

# Issues of concern

## Policy and procedures



Prepared by Audit Scotland

April 2017

Audit Scotland is a statutory body set up in April 2000 under the Public Finance and Accountability (Scotland) Act 2000. We help the Auditor General for Scotland and the Accounts Commission check that organisations spending public money use it properly, efficiently and effectively.

---

# Contents

<b>Introduction.....</b>	<b>5</b>
Why we have this policy .....	5
Who we are .....	5
What we do .....	5
When would we act on an issue of concern?.....	6
When would we not act on an issue of concern?.....	7
<b>Our approach .....</b>	<b>9</b>
Why are issues of concern important to us? .....	9
Our criteria for assessing issues of concern .....	9
What type of response can you expect from us? .....	10
Our flowchart on how we deal with issues of concern.....	11
<b>What can you expect from us? .....</b>	<b>12</b>
We have service standards in place .....	12
We are consistent in our approach .....	12
We respect your confidentiality.....	13
We can offer extra help to raise an issue of concern .....	13
We set time limits for assessing issues of concern .....	14
We can identify alternative organisations that may be able to help.....	14
We may not always be able to help .....	14
We do not tolerate unacceptable behaviour .....	14
We use feedback to help us improve.....	15
<b>Whistleblowing disclosures.....</b>	<b>16</b>
The statutory framework.....	16
Our role and remit as prescribed persons.....	16
Our approach for disclosures .....	17
Legal advice .....	18
Reporting .....	18
<b>Appendix. Other types of correspondence .....</b>	<b>20</b>
Audit enquiries .....	20
Objections to Local Authority accounts.....	20

---

Complaints .....	20
Raising a complaint about how we dealt with an issue of concern.....	21
Freedom of Information Requests .....	21

# Introduction

## Why we have this policy

1. This policy sets out Audit Scotland's role in relation to issues of concern about Scottish public bodies. The correspondence team deals with correspondence on these issues on behalf of Audit Scotland, the Accounts Commission and the Auditor General.
2. Our policy sets out:
  - the performance standards we aim to meet when we are dealing with issues of concern
  - what we hope to achieve
  - the level of service that individuals, organisations or representatives for organisations can expect from us
  - how we deal with issues of concern and how they are relevant to our work.

## Who we are

3. Audit Scotland, the Accounts Commission and the Auditor General work together to deliver public audit in Scotland.
  - Audit Scotland is governed by a board consisting of the Auditor General, the chair of the Accounts Commission, a non-executive board chair and two non-executive members (non-executive members are appointed by the Scottish Commission for Public Audit, a commission of the Scottish Parliament).
  - The Accounts Commission is an independent public body appointed by Scottish ministers to hold local government to account. The Controller of Audit is an independent post established by statute, with powers to report directly to the Accounts Commission on the audit of local government.
  - The Auditor General is an independent crown appointment, made on the recommendation of the Scottish Parliament, to audit the Scottish Government, NHS and other public bodies and report to Parliament on their financial health and performance.
4. We use the term 'local auditor' throughout this policy to refer to the auditor appointed by the Auditor General or Accounts Commission to undertake the external audit of public bodies for which they have responsibility. The local auditor for a public body may work for us or a private accountancy firm.

## What we do

5. Public audit plays a key role in providing:
  - assurance that public money is well managed
  - independent and objective evidence on how well public bodies are the performing.

Our assurance is important for the public and decision-makers, and will become even more important as Scotland assumes greater fiscal autonomy within the UK.<sup>1</sup> We want the public interest, trust and confidence to be at the heart of our work.

6. We provide independent assurance about governance, financial management and performance in public bodies such as local authorities and the National Health Service (NHS). We arrange audits of public bodies and our work covers over 220 public bodies in Scotland. We produce evidence-based reports that help the public bodies we audit to understand what works well, what does not and why, and how they can improve. You can find out more about public audit in Scotland on our [website](#) and a list of all the public bodies we audit [here](#).
7. We use correspondence about issues of public concern to help inform our work for, example major failures that affect how a public body is performing or how likely it will be able to respond to future challenges.
8. You may contact us because you have issues of concern about a public body that may fall under the remit of the Accounts Commission or the Auditor General for Scotland.

## When would we act on an issue of concern?

9. In line with our role and remit, we may act on issues of concern relating to the following:
  - **widespread breakdown in financial management**
    - for example, where you have a concern that a public body may not be able to meet its future financial commitments
  - **major failures in how a public body provides a service**
    - for example, where a council has failed to maintain assets such as transport links or school buildings
  - **poor value for money from inefficient governance arrangements<sup>2</sup>**
    - for example, where a public body has entered into a contract and the other party fails to meet its commitments
  - **unlawful spending,**
    - for example, if a public body did not have the power or duty to spend public money in a particular area.

---

<sup>1</sup> Greater fiscal autonomy - for example, as the Scottish Parliament gets more powers to raise public money through taxes.

<sup>2</sup> Governance - describes the structures, systems, processes, controls and behaviours that an organisation has in place to manage its activities.

## When would we not act on an issue of concern?

10. We cannot act on an issue of concern that does not fit within our role or remit. This means:
- **We have no powers to reverse, change or stop decisions made by a public body, for example:**
    - We cannot overturn a planning decision made by a council, even if you personally disagree with the outcome.
    - We cannot change a council's decision on how much to spend on a particular service or area.
  - **We cannot seek compensation for you or act as an arbitrator in personal grievances where:**
    - You have a dispute with your employer.
    - You feel you have suffered an injustice or hardship because the public body provided a poor or bad service or failed to provide a service.
  - **We cannot act on complaints that you may have against a public body where:**
    - You want to complain about a service provided, for example about street lighting or litter. You should contact the public body directly to raise your complaint. You can then contact the Scottish Public Services Ombudsman if you believe it was not dealt with properly
  - **We cannot act on issues that do not involve significant spending. Issues must closely relate to how the body uses public money**
    - We need to be able to substantiate evidence and the sum of money has to be significant, in relation to the body's overall budget.
    - We will not act on an issue of concern, that another public body or regulator is already considering, or that concerns a public body we do not audit.
    - If the issue of concern involves fraud and is already being dealt with by the police or if a review or investigation of an issue is on-going then we cannot get involved.
    - we will not normally act on an issue of concern that took place one year or more before you contacted us.
  - **We do not reopen issues of concern that have been raised or answered before**
    - If we have acted on an issue of concern and issued a final response or a final report in line with the agreed scope we would not do any further work.
    - If your correspondence comes under our [unacceptable actions policy](#).
11. When we are deciding if we are able to act on an issue of concern you have raised with us, we take into account:
- the statutory powers we have to review the issue of concern
  - how relevant the issue of concern is to our role and remit

In making this assessment, we apply our technical knowledge and professional judgement. We also consider the costs and benefits of carrying out such work, as we must ensure that we use our own resources, such as money and employees' time, as efficiently as possible.

12. Once we have assessed each issue of concern raised with us against these main factors and our criteria outlined in paragraph 17, we make the final decision about whether to take any further action.
13. Whistleblowing Disclosures are dealt with in line with our Issue of Concern policy. We have provided some additional detail on page 15, which explains:
  - the statutory framework, and the terminology used
  - our role and remit as prescribed person
  - our reporting obligations including how and what we will report.
14. This policy does not deal with complaints about Audit Scotland; these are covered by separate arrangements. You can find out [how to complain about us](#) on our website. We also deal with [Freedom of Information Requests](#) under a separate policy. You can find out more information on our website (see Appendix).
15. Copies of this policy are available from our offices and on our website. We will review this policy on a regular basis to ensure we are achieving our policy's aims.



# Our approach

## Why are issues of concern important to us?

16. We welcome correspondence that can help inform our work, whether it comes from the general public, councillors, MSPs, MPs, charities, voluntary or community groups or other bodies with legitimate and relevant issues of concern to raise. We always recommend that you raise your issues of concern with the public body concerned in the first instance. Contacting the public body directly is the best way to get the required information and answer any specific issues of concern that you may have.
17. We have no statutory duty to respond to issues of concern. However, issues of concern raised are often relevant to our work and may help us when we are auditing public bodies by:
  - providing information that can help local auditors plan and target their audit work
  - identifying issues of concern that require further examination
  - providing evidence for us as part of a specific audit review.

## Our criteria for assessing issues of concern

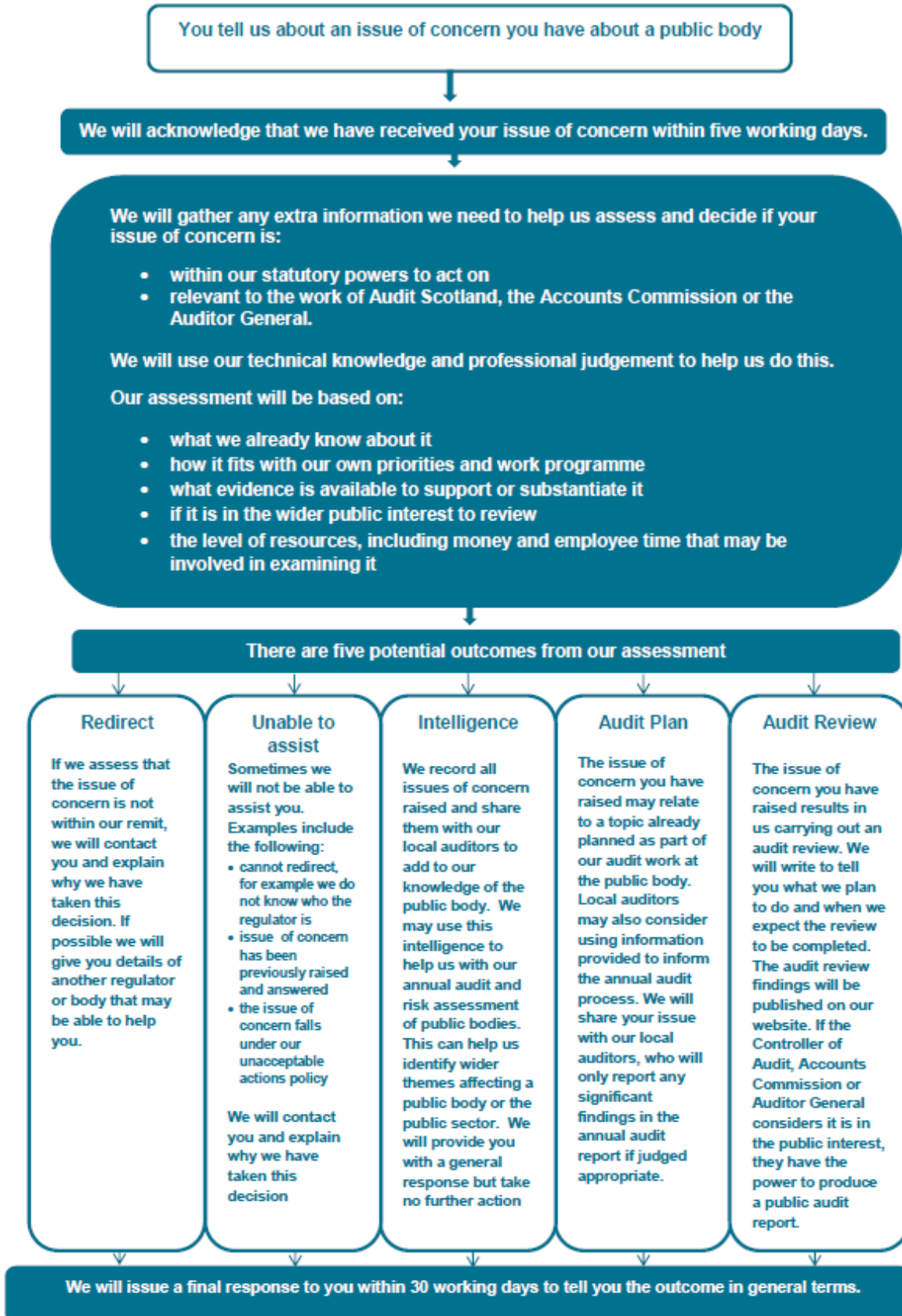
18. We will consider all issues of concern brought to our attention. To determine whether a particular issue of concern warrants further work we will consider the following questions:
  - Do we have the statutory powers to review the issue of concern you have brought to us?
  - Does the issue of concern fall within our remit or should we redirect you to a more appropriate body?
  - What sums of money are involved? Are these significant?
  - Have we previously carried out any audit work about the issue of concern? If so, what did this tell us?
  - How does the issue of concern fit with our approved priorities and work programme?
  - What evidence is there to support or substantiate the issue of concern you have raised?
  - Is it in the wider public interest for us to review the issue of concern and what are the potential benefits to the public?
  - What would be the costs, for example in staff time and benefits of examining the issue of concern?
19. The flowchart on page 10 shows how we deal with issues of concern brought to us. It identifies the potential outcomes you can expect when you contact us.

---

## What type of response can you expect from us?

20. The final response that you will receive from us will depend on the issue of concern you have raised. For example:
- Where you contact us about an issue of concern that is not within our remit or we are unable to assist, we will:
    - contact you and tell you the reason
    - provide you with the relevant details if we think another public body may be able to help.
  - Where you contact us about an issue of concern and raise a number of points, we will:
    - answer those that we assess are within our role and remit
    - provide you with a more general response to the other points raised.
  - Where you contact us about an issue of concern that will add to our knowledge of the public body, we will:
    - share it with our local auditors
    - write to let you know but take no further action.
  - Where you contact us about an issue of concern that may already be part of our planned audit work, we will:
    - share it with our local auditors
    - write to let you know, the audit team will consider using it as part of their audit work. They will only report any significant findings in the annual report if judged appropriate.
  - Where the issue of concern you have raised results in us carrying out an audit review, we will:
    - publish our findings on our website
    - write to tell you what we plan to do and when we expect the report to be available.

## Our flowchart on how we deal with issues of concern.



# What can you expect from us?

21. We aim to provide a high quality service to everyone who contacts us to raise an issue of concern about a public body. We aim to make it straightforward to raise an issue of concern with us and handle all issues of concern that fall within our remit in a consistent, open and timely manner. This section of our policy tells you what level of service you can expect from us when you contact us.

## We have service standards in place

22. We aim to acknowledge the issue of concern you have raised with us within five working days. We also aim to issue a final response within 30 working days. We must ensure that the time we spend reviewing issues of concern is relevant to our work and fits within our overall work programme. We may need to complete a focussed piece of work for some issues of concern that people raise with us. In cases like these, where it may take us longer than 30 working days, we will write to tell you what we plan to do and provide updates of our progress on our website.
23. For security reasons we can only accept attachments to emails submitted in a Word, Excel or PDF format. Unfortunately, we cannot accept any physical media e.g. DVDs, memory sticks etc. nor will we open any links within emails
24. If you submit an issue of concern to our correspondence email address and do not receive an automated acknowledgement this is because an attachment or link within the email has been blocked by our security system. You will need to resubmit your correspondence without the link or attachment providing this information in an alternative format.

## We are consistent in our approach

25. We aim to be consistent in the way we handle, assess and decide if we are going to review an issue of concern. We will make clear decisions using our assessment factors, criteria and professional judgement at all times. If possible, please complete the form on our website to tell us about your issue of concern. This helps to gather all the relevant information in one place easily and quickly so we can start to assess if we are able to review the issue of concern.
26. We also request that you raise all issues of concern directly with our correspondence team. You can contact our correspondence team in the following ways:
  - complete the [form](#) on our website. You will find it on our [contact us](#) area, under issues of concern. This is the way we prefer you to contact us. We can help you complete this form if you need us to.
  - email us at [correspondence@audit-scotland.gov.uk](mailto:correspondence@audit-scotland.gov.uk)

- write to our correspondence team. Please address your letter to: The correspondence team, Audit Scotland, 102 West Port, Edinburgh, EH3 9DN.
27. If we think we need to examine your issue of concern in more detail, we may contact you to discuss any work we plan to do. We will then write to you to confirm the areas we are able to review and tell you how long we expect the work to take. This means that everyone is clear about what is going to happen next and there is no confusion or misunderstanding later on.

## We respect your confidentiality

28. Confidentiality is important and we will always try to maintain your anonymity if at all possible. We will only share the information you give us with local auditors. However, you should be aware that by raising certain issues of concern with public bodies, the public body may be able to deduce your identity.
29. If we need to disclose personal information to the public body concerned so we can review and respond to your issue of concern, we will write to ask you for your written permission in advance, unless you have given your permission when completing the form.
30. We treat Issues of concern in connection with fraud or corruption seriously. The external auditors may need to share information provided with other individuals such as the chief internal auditor, or the fraud liaison officer in NHS Boards. As above we will try to maintain your anonymity if at all possible. However if further inquiries are required we may be legally obliged to pass information onto the police.
31. If you raise an issue of concern with us through our website or in writing, you consent to us recording your personal information in our filing system. You can find our [privacy statement](#) on our website.
32. Once we have issued our final response to you, we will keep records about the issue of concern for three years. We keep all documentation and evidence you have sent to our correspondence team and any letters or emails we send you, for example updates and our final response. However, we do not keep copies of any automated acknowledgements issued.
33. There are a couple of circumstances where we will retain your records for six years. If
- you have raised a complaint with us in relation to how we have handled your correspondence
  - we have issued a letter under our unacceptable actions policy.

## We can offer extra help to raise an issue of concern

34. Everyone has the right to bring an issue of concern to us. We can help you to do this if you need us to. For example, if you do not have access to a computer, you can call us to give us the details and we will complete the form for you. You can call us on 0131 625 1500.

35. If you need help to complete the form you can call us on 0131 625 1500. One of our employees will take the details for you or arrange for a member of our correspondence team to call you back.
36. If you have an impairment or disability, we can make reasonable adjustments if you let us know what those adjustments are. A reasonable adjustment may mean, for example, providing information in large font or in audio form to help with a visual impairment.

## **We set time limits for assessing issues of concern**

37. We will not normally consider an issue of concern if it happened more than a year before you contacted us. In exceptional circumstances, we may examine an issue of concern after this time limit. If you think we should consider an issue of concern that is over this time limit, you must make a clear and persuasive case to us.
38. Where you have told us you are providing, or we have asked for additional information, we will place the issue of concern on hold for one month. At this stage, if the information has not been received, we will consider the issue of concern closed and no further action will be taken.

## **We can identify alternative organisations that may be able to help**

39. You can use our [useful guide for correspondents](#) to help you raise issues of concern with public bodies. This guide contains useful information about the remit of other public bodies in Scotland. You should firstly use this guide to help you decide which organisation is best placed to deal with the issue you want to raise.
40. If you contact us and the issue of concern is not within our remit, we will suggest other public bodies that could help you. Where we do this, we will not take any further action to investigate the issue of concern.

## **We may not always be able to help**

41. We will assess all issues of concern raised with us and share the information with the local auditors. However:
  - we may decide not to respond or take any action if we are not the sole main recipient of the correspondence and we think it is more appropriate for another recipient to respond
  - if you raise an issue of concern anonymously and we assess there is insufficient information, we may be unable to take any further action.

## **We do not tolerate unacceptable behaviour**

42. We welcome correspondence that can help us with our work. We will treat all issues of concern seriously and make clear decisions using our professional judgement at all times. We understand that you are keen for us to respond to your issue of concern, however, we ask that you give us time to assess and review your issue of concern efficiently and effectively. We will

take action to protect our employees from unacceptable and offensive behaviour. You can find our policy on [unacceptable actions by correspondents](#) on our website.

## **We use feedback to help us improve**

43. Where appropriate or practical, we will make changes to our service delivery as a result of any feedback received. Correspondents can provide feedback directly through the website using the feedback form. We may publish information about some improvements in our annual report or on our website. However, we will not publish any personal information.

# Whistleblowing disclosures

44. We deal with whistleblowing disclosures in line with our Issue of Concern policy. However, due to the sensitive nature of these issues, we have provided more detail about the statutory framework and our role as a prescribed person.

## The statutory framework

45. The Prescribed Persons (Reports on Disclosures of Information) Regulations 2017 provides the statutory framework for protecting workers from harm if they blow the whistle on their employer. This means whistleblowers (employees) can raise issues of concern (disclosures) with us about fraud, corruption or wrongdoing concerning the public bodies we audit. The Act provides strong protection for workers who 'blow the whistle on', or raise a genuine issue of concern about, malpractice or wrongdoing. Passing on information like this is known as making a disclosure.
46. The Act sets conditions about making a 'qualified' disclosure. To be covered by whistleblowing law, a disclosure must be 'qualified'. This means any disclosure must be made in 'good faith' and made in the public interest.

Whistleblowing disclosures must be about:

- concerns about actual or perceived breaches of civil, criminal, regulatory or administrative law
  - miscarriages of justice
  - threats to an individual's health and safety
  - dangers to health, safety of any individual
  - damage to the environment and
  - the deliberate cover up of any such malpractice.
47. You are protected by the Act if you are an employee, no matter when you make the whistleblowing disclosure. This includes:
- workers, contractors, trainees, agency staff, homeworkers, police officers, everyone in the NHS
  - workers within the public, private and voluntary sectors.

Self-employed workers, volunteers and members of the intelligence services or armed forces are not protected under the Regulations.

## Our role and remit as prescribed persons

48. Audit Scotland, the Accounts Commission, the Auditor General and the firms we appoint are prescribed persons under the Public Interest Disclosure Act 1998 (the Act). Workers (as described by the Regulations) can raise disclosures (concerns) about fraud, corruption or



wrongdoing within the [public bodies we audit](#). Our role is to provide workers with an alternative method for making a disclosure where they don't feel comfortable in contacting the public body directly.

49. Audit Scotland does not have the power to issue fines or enforcements on the public bodies we audit. The Regulations do not place any additional power or duty on 'prescribed persons', and we do not have a legal obligation to act on a whistleblowing disclosure
50. Our decision on whether to act or not is based on various sources of intelligence along with the criteria set out in paragraph 20 of this policy.
51. In addition, we cannot act on whistleblowing disclosures which relate to:
  - grievances which are personal rather than of concern to the organisation or of public concern, for example you have a dispute with your employer
  - anything which breaks the law
  - whistleblowing disclosures made in bad faith, for example from an improper motive
52. Whistleblowers frequently want their information and identity to be protected. Please refer to our 'What you can expect from us' section on page 12 for details about all our service standards including confidentiality and anonymity.
53. The prescribed persons are not responsible for deciding whether the worker who has made a disclosure qualifies for protection. Ultimately this will be decided by the Employment Tribunal where a claim of detriment or dismissal because of whistleblowing is contested

## Our approach for disclosures

54. We use a wide range of information sources in our work and whistleblowers provide valuable intelligence on both criminal and regulatory breaches, as well as general wrongdoing within the public bodies we audit.
55. In many instances, whistleblowers information simply adds to intelligence we already have about the public bodies we audit. Although it may be new information, it may not be sufficient to act on in its own right. Our assessment criteria for both Issues of Concern and Disclosures are detailed in paragraphs 11, 12 and 20 of this policy.
56. [The correspondence team](#) deals with all disclosures and we recommend that you complete our [on-line form](#). This helps us obtain sufficient information and detail to help with our assessment.
57. In line with our Issues if Concern policy, you will receive an acknowledgement within five working days unless you have not provided contact details. In some cases, it is useful for us to contact or meet with the whistleblower to help us understand the concerns and any restrictions they wish to set. For example, this may be ensuring that auditors do not disclose certain facts when making their enquiries as the body may be able to identify them.

58. We aim to provide a final response within 30 working days. The type of response you can expect will depend on the decision of our assessment. Please refer to our correspondence flowchart on page 10 for the five potential outcomes.
59. In some cases, due to the sensitivity of the whistleblowing disclosure and restrictions placed on us, for example where we do not have permission to share information, we may take longer to conclude. We may also need to complete a focused piece of work for some disclosures.
60. If we are able to act in response to a whistleblowing disclosure you raise, our response will set out in general terms what action we plan to take. However, in most cases we may not be able to tell you what action we have taken, as this would create a potential conflict on a duty of confidence owed by us to someone else. In addition, if we need to refer the matter to the police we will not be able to provide you with any updates while the investigation is taking place.
61. Although we do not have the power to issue fines or enforcements, we can make recommendations to the bodies we audit to promote effective policies and procedures.
62. If we are not the right people to help you we will aim to let you know quickly and, if possible, redirect you to another body or regulator.

## Legal advice

63. We cannot give you legal advice if you are thinking about making a disclosure and we cannot advise what action a public body should or should not be taking.
64. If you are thinking about making a disclosure and are unsure about your legal rights you can contact Public Concern at Work (PCAW). PCAW is an independent charity that gives free, legal and confidential advice.

## Reporting

65. Prescribed persons are required to report in writing annually on whistleblowing disclosures made to it in its capacity as a prescribed person. This is to help increase transparency in the way that whistleblowing disclosures are dealt with and raise confidence among whistleblowers that their concerns are taken seriously.
66. Our reporting period is 12 months beginning on 1 April annually and so our annual report on whistleblowing should be available on our website no later than 1 October each year.
67. The annual report will provide high level information on whistleblowing cases received by Audit Scotland, Accounts Commission, Auditor General and the private audit firms appointed by the Auditor General of the Accounts Commission. . We will ensure that none of the parties involved can be identified, for example the whistleblower or the public body.
68. The report will include:
  - an explanation of the functions and objectives of the relevant prescribed persons

- information on the number of disclosures received, the outcomes (for example, the number redirected to an alternative body) and the number requiring further action
- a summary of the types of whistleblowing cases received, for example if there is an increase in the number of fraud cases reported and any trends across sectors and recommendations made.

# Appendix. Other types of correspondence

We list some examples below:

## Audit enquiries

Audit enquiries are queries about our work, for example requests for national report data, and questions about legislation and the roles of public bodies. The correspondence team will try to answer these enquiries as soon as reasonably possible. However the time taken will depend on the volume of correspondence being dealt with.

## Objections to Local Authority accounts

The public has a right to inspect and object to local authority accounts under the Local Government (Scotland) Act 1973. Auditors appointed by the Accounts Commission have specific duties to consider formal objections to the accounts of local government bodies raised by members of the public.

The Local Government (Scotland) Act 1973 and the Local Authority Accounts (Scotland) Regulations 2014 requires all local authorities (councils, joint boards and joint committees) to give public notice of the right of interested persons to inspect and object to the accounts. This public notice must be on their website by 17 June each year.

The public notice will include the following information:

- that the accounts and other documents will be available for inspection during the ordinary business hours of the local authority for a period of 15 working days from the date specified in the notice
- the places and times at which those accounts and other documents will be available for inspection
- the name and address of the auditor together with the date by which any objections must be sent to them.

If you want to raise an objection to a local authority's accounts, you should do this directly with the named auditor. The auditor must give you an opportunity to appear before them and be heard.

[Find out about your rights to inspect, question and object to local authority accounts.](#)

## Complaints

We regard a complaint as any expression of dissatisfaction about our action or about the service we provide. Audit Scotland, the Accounts Commission, and the Auditor General are listed authorities under the Public Services Reform Act (Scotland) Act 2010 and the Scottish

Public Service Ombudsman Act 2002. As such, we have a single complaints procedure covering all of us. We will deal with complaints on behalf of the Accounts Commission and the Auditor General.

[Find out about what constitutes a complaint](#)

## Raising a complaint about how we dealt with an issue of concern

If you are not satisfied with the way we have handled an issue of concern, once we have assessed it is within our remit you can raise a formal complaint by contacting:

Audit Scotland  
Complaints Administrator  
4th Floor  
102 West Port  
Edinburgh  
EH3 9DN

T: 0131 625 1500

E: [complaints@audit-scotland.gov.uk](mailto:complaints@audit-scotland.gov.uk)

## Freedom of Information Requests

Audit Scotland, the Accounts Commission and the Auditor General, are covered by the Freedom of Information (Scotland) Act 2002 and other access to information legislation. We have procedures to ensure that we handle requests for information in accordance with the law.

[Find out more about Freedom of Information requests.](#)