



Archwilydd Cyffredinol Cymru  
Auditor General for Wales



WALES AUDIT OFFICE  
SWYDDFA ARCHWILIO CYMRU

# Your rights in Wales Councils' Accounts

# Information on the rights to inspect, question and object to your council's accounts

This leaflet explains the rights to inspect the accounts of a council or other local government body<sup>1</sup>. It also explains the right to ask the Auditor General<sup>2</sup> questions about the accounts of a local government body, and the right to object to items in the accounts and other audit-related matters. These rights are set out in the Public Audit (Wales) Act 2004<sup>3</sup>, and they are in addition to the rights to request information under the Freedom of Information Act 2000 and other information access legislation.

This leaflet is not a comprehensive explanation of the law, and it is not legal advice. If you need advice on the rights outlined here, you should consider obtaining it from a qualified legal adviser.

In this leaflet, a reference to an 'auditor' is a reference to the Auditor General, a member of staff of the Wales Audit Office working behalf of the Auditor General, or, if applicable, the relevant auditor appointed by the Auditor General.

You can find out how to contact the auditor, by telephoning the Wales Audit Office on 029 2032 0500 or e-mailing [info@wao.gov.uk](mailto:info@wao.gov.uk).

1 Under the legislation to which this leaflet relates, local government bodies include county councils, county borough councils, national park authorities, police and crime commissioners, fire and rescue authorities, and town and community councils. For a full list of the types of body covered, please see section 12 of the Public Audit (Wales) Act 2004. For brevity, this leaflet refers just to councils, but the rights apply to all the types of bodies listed in section 12 of the 2004 Act.

2 Or, if applicable, the auditor appointed by the Auditor General. Until 1 April 2014, the Auditor General appointed auditors to audit councils' accounts. New legislation has replaced the power to appoint auditors with a duty on the Auditor General to audit councils, but under transitional provisions existing appointments remain valid until their expiry.

3 With some further details in the Accounts and Audit (Wales) Regulations 2005.

# The Auditor General's role

The Auditor General audits most Welsh public sector bodies.

The Auditor General is supported in his work by staff of the Wales Audit Office and private firms of accountants.

The Auditor General's audits, assessments and inspections provide:

- reports on the annual accounts of councils;
- reports on whether councils and other Welsh public bodies are providing good value for money;
- feedback to councils to help them to improve; and
- information to those responsible for the scrutiny of policy, and to policymakers, service users and taxpayers.

## Issues with councils

While this leaflet summarises the rights to inspect accounts, question the auditor and make objections, it is worth noting that there are various ways to take up issues with a council, and in many circumstances these will be more appropriate than exercising rights in relation to the accounts.

If you think something has gone wrong at your council, it is usually best to contact the council directly. Most councils have their own complaints system, details of which should be available on the council's website, and at its libraries and offices. You can also contact one of the local councillors for where you live (many wards have more than one councillor).

Occasionally, there are problems that someone else needs to deal with. If you think that your council has done something wrong and you are not satisfied with how it has dealt with your complaint, or if you think that a councillor's behaviour has fallen below the high standards that public servants are expected to meet, you should contact the Public Services Ombudsman for Wales.

If you suspect fraud or improper use of the council's money, you should contact the council's internal auditor or the police.

# A summary of the rights

The following material summarises the rights to inspect the accounts of a council, to ask the Auditor General<sup>4</sup> questions about the accounts of a council, and the rights to make objections to such accounts and in relation to their audit. These rights are set out in sections 29 to 32 of the Public Audit (Wales) Act 2004, and further relevant law is provided by the Accounts and Audit (Wales) Regulations 2005.

## The rights to inspect and make copies of the statement of accounts and auditor's reports

By 30 September, a council must publish its accounts for the year to 31 March (just gone) and any report made by the auditor. If you are an elector (on the electoral register) for the area of the council, you can inspect these documents and get copies from the council<sup>5</sup>. The council may charge for copies it provides.

## Inspection of documents at audit

No less than 14 days before a date specified by the auditor, a council must advertise the availability of its accounts to be audited, and all books, deeds, contracts, bills, vouchers and receipts relating to them, for inspection by interested persons<sup>6</sup>. Some community councils must announce this by putting up a notice in a public place, instead of putting an advert in a newspaper<sup>7</sup>. The advert or notice must also give the dates, times and places where interested persons can see and copy the documents, or, in the case of some community councils, details of how to arrange inspection.

It is an offence for anyone to try and stop an interested person from inspecting and copying documents. To avoid confusion, it is a good idea to arrange an appointment with the council for any inspection, and for some community councils it is necessary to provide 'reasonable notice' (ie, making an appointment at a realistic time).

4 Or, if applicable, the auditor appointed by the Auditor General. Until 1 April 2014, the Auditor General appointed auditors to audit councils' accounts. New legislation has replaced the power to appoint auditors with a duty on the Auditor General to audit councils, but under transitional provisions existing appointments remain valid until their expiry.

5 Strictly this right does not apply to public interest reports, but such reports are also available.

6 Case law indicates that anyone who has financial or legal interests in a council, such as an elector or taxpayer, is an interested person.

7 The size of a community council's gross income or expenditure dictates whether the community council must put up a notice in a public place or put an advertisement in a newspaper.



From the date specified, an interested person has 20 working days to look through the accounts and supporting documents.

The right to inspect documents under the 2004 Act does not extend to documents that are not relevant to the accounts. It also does not apply to information relating to an individual's holding of office or employment or related payments or other benefits.

### **Questions at audit**

The council's advert or notice that says the accounts are available for inspection must also set out when electors or their representatives can ask the auditor questions about the accounts being audited.

Questions must be about the accounts for the year being audited; they cannot be about other years. The auditor has discretion as to whether to answer any questions, and the right to ask questions does not extend to questions that are not relevant to the accounts, such as general questions about the council's policies. The auditor does not have to say in response to a question whether they think something the council has done, or an item in its accounts, is unlawful.

Before you ask the auditor any questions, you should inspect the accounts so that you know what they contain. The purpose of the opportunity to raise questions is to enable electors and their representatives to clarify points of doubt and misunderstanding in relation to the accounts.

If you do ask questions that are not about the accounts, the auditor may suggest that you ask the council for the information you want. But it is not the auditor's role to act as a 'postbox' for questions to, and replies from, your council.



## The right to make objections at audit

If you are an elector of the council, or are an authorised representative of someone who is, you may make objections on the grounds that:

- a** an item of account is unlawful; and/or
- b** there is a matter relevant to the audit that the auditor has the power to tell the public about in a 'public interest report'.

An item in the accounts is unlawful if it records, for example:

- spending, investment or income for which the council had no authority, such as where a council spent money on purpose that it had no power or duty to undertake;
- spending without due authorisation;
- spending or income following an unlawful decision, such as where the councillors taking the decision stood to benefit directly;
- spending on a lawful purpose, but at such high level that it was unlawful because of irrationality; or
- spending or income taken from, or added to, the wrong fund or account.

If an auditor considers an item to be unlawful, he or she may apply to the courts seeking a declaration that an item in the accounts is unlawful. If the court agrees, it may order that the accounts are put right. In reaching a decision whether to apply to the courts, the auditor will take account of a number of factors, including cost.

A valid objection cannot be made on any other grounds than those at (a) and (b) above. If you are thinking about whether to object, you should bear in mind that councils have the discretion to decide what they think is the best way to do things. Strong disagreement with something a council has done is not in itself valid grounds for objection.

If an elector, or their representative, wishes to make an objection, they must write to the auditor so as to give notice of the proposed objection. Such a notice must tell the auditor the grounds of the objection. The notice should include, as far as possible, details of any item of account that is alleged to be contrary to law, and details of any matter on which it is proposed that the auditor could make a public interest report. The elector or their representative must copy the notice to the council. It is usually appropriate to send the copy of the notice for the attention of the Chief Executive, or, in the case of a town or community council, the Clerk.

The auditor must reach a decision on any objection. If the auditor decides not to seek a declaration from the courts after receiving an objection that an item of account is unlawful, and that objection is made in accordance with the legislation, the elector or their representative may request that the auditor provides them with a statement of reasons for that decision. If the elector or their representative is not happy with the decision, he or she can appeal to the courts within 28 days of receiving the statement of reasons.

If an objection is about a matter relevant to the audit that the auditor has the power to tell the public about in a public interest report, again, the auditor must decide whether to take any action. The auditor will normally, but does not have to, give reasons for his or her decision on such objections, and there is no right of appeal in the 2004 Act to the courts against such a decision.

## What else you can do

At any time, you can give the auditor information that is relevant to their responsibilities. For example, you can simply tell the auditor if you think that something is wrong with the accounts or about waste and inefficiency in the way the council runs its services. You do not have to follow any set time limits or procedures in order to share such information. The auditor will usually let you know the general outcome of any work undertaken in response to the information provided, and will try to provide a helpful response, but there is no statutory obligation to undertake work in relation to such correspondence or to report to correspondents.

## Costs

Councils, and ultimately taxpayers, must meet the costs of dealing with questions and objections. Auditors will consider valid objections and will consider a range of factors in deciding how to deal with them. They must take into account the costs that will be involved. They will only continue to deal with an objection if, in their judgement, it is reasonable to do so. If you appeal to the courts, you may have to pay for the action yourself.







## Reasonable adjustments in respect of impairment (disability)

We encourage people with impairment (disability) who require reasonable adjustments to let us know what those adjustments are. A reasonable adjustment may mean, for example, providing information in large font or in audio form in order to address visual impairment. We will provide further details on request.

## Useful addresses

The Auditor General for Wales  
24 Cathedral Road  
Cardiff  
CF11 9LJ  
Tel: 029 2032 0500  
E-mail: [info@wao.gov.uk](mailto:info@wao.gov.uk)  
Fax: 029 2032 0600  
[www.wao.gov.uk](http://www.wao.gov.uk)

Public Services Ombudsman for Wales  
1 Ffordd yr Hen Gae  
Pencoed  
CF35 5LJ  
Tel: 0300 790 0203  
E-mail: [ask@ombudsman-wales.org.uk](mailto:ask@ombudsman-wales.org.uk)  
Fax: 01656 641199  
[www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)

The Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Tel: 01625 545745  
Fax: 01625 524510  
[www.ico.org.uk](http://www.ico.org.uk)

