

Audit of 2017/18 annual accounts (local authorities)

Technical guidance note 2017/10(LA) - module 12 statutory objections to annual accounts



Prepared for appointed auditors in the local authority sector

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1 Introduction

Purpose of module

1. This module of technical guidance note 2017/10(LA) provides information and guidance on statutory objections to the unaudited annual accounts.

Contact point

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

2 Overview

Purpose of section

4. This section of the module provides a summary of the statutory requirements for objections and applies them to 2017/18 annual accounts.

Changes in 2017/18

5. There are no changes in statutory requirements in 2017/18. However, this module has been enhanced to provide auditors with more practical guidance.

Definition

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

Summary of statutory requirements

Public notice

7. Local authorities are required by [The Local Authority Accounts \(Scotland\) Regulations 2014](#) to give public notice on their website of the right of individuals 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.

Inspection period

8. The inspection period should last for 15 working days and start 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.
9. For 2017/18, 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	18 June	The accounts regulations set the latest date as 17 June which is a Sunday in 2018; Monday 18 June is the next working day
Inspection start date	2 July	The accounts regulations set the latest date as 1 July which is a Sunday in 2018; 2 July is the next working day
Inspection end date	20 July	The inspection period requires to be 15 working days from (and including) the inspection start date
Objection deadline	23 July	As 20 July is a Friday in 2018, the next working day is Monday 23 July

Objection

10. In terms of section 101 and the regulations, any 'person interested' may object to a local authority's annual accounts. There are no restrictions which require, for example, the person to reside within the council area.
11. Any person wishing to object to a local authority's unaudited accounts must send the objection in writing by the statutory deadline to the appointed auditor, and a copy to the authority and to any officer of the authority who may be concerned.

Right to be heard

12. Any person who objects to the accounts has the right to be heard by the appointed auditor in relation to the objection.

Scope

13. 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.

Legislation

14. Extracts from the relevant legislation are 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 potential statutory objections they receive, including cases where a hearing is required.

Overview

16. The process for dealing with the submission is summarised in the following table:

Stage	Summary of actions
1 Initial consideration of submission	Consider whether the submission meets the criteria for being treated as a statutory objection
2 Provide initial response	Acknowledge receipt of submission Confirm that it is to be treated as a statutory objection (or explain why it is not)
3 Arrange for and hold hearing (where appropriate)	Suggest date and time for hearing Use hearing to collect further details
4 Form a preliminary conclusion on materiality	Assess whether any misstatement could be material
5 Form final conclusion	Obtain evidence on which to base final conclusion
6 Communicate findings	Submit findings to objector and correspondence team

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 submission as a statutory objection where all the criteria in the following table are met:

Criteria	Explanation
Format	The submission should be in writing.
Timing	The submission should be sent no later than the working day after the end of the inspection period.
Grounds	A statement of the grounds for the objection should be included.
Subject matter	The subject matter should relate to a potential misstatement in the annual accounts (see below for further guidance).
Recipients	The submission should have been copied to the local authority and, where relevant, any officer of the authority concerned

18. The main judgement in considering whether the criteria are met is likely to be whether the subject matter of the submission relates to the potential misstatement of an item in the annual accounts. In practice this involves auditors considering whether the subject matter of the submission could impact on how the item is recognised, measured, presented or disclosed in the accounts. In practice, some elements of a submission may meet the criteria (and therefore those elements should be accepted as an objection) while others do not.
19. A matter wholly related to the wider scope of public audit cannot result in a misstatement in the annual accounts and therefore does not represent a statutory objection.
20. Examples of subject matter, and whether each relates to a potential misstatement in the annual accounts, are set out in the following table:

Subject matter of submission	Relates to a potential misstatement
A building is over-valued	Yes - it affects that amount at which the building is measured in the balance sheet
A loan with a lender option borrower option (LOBO) is poor value for money	No - poor value for money does not affect how the LOBO is recognised, measured, presented or disclosed in the accounts
An embedded derivative within a LOBO has not been separately accounted for	Yes - it affects how the LOBO has been recognised, measured, presented or disclosed in the accounts
A view that elected members' expenses are too generous	No - the expenses are correctly measured
Concerns around significant governance weaknesses that are not disclosed	Yes - governance weaknesses, if significant, should be reported in the governance statement
Constructive obligation to clean up an old coal mine is not reflected in the accounts	Yes - a liability should be recognised in the accounts

21. For the purposes of concluding whether to accept the submission as a statutory objection, auditors should be concerned simply with whether there could be a misstatement in the annual accounts. Auditors should refrain from pre-judging the outcome at this stage, for example by being influenced by the materiality of any misstatement.
22. 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 a statutory objection.
23. 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

24. Where the submission can be accepted as a statutory 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.
25. Auditors should send copies of the submission to Audit Scotland's correspondence team as soon as they are received at correspondence@audit-scotland.gov.uk. The initial and subsequent responses should also be copied to the correspondence team at the same time as they are sent to the objector.

Hearing

Pre-hearing

26. The individual has the right to 'appear before the auditor' which entails a meeting in person, where requested. The meeting may be with the objector or with a representative. On receipt of a request to exercise the right to be heard, auditors should
 - suggest a suitable date, time and location for the hearing. Legislation does not place a time limit on holding 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.

At hearing

27. Auditors should use the hearing process to collect further details on the grounds for the objection and to obtain any supplementary information.

28. At the hearing, auditors 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.

No hearing

29. In the absence of a hearing, auditors should make whatever enquiries they consider appropriate to establish the factual position.

Considering the objection

Preliminary conclusion on materiality

30. 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 any misstatement could potentially be material and take the actions set out in the following table:

Materiality	Action
Potential to be material	<p>Assess the impact on the reporting timetable</p> <p>Advise Audit Scotland's Audit Appointments and Assurance team (osmith@audit-scotland.gov.uk) if a delay in completion of the audit is anticipated along with an explanation for the delay</p> <p>Advise the proper officer of a potential adjustment to the annual accounts</p>
No potential to be material	<p>Proceed with the audit</p> <p>Consider the objection as soon as this can be accommodated within the work schedule (possibly after the completion of the year's audit)</p>

Form final conclusion

31. Auditors should carry out appropriate procedures to obtain evidence on which to base their final conclusion on the matter.
32. Objections often refer to the absence of information that the objector believes should be disclosed in the annual accounts. In considering the objection, auditors should bear in mind that the extent of detail and analysis provided on any subject is a matter of judgement taking into account the factors set out in the following table:

Factors	Explanation
Users	Annual accounts are required to provide information that meets the common needs of a wide range of users. They are not designed to meet the specific needs of individual users.
Disclosure requirements	The accounting code specifies minimum disclosure requirements. The code also requires additional disclosures, where appropriate, to enable users to understand the impact of particular transactions on a local authority's financial position and performance.
Materiality	Local authorities need to form a view on whether an item is sufficiently material to warrant separate disclosure. Auditors should assess whether that view is reasonable in the circumstances.

Communicate findings

33. Auditors should initially report their findings to correspondence@audit-scotland.gov.uk who will advise the Controller of Audit. The Controller will assess whether a statutory report on the subject matter of the objection is appropriate. The correspondence team will advise the auditor whether or not the Controller has decided to proceed with a statutory report. This decision then determines who should communicate with the objector as set out in the following table:

Statutory report?	Communication responsibility
No	Auditors should <ul style="list-style-type: none"> advise the objector, the authority's Chief Executive and any officer concerned of the outcome of their consideration of the matter take care to ensure their response addresses each element of the objection and that their conclusions are expressed clearly copy the response to the correspondence team.
Yes	The Controller of Audit'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.

Fee arrangements

34. Audit fees for considering statutory objections should be agreed with the local authority as part of normal fee negotiations.
35. Where work is required to contribute to a statutory report, an additional fee will be required. Audit Scotland will indicate whether the additional fee should be separately agreed with the local authority or paid by Audit Scotland.

Auditor action where not accepted as objection

36. Where the auditor considers that the submission cannot be accepted as a statutory 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.
37. Auditors should ensure they avoid describing the submission as an *objection* in the response, subsequent reports or other correspondence.
38. Copies should be provided to correspondence@audit-scotland.gov.uk. The correspondence team aim to respond to issues of concern within 30 working days of the initial submission. It is important that auditors therefore provide them with the submission timeously.

Annual audit report

39. 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 statutory objection was received and the outcome.
40. 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.

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 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 any misstatement could potentially be material?</p>			

Auditor action	Yes/No/N/A	Initials/date	W/P ref
<p>6. Where a misstatement is considered to be potentially material, have you</p> <ul style="list-style-type: none"> • immediately assessed the impact on the reporting timetable? • advised the Audit Appointments and Assurance team 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 reported 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>			