



Audit of 2016/17 annual accounts (local authorities)

Technical guidance note 2016/10(LA) - module 12 statutory objections to annual accounts

 **AUDIT SCOTLAND**

Prepared by Audit Strategy
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Audit Scotland is a statutory body set up in April 2000 under the Public Finance and Accountability (Scotland) Act 2000. It provides services to the Auditor General for Scotland and the Accounts Commission. Together they ensure that the Scottish Government and public sector bodies in Scotland are held to account for the proper, efficient and effective use of public funds.

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1 Introduction

Purpose of module

1. This module of technical guidance note 2016/10(LA) provides information and guidance on statutory objections to the unaudited annual accounts.
2. It replaces note for guidance 2001/4(LA) and brings up to date guidance on the actions auditors are required to take when they receive a statutory objection.

Contact point

3. The contact point in Audit Strategy for this module of the technical guidance note is Paul O'Brien, Senior Manager (Technical) - Pobrien@audit-scotland.gov.uk.

2 Overview

Purpose of section

5. This section of the module provides a summary of the statutory requirements for objections and applies them to 2016/17 annual accounts.

Changes in 2016/17

6. There are no changes in statutory requirements in 2016/17. The guidance has however been updated to reflect [The Local Authority Accounts \(Scotland\) Regulations 2014](#) which replaced the previous 1985 regulations with effect from 2014/15.

Definition

7. Statutory objections refer to the right of interested persons under [section 101](#) of the *Local Government (Scotland) Act 1973* to inspect and to object to the unaudited annual accounts of a local authority.

Summary of statutory requirements

8. Local authorities are required by the accounts regulations to give public notice on their website of the right of interested persons to inspect the unaudited accounts and related documents and to object to those accounts. The notice is required to set out the period during which the accounts and other documents may be inspected.
9. The inspection period should last for 15 working days and commence at least 14 days after the notice is published. An interested person may lodge an objection to the unaudited accounts, or to any part of those accounts, not later than the end of the working day after the end of the inspection period.
10. For 2016/17, taking into the account the impact of non-working days, the key dates are set out in the following table

Stage	Latest date	Comment
Publication of notice	19 June	The accounts regulations set the latest date as 17 June which is a Saturday in 2017; 19 June is the next working day
Inspection start date	3 July	The accounts regulations set the latest date as 1 July which is a Saturday in 2017; 3 July is the next working day
Inspection end date	21 July	The inspection period requires to be 15 working days from (and including) the inspection start date
Objection deadline	24 July	As 21 July is a Friday in 2017, the next working day is Monday 24 July

11. Any person who objects to the accounts has the right to be heard by the appointed auditor in relation to the objection. In terms of section 101 and the regulations, a person wishing to object to a local authority's unaudited accounts must send the objection in writing to the appointed auditor, and a copy to the authority and to any officer of the authority who may be concerned.
12. The requirements for inspection and objection apply to
 - councils constituted under [section 2](#) of the *Local Government (Scotland) Act 1994* for both their own annual accounts and those relating to the LGPS
 - bodies to which [section 106\(1a\)](#) of the 1973 Act applies (e.g. integration joint boards valuation joint boards, joint committees, and regional transport partnerships)
 - trust funds to which [section 106\(1b\)](#) of the 1973 Act applies. This includes the statement of accounts prepared for registered charities.
13. For the avoidance of doubt, the requirements do not apply to community justice authorities established under [section 3](#) of the *Management of Offenders etc. (Scotland) Act 2005*.
14. Extracts from the relevant legislation is provided at Appendix 1 of this module.

3 Dealing with objections

Purpose of section

15. This section of the module provides auditors with guidance on dealing with any objections they receive, including cases where a hearing is required.

Changes in 2016/17

16. There are no changes in procedures compared with 2015/16. The guidance has however been updated to reflect *The Local Authority Accounts (Scotland) Regulations 2014* and other changes since note for guidance 2001/4(LA) was published.

Initial consideration of submission

17. On receipt of a submission from an objector, auditors should consider whether it meets the criteria for being treated as a statutory objection. Auditors should treat the matter as a statutory objection where
 - the submission was sent in writing no later than the working day after the end of the inspection period;
 - a statement of the grounds for the objection been included;
 - the submission relates to an item of account. In practice this means considering whether the subject matter of the submission could impact on how the item is recognised, measured, presented or disclosed in the accounts. That would include cases where an item may be illegal and disclosure of that illegality is required, but would exclude an issue of concern that could not result in a misstatement in the accounts; and
 - the objector copied the submission to the authority and, where relevant, any officer of the authority concerned.
18. Where the submission was sent later than the statutory deadline or where it was not copied to the authority or relevant officer, auditors should exercise their own judgement as to whether, notwithstanding those areas, they will nevertheless treat it as an objection.
19. A checklist of the main auditor actions set out in this module is provided at Appendix 2.

Auditor action where accepted as objection

Initial response

20. Where the submission can be accepted as a valid objection, the auditor should write to the objector, the authority's Chief Executive and any officer of the authority concerned as soon as possible and
 - acknowledge receipt of the submission and confirm that it will be treated as a statutory objection

- advise them of the right under section 101 to be heard in relation to the objection, either personally or by a representative.
21. Copies of the submission and subsequent responses should be sent at the same time to Audit Scotland's correspondence team at correspondence@audit-scotland.gov.uk.

Hearing

22. Legislation does not place a time limit on holding the hearing or set out other specific requirements. On receipt of a request to exercise the right to be heard, auditors should
- suggest a suitable date, time and location for the hearing. The timescale will depend on the auditor's assessment of the expected impact on the annual accounts based on the information in the written submission but should not be unduly delayed
 - request any further documentation relevant to the subject matter of the objection.
23. Auditors should use the hearing process to collect further details on the grounds for the objection and to obtain any supplementary information. At the hearing, they should make whatever enquiries are considered necessary to assist in understanding the subject matter of the objection. Auditors should, however, refrain from expressing a view on the matter at the hearing stage.
24. In the absence of a hearing, auditors should make whatever enquiries they consider appropriate to establish the factual position.

Considering the objection

25. Auditors should consider the information they have gathered on the subject matter of the objection (from any hearing and/or from the submission) and form a preliminary conclusion. As soon as they are in a position to do so, auditors should assess whether the matter could potentially involve a material misstatement in the annual accounts
- Where a material misstatement is considered to be likely, the impact on the reporting timetable should be assessed immediately. Audit Scotland's Audit Strategy group (osmith@audit-scotland.gov.uk) should be advised if a delay in completion of the audit is anticipated along with an explanation for the delay.
 - Where a material misstatement is considered to be unlikely, auditors should proceed with the audit and consider the objection as soon as this can be accommodated within the work schedule, possibly after the completion of the year's audit.
26. Auditors should carry out appropriate procedures to obtain evidence on which to base their final conclusion on the matter.
27. When auditors have concluded their consideration of the subject matter of the objection, they should send a copy of their findings to correspondence@audit-scotland.gov.uk who will advise the Controller of Audit.

Statutory report considerations

28. The Controller of Audit will assess whether a statutory report on the subject matter of the objection is appropriate. The correspondence team will advise the auditor whether the Controller has decided to proceed with a statutory report.
29. Where there is not to be a statutory report, the auditor should advise the objector, the authority's Chief Executive and any officer concerned of the outcome of their consideration of the matter. This should be copied to the correspondence team.
30. Where a statutory report is to be prepared, the Controller's team will assume responsibility for the process, including all relevant correspondence. Auditors will be consulted during the preparation of the statutory report and may be asked to undertake further work.

Annual audit report

31. Where a conclusion is reached by the auditor on the objection prior to the completion of the annual audit report for the audit year in question, and the investigation identified matters of significance, auditors should include a short summary in the annual audit report indicating that a valid objection was received and the outcome.
32. Where the matter is not material to the accounts and enquiries have not been concluded by the date on which the annual audit report is completed, auditors should refer to the objection in the report and state that any significant matters arising from their enquiries will be reported in the subsequent year's report.

Auditor action where not accepted as objection

33. Where the auditor considers that the submission cannot be accepted as a valid objection, the auditor should write as soon as possible to the person who raised the matter, the authority's Chief Executive and any officer of the authority who may be concerned advising that the matter
 - cannot be treated as a statutory objection and explaining the reasons
 - will be dealt with as an issue of concern by Audit Scotland's correspondence team.
34. Copies should be provided to correspondence@audit-scotland.gov.uk. The correspondence team aim to respond to issues of concern within 30 working days. It is important that auditors therefore provide them with the submission timeously.

Appendix 1 Extracts of legislation

Local Government (Scotland) Act 1973

101 Right of interested person to inspect and object to accounts: completion of audit

(1) At each audit under this Part of this Act of a local authority's accounts, any persons interested may inspect the accounts to be audited and all books, deeds, contracts, bills, vouchers and receipts relating thereto and make copies of all or any part of the accounts and those other documents.

(2) Any person interested may object to the accounts of a local authority or to any part of those accounts by—

(a) sending his objection in writing, together with a statement of the grounds thereof, to the auditor, and

(b) sending a copy of that objection and statement to the authority and to any officer of the authority who may be concerned.

(3) Where any person objects under subsection (2) above to the accounts of a local authority, the auditor shall, if so requested by that person or authority or by any officer of the authority who may be concerned, afford to that person or authority or officer, as the case may be, an opportunity of appearing before and being heard by the auditor with respect to that objection; and any such person or officer may so appear and be heard either personally or by a representative.

195 Public notices

Save as otherwise expressly provided, a public notice required to be given by a local authority shall be given—

(a) by displaying the notice conspicuously at or near the principal entrance to the offices of the authority; and

(b) by posting the notice in some conspicuous place or places within the area of the authority or by inserting a copy of the notice in a newspaper circulating in the area of the authority; and

(c) in such other manner, if any, as appears to the authority to be desirable for giving publicity to the notice.

The Local Authority Accounts (Scotland) Regulations 2014

Notice of public right to inspect and object to accounts

9.—(1) A local authority must give public notice of the right of interested persons to inspect and object to its accounts, as provided for by section 101 (rights of interested persons to inspect and copy documents and to object to accounts)(1) of the 1973 Act.

(2) In the application of this regulation, in any year in which a date referred to is not a working day, that date is to be read as the date of the next working day.

(3) The notice referred to in paragraph (1) must—

(a) be given in accordance with section 195 (public notices) of the 1973 Act no later than 17th June immediately following the financial year to which the accounts relate;

(b) be published on a website of the authority; and

(c) not be removed from that website during the period throughout which the right to inspect subsists, as described in paragraph (4)(a).

(4) The notice referred to in paragraph (1) must set out the provisions of section 101(1) and (2) of the 1973 Act and state—

(a) that the accounts and other documents referred to in section 101(1) of the 1973 Act will be available for inspection during the ordinary business hours of the local authority for a period of 15 working days from (and including) the date specified in the notice in accordance with paragraph (5);

(b) the place or places at which those accounts and other documents will be available and the hours during which they will be available there;

(c) that no charge will be made for inspection of documents or for copying of them by persons who are inspecting them, with details of any charges that the local authority proposes to make should a person inspecting them wish to be provided with copies;

(d) the name and address of the auditor; and

(e) that objections to the accounts may be sent to the auditor at that address until the end of the working day that follows the period described in sub-paragraph (a).

(5) The date specified in the notice in terms of paragraph (4)(a) must be at least 14 days after the date that notice is published, but cannot be later than 1st July in the year in which the notice is published.

Appendix 2 Auditor action checklist

Auditor actions	Yes/No/N/A	Initials/date	W/P ref
<p>1 Have you considered whether the submission from an objector meets the criteria for being treated as a statutory objection?</p> <p>(Where it is to be treated as an objection, see actions 2 to 11. Where it is not to be treated as an objection, see actions 12 and 13)</p>			

Accepted as objection

Auditor action	Yes/No/N/A	Initials/date	W/P ref
<p>2. Have you written to the objector, the authority's Chief Executive and any officer of the authority concerned to</p> <ul style="list-style-type: none"> • acknowledge receipt of the submission? • confirm that it will be treated as a statutory objection? • advise them of the right to be heard in relation to the objection? 			
<p>3. Have you sent copies of the submission and subsequent responses to Audit Scotland's correspondence team?</p>			
<p>4. On receipt of a request to be heard, have you</p> <ul style="list-style-type: none"> • suggested a suitable date, time and location for the hearing? • requested any further documentation? 			
<p>5. Have you assessed whether the matter could potentially involve a material misstatement in the annual accounts?</p>			

Auditor action	Yes/No/N/A	Initials/date	W/P ref
<p>6. Where a material misstatement is considered to be likely, have you</p> <ul style="list-style-type: none"> • immediately assessed the impact on the reporting timetable? • advised Audit Strategy if a delay in completion of the audit is anticipated? 			
<p>7. Have you carried out appropriate procedures to obtain evidence on which to base your final conclusion on the matter?</p>			
<p>8. Have you sent a copy of your findings to the correspondence team?</p>			
<p>9. Where there is not to be a statutory report, have you advised the objector, the authority's Chief Executive and any officer concerned of the outcome of your consideration of the matter?</p>			
<p>10. Have you sent a copy of the above to Audit Scotland's correspondence team?</p>			
<p>11. Have you made an appropriate reference in the annual audit report?</p>			

Not accepted as objection

<p>12. Have you written to the person who raised the matter, the authority's Chief Executive and any officer of the authority who may be concerned advising that the matter</p> <ul style="list-style-type: none"> • cannot be treated as a statutory objection and explaining the reasons? • will be dealt with as an issue of concern by Audit Scotland's correspondence team? 			
<p>13 Have you sent a copy of the above to Audit Scotland's correspondence team?</p>			