

## Inspecting the Statement of Accounts

### Your Rights in More Detail

These notes, whilst still in general terms, provide more information in relation to your rights to inspect, question and object to the Authority's accounts. If you require more in depth detail you will need to refer to the Acts, Regulations or other documents that are mentioned in this text, or you could seek legal advice.

### Your Legal Position

Your rights are set out in Sections 14, 15 and 16 of the Audit Commission Act 1998 (the ACA 1998). The detailed regulations that set out how you can use these rights are in The Accounts and Audit Regulations 2003.

### Your Right to Inspect the Accounts

#### The ACA 1998 - Section 15(1)

*At each audit under this Act, any persons interested may:*

- a) inspect the accounts to be audited and all books, deeds, contracts, bills, vouchers and receipts relating to them, and*
- b) make copies of all or any part of the accounts and those other documents.*

By the late summer each year, Authorities finish preparing their accounts for the financial year ending on 31 March of that year. Authorities have until 30 June to approve their accounts.

The Authority must then tell the public, by advertising in at least one local newspaper, that their accounts and the other documents mentioned in section 15(1) of the ACA 1998 are available for people to inspect for 20 full working days.

The advert or notice must also give the dates, times and places where the public can see and copy the documents. Any person who is interested has the right to inspect and copy the accounts and any 'public interest reports' by an Auditor, or ask for copies to be delivered to them. There may be a reasonable charge (please see sections 13(2) and 14(1) of the ACA 1998).

It is an offence for anyone to try and stop you from inspecting and copying documents, although you are expected to make a mutually convenient appointment to do so. If there is any disagreement about what your rights are, you should contact the Authority or go through the courts. The Auditor cannot get involved.

You cannot inspect and copy documents that contain personal information about a member of staff (please see section 15(3) of the ACA 1998). This means, for example, that details of payments or other benefits that an employee receives will be confidential. An

Auditor is not able to provide you with personal information about anyone when they answer your questions.

## **Asking the Auditor Questions**

### **The ACA 1998 - Section 15(2)**

***"At the request of a local government elector for any area to which the accounts relate, the Auditor shall give the elector, or any representative of his, an opportunity to question the Auditor about the accounts."***

The advert or notice that says the accounts are available for people to inspect will also tell you when you can ask the Auditor questions and object to the accounts.

Your right to ask the Auditor questions is limited. You have a right to ask questions about the accounts, but you cannot ask questions about an Authority's policies, finances or procedures that are not about the accounts.

Before you ask the Auditor any questions, you should inspect the accounts so that you know what they contain.

You may then ask the Auditor to explain certain points in the accounts before deciding whether or not you want to 'object' (this right is explained later).

If you do ask questions that are not about the accounts, the Auditor may suggest that you ask the Authority for the information you want. But, in general, the Auditor cannot act as a 'postbox' for questions to, and replies from, your Authority.

Your questions should be about facts, not opinions. So you should not ask an Auditor if they think something an Authority has done, or an item in its accounts, is lawful or reasonable.

An Auditor must work independently so you cannot ask him questions about how they are carrying out, or have carried out, their work.

## **Objecting to the Accounts**

### **The ACA 1998 - Section 15(2)**

***1."At each audit of accounts under this Act, other than an audit of accounts of a health service body, a local government elector for an area to which the accounts relate, or any representative of his, may attend before the Auditor and (in accordance with subsection (2)) make objections -***

***a. as to any matter in respect of which the Auditor could take action under section 17 or 18 (when the relevant parts of the Local Government Act 2000 came into force, some of the Auditor's powers under section 17, and all of those under section 18 of the ACA 1998, will be removed); or***

***b. as to any other matter in respect of which the Auditor could make a report under section 8.***

***2.No objection may be made under subsection (1) unless the Auditor has received written notice of the proposed objection and of the grounds on which it is to be made.***

***3.An elector sending a notice to an Auditor for the purposes of subsection (2) shall at the same time send a copy of the notice to the body whose accounts are being audited."***

You, or your representative, can object if you think that an Auditor should:

- apply to the High Court, under section 17(1) of the ACA 1998, to confirm that an item in the accounts is unlawful;
- confirm, under section 18(1) of the ACA 1998, that an amount which should have been accounted for, but has not been, is owed by the person responsible;
- confirm, under section 18(1) of the ACA 1998, that a person who has deliberately caused a loss should repay that loss; and

make a report, under section 8 of the ACA 1998, on a matter that they think the Authority should consider or tell the public about (a 'public interest report').

### **Unlawful items in the accounts**

An item in the accounts is unlawful if it records spending or income that:  
the Authority had no right to spend or receive;  
was spent or received without authority; or  
was taken from, or added to, the wrong fund or account.

An Auditor can apply to the courts to confirm that an item in the accounts is unlawful.

### **Failing to account for spending and income**

Anything an Auditor does under section 18(1) of the ACA 1998 is likely to relate to income that has not been accounted for, for example, if an officer has collected money for an Authority but has not paid it to the Authority.

### **Wilful misconduct**

'Wilful misconduct' is a legal term that either means:  
deliberately doing something when you know it is wrong; or  
deliberately failing to do something when you know you should do it;  
and not caring whether doing, or not doing it, is wrong.

### **Report in the public interest**

If you are not satisfied with the Authority's decision or action but your objection does not involve anything illegal, failure to account for spending and income or wilful misconduct, your objection can only result in a public interest report by the Auditor.

### **Making an objection**

If you want to object to the Authority's accounts, you must give formal notice of your objection, in writing, to the Auditor. The formal notice must include:  
why you are objecting;  
the details of any item in the accounts that you think is unlawful; and  
the details of any matter that you think the Auditor should make a public interest report about.

You must also send the Authority a copy of your objection.

When you are thinking about whether to object, you must appreciate that Authorities have the power to decide what they think is the best way to do things. The fact that you may strongly disagree with something the Authority has done does not mean that you can challenge that action.

An Auditor or the courts do not have the power to question an Authority's policy. The courts can only get involved if an Authority has acted unlawfully.

You cannot use the objection process to make a personal complaint or claim against an Authority. If you think that the Authority has done something wrong, the Commission for Local Administration (Local Government Ombudsman) will investigate the matter. If you think that an Authority member's or officer's behaviour has fallen below the standards that public servants are expected to meet, the Local Government Standards Board for England will investigate the matter. If you think you have a claim against an Authority, you can get advice from your local Citizens Advice Bureau, local Law Centre or your solicitor.

### **Decisions About Your Objections**

When an Auditor considers an objection which says that an item of spending is unlawful, a failure to account or wilful misconduct (under sections 17(1) and 18(1) of the ACA 1998), the Auditor will usually explain their reasons for the decision.

If the Auditor does not give any reason, you have six weeks from the time you are told what the decision is to ask the Auditor for a 'statement of reasons' in writing.

If you are not happy about an Auditor's decision you have the right to appeal. You must register your appeal in the Crown Office at the High Court within 28 days of receiving the Auditor's statement of reasons for their decision.

However, an Auditor's decision on objections that ask him or her to make a 'public interest report' is final. The Auditor will tell you what his/her decision is but you cannot ask for a statement of reasons or appeal.

### **Cost**

Authorities must meet the cost of dealing with questions and objections. However, you may have to pay the costs of appealing to the courts against an Auditor's decision.

### **Contact Us**

If you would like further information or would like to arrange a viewing contact:

**Telephone:**

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