

# **Audit of 2018/19 annual accounts (local government) - statutory objections to annual accounts**

## **Technical guidance note 2018/10(LG) - module 14**



Prepared for appointed auditors in the local government sector  
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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 2018/10(LG) provides information and guidance on statutory objections to the unaudited annual accounts.

## Definition

2. Statutory objections refer to the right of an interested person under [section 101](#) of the *Local Government (Scotland) Act 1973* (the 1973 Act) to inspect and object to the unaudited annual accounts of a local government body.

## Contact point

3. 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](mailto:Pobrien@audit-scotland.gov.uk).

# 2 Overview

## Changes in 2018/19

5. There are no changes in underlying statutory requirements in 2018/19. However, the guidance has been revised for 2018/19 as follows:
  - Arising from a recently obtained legal opinion, there is a more restricted definition of the term 'interested person' than previously applied.
  - There is a new requirement for auditors to assess whether the required public notice (advertising the right of interested persons to inspect and object to the unaudited accounts) complies with statutory requirements.

## Summary of statutory requirements

### Scope

6. The statutory requirements for inspection and objection apply to the following (referred to hereafter as local government bodies):
  - Councils constituted under [section 2](#) of the *Local Government (Scotland) Act 1994* for 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.

### Interested person

7. Professional Support has sought legal advice to clarify the meaning of 'interest person' in the context of section 101. The advice received indicates that the 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.
8. The working definition has therefore changed in 2018/19, and is no longer 'any member of the public'. An 'interested person' for a specific local government area reasonably includes:
  - council tax payers
  - 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.

9. Case law (*Stirrat v City of Edinburgh Council*) has established that the person's motivation in inspecting the accounts is not a relevant consideration.

### Public notice

10. Local government bodies are required by [Regulation 9](#) of *The Local Authority Accounts (Scotland) Regulations 2014* 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 be given in accordance with [section 195](#) of the 1973 Act and to be published on the body's website. It should set out the period during which the accounts and other documents may be inspected.
11. Auditors should assess whether the notice for 2018/19 is in accordance with [Regulation 9\(4\)](#). In particular, auditors should confirm that the advert does not state that objections require to be submitted to the Controller of Audit.

### Inspection period

12. 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.
13. For 2018/19, taking into the account the impact of non-working days, the key latest dates (they may be earlier) are set out in the following table:

Stage	Latest date	Comment
Publication of notice	17 June	These dates are specified in Regulation 9(4)
Inspection start date	1 July	
Inspection end date	19 July	The inspection period requires to be 15 working days from (and including) the inspection start date
Objection deadline	22 July	As 19 July is a Friday in 2019, the next working day is the objection deadline

### Form of objection

14. An interested person wishing to object to a local government body's unaudited accounts must send the objection in writing by the statutory deadline to the appointed auditor, and a copy to the relevant body and to any officer of the body who may be concerned.

### Right to be heard

15. An interested person who objects to the accounts has the right to be heard by the appointed auditor in relation to the objection.

# 3 Dealing with objections

## Process overview

16. The process for dealing with a potential objection 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 conclusion on materiality	Assess whether any misstatement could be material
5 Form final conclusion	Obtain evidence on which to base final conclusion
6 Communicate conclusion	Report conclusion to correspondence team and objector

17. A checklist of the main auditor actions set out in this module is provided at Appendix 1. Auditors are encouraged to discuss any aspect of the process with Professional Support.

## Initial consideration of submission

18. On receipt of a submission, auditors should 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 accounts.
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.

19. The main area of judgement in considering whether the above 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. 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.
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 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
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 accounts	Yes - a liability should be recognised in the accounts

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 body or relevant officer, auditors should exercise their own judgement as to whether, notwithstanding those areas, they will nevertheless treat it as a statutory objection.

## 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 body's Chief Executive and any officer of the body 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](mailto: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 objector 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 Quality and Appointments (<a href="mailto:osmith@audit-scotland.gov.uk">osmith@audit-scotland.gov.uk</a>) 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. 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.

Factors	Explanation
Materiality	Bodies 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.

### Statutory reports

33. Auditors should initially report their conclusion to [correspondence@audit-scotland.gov.uk](mailto:correspondence@audit-scotland.gov.uk) (before reporting to the objector) who will advise the Controller of Audit. This is required regardless of any discussions with Professional Support. 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.

### Communicate conclusion

34. The Controller's decision on whether to proceed with a statutory report then determines who should communicate with the objector as set out in the following table:

Statutory report?	Communication responsibility
No	<p>Auditors should:</p> <ul style="list-style-type: none"> <li>advise the objector, the body's Chief Executive and any officer concerned of the outcome of their consideration of the matter</li> <li>take care to ensure their response addresses each element of the objection and that their conclusions are expressed clearly</li> <li>copy the response to the correspondence team.</li> </ul>
Yes	<p>The Controller of Audit's team will assume responsibility for the process, including all relevant correspondence.</p> <p>Auditors will be consulted during the preparation of the statutory report and may be asked to undertake further work.</p>

### Fee arrangements

35. Audit fees for considering statutory objections should be agreed with the local government body as part of normal fee negotiations. Where a significant level of work becomes necessary, auditors should consider agreeing an additional fee.
36. 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 body or paid by Audit Scotland.

## Auditor action where not accepted as objection

37. Where auditors consider that the submission cannot be accepted as a statutory objection, auditors should communicate as soon as possible with the person who raised the matter, the body's Chief Executive and any officer of the body 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.
38. Auditors should ensure they avoid describing the submission as an 'objection' in the response, subsequent reports or other correspondence.
39. Copies of the communication should be provided to [correspondence@audit-scotland.gov.uk](mailto: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

40. Where a conclusion is reached by auditors 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.
41. Where the matter is not material to the annual 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 Auditor action checklist

Auditor actions	Yes/No/N/A	Initials/date	W/P ref
1 Have you assessed whether the advert is in accordance with Regulation 9(4)?			
2 Have you considered whether the submission meets the criteria for being treated as a statutory objection? (Where it is to be treated as an objection, see actions 3 to 12. Where it is not to be treated as an objection, see actions 13 and 14)			

## Accepted as objection

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

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

**Not accepted as objection**

<p>13. Have you written to the person who raised the matter, the authority's Chief Executive and any officer of the body who may be concerned advising that the matter:</p> <ul style="list-style-type: none"> <li>• cannot be treated as a statutory objection and explaining the reasons?</li> <li>• will be dealt with as an issue of concern by Audit Scotland's correspondence team?</li> </ul>			
<p>14 Have you sent a copy of the above to Audit Scotland's correspondence team?</p>			

