditor).

Where a smaller authority fails to submit an exemption certificate it must submit an annual return to the auditor and will be required to undergo a limited assurance review.



National Audit Office