

Councils' accounts

Your rights: England

Councils exist to serve the public. Most have helplines and helpdesks to assist local people sort out problems they may have with service eg, benefits and local taxes and charges. But, even in the best councils, things can go wrong. This booklet summarises your rights to inspect, question and object to councils' accounts. It starts with a short outline and then gives you more details if you want to know more.

If you think something has gone wrong at your council, what you should do is:

- phone the council
- write to the chief executive – in local councils (see note below) this is the clerk; or
- contact your local councillor

Most councils have their own effective complaints system. Nearly all complaints are sorted out, either in writing or over the phone, so that everyone involved is satisfied.

But occasionally there are problems that someone else needs to deal with

- If you think that your council has done something wrong, and you are not satisfied with how the council has dealt with your complaint, you should contact a Local Government Ombudsman. They will send you some information about how you can take your complaint further. Their names and addresses are at the end of this booklet. The Ombudsman cannot deal with complaints about local councils (see note below).
- If you suspect fraud or improper use of the council's money you should write to or phone the council's chief internal auditor. Your council will give you their name and address.
- For all councils, if you think that a council member's behaviour has fallen below the high standards that public servants are expected to meet, you should contact the Local Government Standards Board for England. Their names and addresses are at the end of this booklet.
- If you want to question or challenge your council's accounts, the council's external auditor may be able to help you. The Audit Commission appoints the external auditor.

Note: 'Local councils' includes parish councils, town councils, joint committees of these bodies and parish meetings

By law, your rights and the external auditor's powers, are limited. If you are thinking about going to the auditor, it is important that you understand your rights and the auditor's powers. This booklet should help you.

You can find out who the appropriate auditor is, and where to write or phone, by:-

- Phoning your council
- Phoning the Audit Commission on 020 7828 1212; or
- e-mailing enquiries@audit-commission.gov.uk

Your rights: a summary

The basic position

You have a right to inspect your council's accounts. Electors may also ask questions about, or challenge, the accounts

The right to inspect the accounts

- When your council has finalised its accounts for the previous financial year, usually towards the end of June, it must advertise that they are available for people to look at.

You then have 20 working days to look through the accounts and supporting documents

- You can get copies of the accounts and relevant documents from your council. You may not inspect documents that are not relevant to the accounts or are otherwise legally protected

You may have to pay a copying charge

The right to ask the auditor questions about the accounts

- You can only ask the auditor questions about the accounts for the year that they are auditing
- The auditor does not have to answer questions about the council's policies, finances, procedures or anything else that is not relevant to the accounts

The auditor does not have to say, at this stage, whether they think something the council has done, or an item in its accounts, is unlawful.

The right to object to the accounts

- If you think that the council has spent money unlawfully, you can object to the auditor by sending them a formal 'notice of objection' which must be in writing. You must tell the auditor why you are objecting

The auditor must reach a decision on your objection and provide a statement of reasons if you ask them to. If you are not happy with that decision, you can appeal to the courts

- You may also object if you think that there is something in the accounts that the auditor should tell the public about in a 'public interest report'. Again, you must give your reasons

In this case the auditor must decide whether to take any action. The auditor will normally, but does not have to, give reasons for their decision and you cannot appeal to the courts

You may not, however, use this "right to object" to make a personal complaint or claim against your council. You should take personal complaints to your local Citizens' Advice Bureau, local Law Centre or to your solicitor.

What else you can do

At any time, you can give the auditor information that is relevant to their responsibilities. For example, you can simply tell the auditor if you think that something is wrong with the accounts or about waste and inefficiency in the way the council runs its services. You do not have to follow any set time limits or procedures.

This is also the situation for NHS organisations, where you do not have the right to ask the auditor questions about, or object to, the accounts.

The auditor does not have to give you a detailed report of any investigation into the issues you have raised, but they will usually tell you the general outcome.

A final word

Councils, and so local taxpayers, must meet the costs of dealing with questions and objections. Auditors will take valid objections but will consider a range of factors in deciding how to deal with them. They must take into account the costs that will be involved. They will only continue with the objection if it is in the public interest to do so. If you appeal to the courts, you might have to pay for the action yourself.

Your rights in more detail

These notes provide some more information in relation to your rights to inspect, question and object to a council's accounts in more detail, but still in general terms. If you need more specific detail, you should refer directly to the acts, regulations and other documents that are mentioned in the text, or get legal advice.

Please remember that you do not have the same rights in relation to the accounts of NHS organisations, even though the Audit Commission also appoints their auditors.

Your legal position

Your rights are set out in sections 14, 15 and 16 of the audit Commission Act 1998 as amended (the ACA 1998). The detailed regulations that set out how you can use these rights are contained in the Accounts and audit Regulations 2003

Your right to inspect the accounts

The ACA 1998 – section 15(1)

At each audit under this Act, other than an audit of accounts of a health service body, any persons interested may:

- (a) inspect the accounts to be audited and all books, deeds, contracts, bills, vouchers and receipts relating to them, and
- (b) make copies of all or any part of the accounts and those other documents

By the end of June each year, many larger councils finish preparing their accounts for the financial year which ended on 31st March of that year. Local councils have until 30th September to approve their accounts.

Larger councils must then tell the public, by advertising in at least one local newspaper, that their accounts and the other documents mentioned in section 15(1) of the ACA 1998 are available for people to inspect for 20 full working days. Town councils, parish councils, parish meetings, community councils and the Council of the Isle of Scilly can announce this by putting up a notice in a public place, instead of putting an advert in a newspaper.

The advert or notice must also give the dates, times and places where the public can see and copy the documents. Any person who is interested has the right to inspect and copy the accounts and any 'public interest reports' by an auditor, or ask for copies to be delivered to them. There may be a reasonable charge (please see sections 13(2) and 14(1) of the ACA 1998)

It is an offence for anyone to try and stop you from inspecting and copying documents, although you are expected to make a mutually convenient appointment to do so. If there is any disagreement about what your rights are, you should contact **your council direct or go through the courts. The auditor cannot get involved.**

You cannot inspect and copy documents that contained personal information about a member of staff (please see section 15(3) of the ACA 198). This means, for example, that details of payments or other benefits that an employee receives will be confidential. The council and an auditor cannot give you personal information about anyone when they answer your questions.

Asking the auditor questions

The ACA 1998 – section 15(2)

At the request of a local government elector for any area to which the accounts relate, the auditor shall give the elector, or any representative of his, an opportunity to question the auditor about the accounts.

The advert or notice that says the accounts are available for people to inspect will also tell you when you can ask the auditor questions and object to the accounts.

Your right to ask the auditor questions is limited. You have a right to ask questions about the accounts, but you cannot ask questions about a council's policies finances or procedures that are not about the accounts.

Before you ask the audit any questions, you should inspect the accounts so that you know what they contain.

You may then ask the auditor to explain certain points in the accounts before deciding whether or not you want to 'object' (this right is explained later).

If you do ask questions that are not about the accounts, the auditor may suggest that you ask the council for the information you want. But, in general, the auditor cannot act as a 'postbox' for questions to, and replies from, your council.

Your questions should be about facts, not opinions. So you should not ask an auditor if they think something a council has done, or an item in its accounts, is lawful or reasonable.

An auditor must work independently so you cannot ask them questions about how they are carrying out, or have carried out, their work.

Objecting to the accounts

The ACA 1998 – section 16)

(1) At each audit of accounts under this Act, other than an audit of accounts of a health service body, a local government elector for an area to which the accounts relate, or any representative of his, may attend before the auditor and (in accordance with subsection (2) make objections

- (a) as to any matter in respect of which the auditor could take action under section 17; or
- (b) as to any other matter in respect of which the auditor could make a report under section 8

(2) No objection may be made under subsection (1) unless the auditor has received written notice of the proposal objection and of the grounds on which it is being made

(3) An elector sending a notice to an auditor for the purposes of subsection (2) shall at the same time send a copy of the notice to the body whose accounts are being audited

You, or your representative, can object if you think that an auditor should:

- Apply to the High Court, under section 17(1) of the ACA 198, to confirm that an item in the accounts breaks the law; or
- Make a report, under section 8 of the ACA 1998, on a matter that they think the council should consider or tell the public about (a 'public interest report')

Items in the accounts that break the law

An item in the accounts breaks the law if it records spending or income that :

- The council had no right to spend on receive
- Was spent or received without authority
- Was taken from, or added to, the wrong fund or account, or
- Was spent on a lawful purpose but was so high that it was unlawful

If an auditor considers an item to be unlawful, he or she may apply to the High Court to confirm that an item in the accounts is unlawful. If the court agrees, it may order that the accounts are put right. In reaching a decision whether to apply to the courts, the auditor will take account of a number of factors, including cost.

Report in the public interest

If you are not satisfied with a council's decision or action but your objection does not involve anything unlawful or a failure to account for spending or income, your objection can only result in a public interest report by the auditor.

Making an objection

If you want to object to a council's accounts, you must give formal notice of your objection, in writing, to the auditor. The formal notice must include

Why you are objecting

The details of any item in the accounts that you think is unlawful, and

The details of any matter that you think the auditor should make a public interest report about

You must also send the council a copy of your objection. The Local Government Act 1972 explains how to serve notices on councils. Section 231(1) of the Act says that the notice:

.....shall be given or served by addressing it to the local authority and leaving it at, or sending it by post to, the principal office of the authority or any other office of the authority specified by them as one at which they will accept documents of the same description as that document.

When you are thinking about whether to object, you must appreciate that councils have the power to decide what they think is the best way to do things. The fact that you may strongly disagree with something the council has done does not mean that you can challenge that action.

An auditor and a court cannot question a council's policy or decisions unless these are unlawful.

If you do decide to make an objection, and if your objection contains personal or sensitive information, you should mark it appropriately to avoid the risk of the information being seen by an inappropriate person. You may show this by marking the objection and the envelope containing it, 'Private and confidential – for the attention of the Chief Executive (or Clerk)'.

You cannot use the objection process to make a personal complaint or claim against the council. If you think that your council has done something wrong, the Commission for Local Administration (Local Government Ombudsman) will investigate the matter. If you think that a council member's behaviour has fallen below the standards that public servants are expected to meet, the Local Government Standards Board for England will investigate the matter. If you think you have a claim against a council, you can get advice from your local Citizens' Advice Bureau, local Law Centre or your solicitor.

Decisions about your objection

When an auditor issues their decision about an objection, they will usually explain their reasons for the decision.

If the auditor does not give any reason, you have six weeks from the time you are told what the decision is to ask the auditor for a 'statement of reasons' in writing

If you are not happy about an auditor's decision you have the right to appeal. You must register your appeal in the Crown Office at the High Court within 28 days of receiving the auditor's statement of reasons for their decision

However, an auditor's decision on objections that ask him or her to make a 'public interest report' is final. The auditor will tell you what their decision is but you cannot ask for a statement of reasons or appeal.

Cost

Councils must meet the cost of dealing with questions and objections. However, you may have to pay the costs of appealing to the courts against an auditor's decision.

Useful addresses

Audit Commission

1st floor Millbank Tower

Millbank

London

SW1P 4HQ

Phone: 020 7828 1212

E-mail: enquiries@audit-commission.gov.uk

Fax: 020 7976 6187

Website: www.audit-commission.gov.uk

Local Government Ombudsman

Website: www.lgo.org.uk

Greater London

Local government Ombudsman

21 Queen Anne's Gate

London

SW1H 9BU

Phone: 020 7915 3210

Fax: 020 7233 0396

**Birmingham, Staffordshire, Shropshire, Cheshire, Derbyshire,
Nottinghamshire, Lincolnshire and the North of England**

Local Government Ombudsman

Beverley House
17 Shipton Road
York
YO30 5FZ
Phone: 01904 663200
Fax: 10904 663269

**The rest of England, including all of Southern England, (except
London) East Anglia, the Southwest and most of Central England**

Local Government Ombudsman

The Oaks No. 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB
Phone: 024 7669 5999
Fax: 024 7669 5902

Local Government Standards Board for England

The Standards Board for England
1st Floor, Cottons Centre
Cottons Lane
London
SE1 2QG
Enquiries: 0845 078 8181
Complaints: 0800 107 2001
E-mail: enquiries@standardsboard.co.uk
Fax: 020 7378 5001
Website: www.standardsboard.co.uk