

Technical Guidance Note 2022/3(LG)

Guidance on Inspection of and Statutory
Objections to 2021/22 Local Government
Annual Accounts



 AUDIT SCOTLAND

Prepared for appointed auditors in the local government sector

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Introduction

Purpose and use of this Technical Guidance Note

1. The purpose of this Technical Guidance Note (TGN) from Audit Scotland's Professional Support is to provide auditors appointed by the Accounts Commission with guidance on:

- evaluating the public notice for inspecting the unaudited 2021/22 annual accounts of local government bodies and associated documents (Chapter 1)
- dealing with any consequent statutory objections to those accounts (Chapter 2).

Context

2. An interested person has the right under [section 101](#) of the Local Government (Scotland) Act 1973 (the 1973 Act) to inspect the unaudited annual accounts and associated documents of the following:

- Councils constituted under [section 2](#) of the Local Government etc (Scotland) Act 1994 in respect of their own annual accounts and those relating to the local government pension scheme.
- 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.

3. The person may then submit to the external auditor of the local government body an objection to the annual accounts. However, legislation in Scotland (in contrast with England) does not set out how auditors should respond to a statutory objection, nor does it give auditors any specific powers or responsibilities (beyond holding a hearing with the objector). This TGN therefore provides auditors with guidance on the actions they should carry out if they receive a statutory objection (or a submission that may potentially be an objection).

Enquiries

4. Auditors should consult with Professional Support in respect of statutory objections by sending an e-mail to TechnicalQueries@audit-scotland.gov.uk.

1. Public inspection notice

Compliance with regulations

Auditor action 1

Auditors should evaluate whether the public inspection notice for 2021/22 is in accordance with regulations.

5. Local government bodies are required by [Regulation 9](#) of The Local Authority Accounts (Scotland) Regulations 2014 to give a public notice of the right of interested persons to inspect and object to the unaudited accounts and inspect specified associated documents. However, [Schedule 6 of the Coronavirus \(Scotland\) Act 2020](#) (Sch. 6) continues to permit a local government body to decide to delay complying with this duty if there is a significant risk of the transmission of COVID-19.

6. Auditors should evaluate whether the public notice for 2021/22 is in accordance with Regulation 9, subject to the application of Sch. 6 where appropriate. The requirements and related guidance for auditors when evaluating compliance are summarised in the following table:

Requirement for notice	Guidance for auditors
In accordance with section 195 of the 1973 Act	<p>The public notice should be:</p> <ul style="list-style-type: none"> displayed conspicuously at or near the principal entrance to the offices of the local government body (Sch. 6 allows the option for the notice to be published on a website) included in a newspaper.
Publication on the body's website	The notice should remain on the body's website throughout the inspection process.
Publication no later than 17 June	Each body may determine their own timescale subject to the inspection notice being published by 17 June 2022 at the latest (Sch. 6 allows a later date).

Requirement for notice	Guidance for auditors
Set out the provisions of section 101(1) and (2) of the 1973 Act	<p>The public notice should set out that any interested person may:</p> <ul style="list-style-type: none"> inspect the unaudited annual accounts and those associated documents specified at section 101(1) make copies send an objection to the auditor, and a copy to the body (usually the Chief Executive) and any other officer who may be involved.
State that the annual accounts and specified associated documents will be available for inspection for 15 working days from a specified date	<p>The specified starting date for the inspection period must be at least 14 days after the date that notice is published but cannot be later than Friday 1 July 2022 (or later date permitted by Sch. 6).</p> <p>The inspection end date should be 15 working days from (and including) the start date but cannot be later than Thursday 21 July 2022 (or later date permitted by Sch. 6).</p>
State where, and the hours during which, the annual accounts and specified documents will be available	The documents should normally be available from the body's offices during normal business hours. Sch. 6 allows the option to provide the documents electronically.
State that no charge will be made for inspection or for copying by persons inspecting them (details of any charges for providing a person with copies)	There should be no charge for inspecting or copying the documents and this should be explicitly stated in the notice. A local government body may make a charge if the interested person wants to be provided with copies and this should be explained.
State that any objections should be sent to the auditor (using the name and address given) by the next working day after the inspection period	<p>Auditors should provide the body with the name of the appointment lead and business address, and confirm that these details are correctly included in the notice.</p> <p>Objections no longer require to be submitted to the Controller of Audit, and auditors should confirm that the notice does not refer to such a requirement (a number of notices in previous years have been found to have included such a reference in error).</p> <p>The date given for submitting an objection should be the working day immediately following the end of the inspection period. The latest date for 2021/22 is therefore Friday 22 July 2022 (or later date permitted by Sch. 6).</p>

2. Statutory objections

Auditor action overview

7. The actions to be taken by auditors at each stage of the process when dealing with a potential objection to the annual accounts are summarised in the following table:

Stage	Summary of main auditor actions
2 Initial consideration of submission	Acknowledge receipt of submission Consider whether the submission meets the criteria for being treated as a statutory objection
3 Provide initial response	Confirm that it is to be treated as a statutory objection (or explain why it is not)
4 Arrange for and hold hearing (where appropriate)	Suggest date and time for hearing Use hearing to collect further details
5 Form a conclusion on materiality	Evaluate whether any misstatement could be material
6 Form final conclusion	Obtain evidence on which to base a final conclusion
7 Discuss need for statutory report	Discuss with Audit Scotland whether a statutory report is appropriate
8 Final response	Report conclusion to objector and relevant body
9 Report in Annual Audit Report	Include appropriate reference in Annual Audit Report

8. Guidance on each auditor action is provided in the remainder of this chapter. The applicability of each action is summarised in the following table:

Action	Applicability
2	Every potential objection submitted
3 to 9	Where the submission is treated as an objection
10	Where the submission is not treated as an objection

9. A checklist for auditor actions is also provided at Appendix 1, which auditors should complete for each potential statutory objection received. Auditors are encouraged to consult with Professional Support on any aspect of the process.

10. The consideration of objections is part of core audit work. However, as it is not possible to anticipate how many (if any) are likely to be received in any year, there is no allowance for this work included in the construction of expected fees. Auditors should refer to section 3 of the [Audit Management and Quality Guidance](#) for information in this regard.

Initial consideration of submission

Auditor action 2

Auditors should:

- **acknowledged receipt of a potential statutory objection**
- **send copies to the Correspondence team**
- **consider whether the submission meets the criteria for being treated as a statutory objection.**

11. When auditors receive a submission that could potentially be a statutory objection, they should promptly acknowledge receipt and explain they are considering whether it can be accepted as an objection under the terms of the 1973 Act.

12. Auditors should send a copy of the submission received and acknowledgment to Audit Scotland's Correspondence team at correspondence@audit-scotland.gov.uk.

13. Where required, auditors should then consider whether the criteria for being a statutory objection are met. This is the case where all the criteria in the following table are satisfied:

Criteria	Explanation
Interested person	The person should have a demonstrable interest in the annual accounts (see below for further guidance).
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 relevant local government body and, where relevant, any officer of that body.

14. It will normally be straightforward to determine whether most of the criteria are met. However, auditors may find it helpful to consult with Professional Support on whether the:

- person making the submission meets the criteria to be an 'interested person'
- subject matter of the submission relates to the potential misstatement of an item in the annual accounts.

Interested person

15. [Legal advice](#) obtained by Professional Support indicates that an 'interested person' requires to have a relationship with the relevant local government area. Although the term is not confined to a ratepayer or elector, it therefore does not extend to the public at large.

16. The working definition recommended by Professional Support for an 'interested person' in respect of a specific local government area includes:

- council taxpayers
- non-domestic rate payers
- persons having an interest in contracts
- local electors
- persons in receipt of services provided by the local government body whether or not residing within the area, including persons using facilities such as sports centres, libraries etc.

17. Case law ([Stirrat v City of Edinburgh Council](#)) has established that the interested person's motivation in inspecting the accounts is not a relevant consideration.

Misstatement in the annual accounts

18. When considering whether there is potentially a misstatement in the annual accounts, auditors should consider whether the subject matter of the submission could impact on how an item is recognised, measured, presented or disclosed. This consideration should apply to all elements of the annual accounts including the Management Commentary and Governance Statement.

19. In practice, some elements of a submission may meet the criterion (and therefore those elements should be accepted as an objection) while others do not.

20. 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.

21. 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 financial statements
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 financial statements
A reserve is not operated in accordance with legislation	Yes – inappropriate operation could affect the balance on the reserve and other reserves
A personal view that elected members' expenses are too generous	No – such a personal view does not mean that the expenses are incorrectly measured
Concerns around significant governance weaknesses that are not disclosed	Yes - governance weaknesses, if significant, should be reported in the Governance Statement
The Management Commentary omits or obscures information necessary for a full understanding of the body's performance	Yes - this information is required by statutory guidance
Constructive obligation to clean up an old coal mine is not reflected in the financial statements	Yes - a liability for such an obligation should be recognised in the financial statement

22. 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.

23. Where the submission was sent later than the statutory deadline or where it was not copied to the relevant body, auditors should exercise their own judgement as to whether, notwithstanding those areas, they will nevertheless accept it as a statutory objection.

Initial response

Auditor action 3

Auditors should provide an initial response to the objector, the Chief Executive and any officer named in the objection (copied to the Correspondence team) to:

- confirm that the submission will be treated as a statutory objection
- advise them of the right to be heard in relation to the objection.

24. Where the submission can be accepted as a statutory objection, auditors should provide an initial response to the objector, the Chief Executive and any officer named in the objection as soon as possible and:

- confirm that it will be treated as a statutory objection
- advise them of the right to be heard in relation to the objection.

25. Auditors should copy the initial (and any subsequent) response to correspondence@audit-scotland.gov.uk at the same time.

26. Where the submission is not accepted as a statutory objection, auditors should go straight to action 10 (i.e. actions 4 to 9 are not applicable).

Hearing

Auditor action 4

Where a hearing is requested, auditors should:

- suggest a suitable date, time and location for the hearing
- request any further documentation
- hold a hearing.

Pre-hearing

27. The objector, Chief Executive and any officer named in the objection has the right under [section 101](#) to 'appear before and be heard by the auditor' which usually entails a meeting in person, if requested. Where meeting in person is not appropriate due to COVID-19 concerns, the meeting may take place online. The meeting (generally referred to as a 'hearing') may be with the objector/officer or with a representative.

28. On receipt of a request for a hearing, auditors should:

- suggest a suitable date, time and, where relevant, location. 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

29. The hearing provides the objector with the opportunity to set out their concerns. Auditors should use the hearing process to collect further details on the grounds for the objection and to obtain any supplementary information.

30. 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

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

Preliminary conclusion on materiality

Auditor action 5

Auditors should evaluate whether any misstatement arising from the objection could potentially be material. Where a misstatement is potentially material, auditors should:

- evaluate the impact on audit completion
- advised Audit Quality and Appointments of the reasons for an anticipated delay in audit completion
- advise the section 95 officer of a potential adjustment to the annual accounts.

32. Auditors should consider the information they have gathered on the subject matter of the objection (from any hearing and/or from the submission itself) and form a preliminary conclusion as to whether any misstatement could potentially be material. Having formed a preliminary conclusion on materiality, auditors should carry out the actions set out in the following table:

Materiality	Action
Potential to be material	<p>Evaluate the impact on completing the audit by the target date of 31 October 2022</p> <p>Advise Audit Scotland's Audit Quality and Appointments (AQA) (Owen Smith on osmith@audit-scotland.gov.uk) if a delay in audit completion after 31 October 2022 is anticipated along with an explanation for the delay</p> <p>Advise the body's section 95 officer of a potential adjustment to the annual accounts</p>
No potential to be material	<p>Proceed with the audit as planned</p> <p>Consider the objection as soon as this can be accommodated within the work schedule</p>

Final conclusion

Auditor action 6

Auditors should carry out appropriate procedures to obtain evidence on which to base a final conclusion on the subject matter of the objection

33. Objectors often refer to the absence of information that they believe should be disclosed in the annual accounts. In considering the objection, auditors should bear in mind that the extent of detail and analysis provided in the annual accounts on any subject is a question of judgement having considered the factors set out in the following table:

Factors	Matters to be considered
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 (i.e. the objector).
Disclosure requirements	The accounting code specifies minimum disclosure requirements. It also requires additional disclosures, where appropriate, to enable users to understand the impact of particular transactions on the body's financial position and performance.
Materiality	Bodies need to form a view on whether an item is sufficiently material to warrant separate disclosure. Auditors should evaluate whether that view is reasonable in the circumstances.

34. Auditors may find it helpful to consult with Professional Support to inform their judgement when reaching a final conclusion.

Statutory report

Auditor action 7

Auditors should consider, in discussion with Audit Scotland, whether the objection should be the subject of a statutory report.

35. There is a possibility that the objection could result in a statutory report by the Controller of Audit to the Accounts Commission under section 102 of the 1973 Act. In accordance with section 5C of the [Guidance on Planning 2021/22 Audits](#), auditors should contact the local government sector contact in Audit Scotland (Anne MacDonald on amacdonald@audit-scotland.gov.uk) to discuss this possibility. This action is required regardless of any consultation with Professional Support on the objection itself.

36. Where a statutory report is considered to be appropriate, the sector contact will agree the extent of the external auditor's contribution, and how much of that is beyond the scope of the core audit. This will generally include contributing to drafting the report and providing briefings at meetings of the Accounts Commission. Firms should base fees on no more than the maximum grade-related daily rates set out at paragraph 20 of the planning guidance for work beyond the core scope, except in exceptional circumstances where the use of experts is required.

Final response

Auditor action 8

Auditors should provide a final response to advise the objector, the Chief Executive, and any officer named in the objection (copied to the Correspondence team) of their conclusion on the objection.

37. Auditors should:

- provide a final response to advise the objector, the Chief Executive and any officer named in the objection of their conclusion on the objection
- take care to ensure their response addresses each element of the objection and that their conclusions are expressed clearly
- advise if there is to be statutory report
- copy the response to correspondence@audit-scotland.gov.uk.

Annual Audit Report

Auditor action 9

Auditors should include an appropriate reference to the objection in the Annual Audit Report.

38. Auditors should include a reference in the 2021/22 Annual Audit Report advising that a statutory objection had been received and providing a brief explanation of the subject matter.

39. Where a conclusion has been reached by auditors on the objection prior to the completion of the Annual Audit Report, and the investigation identified matters of significance, auditors should also set out the outcome.

40. Where consideration of the objections has not been concluded by the date on which the Annual Audit Report is completed, auditors should explain how any significant matters arising from their enquiries will be reported.

Auditor action where not accepted as objection

Auditor action 10

Auditors should:

- advise the person who raised the matter, the body and any named officer that the submission cannot be treated as a statutory objection
 - discuss with the Correspondence team whether the matter should be treated as a **Issue of Concern**
-

41. Where auditors, having carried out action 2, conclude that the submission cannot be accepted as a statutory objection, they should discuss with Audit Scotland's Correspondence team whether it should be treated as an [Issue of Concern](#). Auditors should then advise as soon as possible the person who raised the matter, the Chief Executive and any named officer that the matter:

- cannot be treated as a statutory objection and explain the reasons
- will be dealt with as an Issue of Concern (if so guided by Correspondence team).

42. Auditors should ensure they avoid describing the submission as an 'objection' in the response, subsequent reports or other correspondence.

43. As the Correspondence team aim to respond to issues of concern within 30 working days of the initial submission, it is important that auditors send the submission timeously to correspondence@audit-scotland.gov.uk. Auditors are expected to assist the Correspondence team in preparing an appropriate response.

Appendix 1 Auditor action

Checklist

Auditor actions	Yes/No/N/A	Initials/date	W/P ref
<p>1 Have you evaluated whether the public inspection notice is in accordance with regulations?</p>			
<p>2 Have you:</p> <ul style="list-style-type: none"> • acknowledged receipt of a potential statutory objection? • sent copies to the Correspondence team • considered whether the submission meets the criteria for being treated as a statutory objection? 			
<p>3. Have you provided an initial response to the objector, the Chief Executive and any officer named in the objection (copied to the Correspondence team) to:</p> <ul style="list-style-type: none"> • confirm that the submission will be treated as a statutory objection? • advise them of the right to be heard in relation to the objection? 			
<p>4. Where a hearing is requested, have you:</p> <ul style="list-style-type: none"> • suggested a suitable date, time and location for the hearing? • requested any further documentation? • held a hearing? 			
<p>5. Have you evaluated whether any misstatement arising from the objection could potentially be material?</p> <p>Where a misstatement is potentially material, have you:</p> <ul style="list-style-type: none"> • evaluated the impact on audit completion? • advised Audit Quality and Appointments of the reasons for an anticipated delay in audit completion ? • advised the section 95 officer of a potential adjustment to the annual accounts? 			

Auditor actions	Yes/No/N/A	Initials/date	W/P ref
6. Have you carried out appropriate procedures to obtain evidence on which to base your final conclusion on the subject matter of the objection?			
7. Have you considered, in discussion with Audit Scotland, whether the objection should be the subject of a statutory report?			
8. Have you: <ul style="list-style-type: none"> • provided a final response to advise the objector, Chief Executive, and any officer named in the objection of your conclusion on the objection? • sent a copy of the above to the Correspondence team? 			
9. Have you made an appropriate reference to the objection in the Annual Audit Report?			

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Technical Guidance Note 2022/3(LG) – Guidance on Inspection of and Statutory Objections to 2021/22 Local Government Annual Accounts

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