



WALES AUDIT OFFICE
SWYDDFA ARCHWILIO CYMRU

Your rights in Wales **COUNCILS' ACCOUNTS**



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

About this leaflet

This leaflet explains your rights to inspect the accounts of your local authority. It tells you how you can ask the auditor questions about the accounts and how you can challenge the accounts. These rights are set out in the Public Audit (Wales) Act 2004.

You have further rights to obtain information which is not about the accounts under the Freedom of Information Act 2000. Your local authority will be able to provide you details of its publication scheme which it must produce under the Freedom of Information Act.

Who we are and what we do

The Auditor General for Wales (AGW) audits the National Assembly for Wales, and its related public bodies, including NHS bodies. He undertakes value for money work at these and other public bodies, including, local authorities and further and higher education institutions. He also has responsibility for appointing the external auditors of local government bodies in Wales, and for the inspection of designated Best Value authorities under the Wales Programme for Improvement.

The work of the AGW is performed by staff of the Wales Audit Office (WAO) or private firms of accountants acting as appointed auditors

in local government or as sub-contractors elsewhere. The staff of the WAO and the AGW is collectively referred to as the Wales Audit Office under the Public Audit (Wales) Act 2004. The AGW's audit and inspection functions provide:

- assurance in relation to the annual financial statements and that public funds have been properly used for the intended purposes;
- assurance that Welsh public bodies are providing good value for money in the delivery of their services to the public;
- feedback to audited and inspected bodies to help them to improve services; and
- information to those responsible for the scrutiny of policy, to policy makers themselves, and to service users and taxpayers.

Auditors appointed by the AGW to undertake the audit of local government bodies in Wales, whether WAO staff or private firms of accountants, do so independently of the AGW; although all appointed auditors must follow the requirements of the AGW's Code of Audit and Inspection Practice and associated guidance.

Councils exist to serve the public. Most have helplines and helpdesks to help local people sort out problems they may have with services, benefits, and local taxes and charges. But, even in the best councils, things can go wrong. This leaflet summarises your rights to inspect, question and object to councils' accounts. It starts with a short outline and then gives you more details if you want to know more.

If you think something has gone wrong at your council, what you should do is:

- telephone the council;
- write to the chief executive - in community councils this is the clerk; or
- contact your local councillor.

Most councils have their own complaints system. Complaints can be sorted out, either in writing or over the phone. But 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 the council has dealt with your complaint, you should contact the Welsh Local Government Ombudsman. He will send you information about how you can take your complaint further.
- If you suspect fraud or improper use of the council's money, you should write to or phone the council's chief internal auditor. Your council will give you their name and address.
- For all councils, if you think that a council member's behaviour has fallen below the high standards that public servants are expected to meet, you should contact the Welsh Local Government Ombudsman.

If you want to question or challenge your council's accounts, the council's external auditor may be able to help you. The Auditor General for Wales appoints the external auditor.

Your rights: a summary

Freedom of Information Act 2000

The Freedom of Information Act 2000 gives you a general right of access to 'recorded' information held by public authorities. You can obtain information from a public authority from an approved publication scheme. However, if the information is not included in the publication scheme, you can make a separate request under the Act. Requests must be made in writing, which includes e-mails. Public authorities generally have 20 working days in which to respond to a request. Public authorities are allowed to charge you a fee for responding to your requests and if the fee is not paid within three months it is assumed that the applicant no longer wants the information. There are exemptions to the information that you can obtain e.g. commercially sensitive or personal information. If any of the information you have requested is exempt you should be told which of the exemptions authorises the public authority to withhold the information.

Public Audit (Wales) Act 2004

You have a right to inspect your council's accounts and to ask the auditor questions about the accounts. Electors, of the council, may also challenge the accounts. You can find out who the appropriate auditor is, and where to write or phone, by:

- telephoning your council;
- telephoning the Wales Audit Office on 029 2026 0260; or
- e-mailing info@wao.gov.uk.

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

When your council has finalised its accounts for the previous financial year, usually around June or July, it must advertise that they are available for people to look at. You can get copies of the accounts from your council. You can also inspect and make a copy of any report made to the council by the auditor.

Inspection of documents and questions at audit

When your council has advertised the availability of its accounts for inspection you can also inspect all books, deeds, contracts, bills, vouchers and receipts relating to them. You then have 20 working days to look through the accounts and supporting documents.

You may not inspect documents that are not relevant to the accounts or are otherwise legally protected, and, you can only ask the auditor questions about the accounts for the year that they are auditing.

The auditor does not have to answer questions about the council's policies, finances, procedures or anything else that is not relevant to the accounts. The auditor does not have to say, at this stage, whether they think something the council has done, or an item in its accounts, is unlawful.

The right to object to the accounts

If you are a registered elector (on the electoral roll) of the Council, or are an authorised representative of someone who is, you may object to the accounts or items within them. There are two grounds on which you may object to the accounts.

If you think that an item of account is unlawful, you can object to the auditor by writing to him/her (this is taken as being a formal 'notice of objection'). You must tell the auditor why you are objecting. The auditor must reach a decision on your objection and provide a statement of reasons if you ask for one. If you are not happy with that decision, you can appeal to the courts.

You may also object if you think that there is something in the accounts that the auditor should tell the public about in a 'public interest report'. Again, you must give your reasons. In this case, the auditor must decide whether to take any action. The auditor will normally, but does not have to give reasons for their decision and you cannot appeal to the courts. You may not, however, use this 'right to object' to make a personal complaint or claim against your council. You should take personal complaints or claims to the council, your local Citizens' Advice Bureau, local law centre or to your solicitor.

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. This is also the situation for NHS organisations, where you do not have the right to ask the auditor questions about, or object to, the accounts.

The auditor does not have to give you a detailed report of any investigation into the issues you have raised, but they will usually tell you the general outcome if you ask.

A final word

Councils, and so local taxpayers, must meet the costs of dealing with questions and objections. Auditors will take valid objections but 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 with the objection if, in their judgement, it is in the public interest to do so. If you appeal to the courts, you might have to pay for the action yourself.

Your rights in more detail

These notes provide some more information in relation to your rights to inspect, question and object to a council's accounts in more detail, but still in general terms. If you need more specific detail, you should refer directly to the acts, regulations and other documents that are mentioned in the text, or get legal advice.

Please remember that you do not have the same rights in relation to the accounts of centrally funded bodies (such as the Wales Assembly Government and NHS bodies) where the audit is undertaken by the Auditor General for Wales and not one of his appointed auditors.

Your legal position

Your rights in respect of local authority accounts are set out in sections 29, 30 and 31 of the Public Audit (Wales) Act 2004. The detailed regulations that set out how you can use these rights are contained in the Accounts and Audit Regulations.

Your right to inspect and make copies of the statement of accounts and the auditor's reports

The Public Audit (Wales) Act 2004 - section 29(1)

At each audit of a local government body scheduled under paragraph 12 of this Act, a local government elector for the area of a local government body in Wales may:

- (a) at all reasonable times and without payment inspect and make a copy of any statement of accounts prepared by the body under the accounts and audit regulations;*
- (b) at all reasonable times and without payment inspect and make a copy of any report made to the body by an auditor;*

By the end of July each year, most local authorities finish preparing their accounts for the financial year which ended on 31 March of that year. They must tell the public, by advertising in at least one local newspaper that their accounts are available for people to inspect for 20 full working days. Community councils can announce this by putting up a notice in a public place, instead of putting an advert in a newspaper.

Any person who is interested has the right to inspect and copy the accounts and any reports by an auditor, or ask for copies to be delivered to them (upon payment of a small charge at the discretion of the council).

Inspection of documents and questions at audit

The Public Audit (Wales) Act 2004 - section 30(1)

At an audit of accounts an interested person 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.**

Councils must also advertise the fact that the other documents mentioned in section 30(1) of the Public Audit (Wales) Act 2004 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. 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 your council direct 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 30(3) of the Public Audit (Wales) Act 2004). This means, for example, that details of payments or other benefits that an employee receives will be confidential. The council and an auditor cannot give you personal information about anyone when they answer your questions.

The Public Audit (Wales) Act 2004 - section 30(2)

At the request of a local government elector for the area to which the accounts to be audited the auditor of those accounts must give an 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 a council'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 council for the information you want. But, in general, the auditor cannot act as a 'postbox' for questions to, and replies from, your council.

Your questions should be about facts, not opinions. So you should not ask an auditor if they think something a council has done, or an item in its accounts, is lawful or reasonable. An auditor must work independently so you cannot ask them questions about how they are carrying out, or have carried out, their work.

Objecting to the accounts

The Public Audit (Wales) Act 2004 - section 31(1)

At an audit of accounts a local government elector for the area to which the accounts relate, or any representative of his, may make objections to the auditor as to:

- (a) any matter in respect of which the auditor has a power to apply for a declaration that an item of account is unlawful;***
- (b) any other matter in respect of which the auditor has the power to make an immediate or other report in the public interest.***

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

- apply to the High Court, under section 32(1) of the Public Audit (Wales) Act 2004, to confirm that an item in the accounts breaks the law; or
- make a report, under section 22 of the Public Audit (Wales) Act 2004, on a matter that they think the council should consider or tell the public about (a 'public interest report').

Items in the accounts that break the law

An item in the accounts breaks the law if it records spending or income that:

- the council had no right to spend or receive;
- was spent or received without authority;
- was taken from, or added to, the wrong fund or account; or
- was spent on a lawful purpose but was so high that it was unlawful.

If an auditor considers an item to be unlawful, he or she may apply to the High Court to confirm 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.

Report in the public interest

If you are not satisfied with a council's decision or action but your objection does not involve anything unlawful or a failure to account for spending or income, your objection can only result in a public interest report by the auditor - subject to the auditor agreeing that the matter is appropriate for such a report.

Making an objection

If you want to object to a council'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 council a copy of your objection. The Local Government Act 1972 explains how to serve notices on councils. Section 231(1) of the Act says that the notice:

...shall be given or served by addressing it to the local authority and leaving it at, or sending it by post to, the principal office of the authority or any other office of the authority specified by them as one at which they will accept documents of the same description as that document.

When you are thinking about whether to object, you must appreciate that councils 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 council has done does not mean that you can challenge that action. An auditor and a court cannot question a council's policy or decisions unless these are unlawful. If you do decide to make an objection, and if your objection contains personal or sensitive information, you should mark it appropriately to avoid the risk of the information being seen by an inappropriate person. Whilst no guarantees can be given, you may show this by marking the objection and the envelope containing it, 'Private and confidential - for the attention of the Chief Executive (or Clerk)'.

You cannot use the objection process to make a personal complaint or claim against a council. If you think that your council has done something wrong, the Public Services Ombudsman will investigate the matter. If you think that a council member's behaviour has fallen below the standards that public servants are expected to meet, the Public Services Ombudsman will investigate the matter. If you think you have a claim against a council, you can get advice from your local Citizens' Advice Bureau, local Law Centre or your solicitor.

Decisions about your objection

When an auditor issues their decision about an objection, they will usually explain their reasons for the decision. If the auditor does not give any reason, you have 14 days 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.

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 their decision is but you cannot ask for a statement of reasons or appeal.

Useful addresses

The Auditor General for Wales

2/4 Park Grove
Cardiff
CF10 3PA

Tel: 029 2026 0260
E-mail: info@wao.gov.uk
Fax: 029 2026 0026
Website: www.wao.gov.uk

Public Services Ombudsman for Wales,

1 Ffordd yr Hen Gae
Pencoed
CF35 5LJ

Tel: 01656 641150
E-mail: ask@ombudsman-wales.org.uk
Fax: 01656 641199
Website: www.ombudsman-wales.org

Information Commissioner's Office - Wales

2 Alexandra Gate
Ffordd Pengam
Cardiff
CF24 2SA

Tel: 02920 894929
E-mail: Wales@ico.gsi.gov.uk
Fax: 02920 894930
Website: www.ico.gov.uk



WALES AUDIT OFFICE
SWYDDFA ARCHWILIO CYMRU

Eich Hawliau Cymru **CYFRIFON Y CYNGOR**



*Gwybodaeth ar eich
hawliau i archwilio,
cwestiynu a gwrthwynebu
i gyfrifon eich Cyngor*

Ynglŷn â'r daflen hon

Mae'r daflen hon yn egluro eich hawliau i archwilio cyfrifon eich awdurdod lleol. Mae'n dweud wrthyd sut y gallwch ofyn cwestiynau i'r archwilydd ynglŷn â'r cyfrifon a sut y gallwch herio'r cyfrifon hyn. Nodir yr hawliau hyn yn Neddf Archwilio Cyhoeddus (Cymru) 2004.

Mae gennych hawliau eraill sy'n eich galluogi i gael gwybodaeth nad yw'n ymwneud â'r cyfrifon o dan Ddeddf Rhyddid Gwybodaeth 2000. Bydd eich awdurdod lleol yn gallu rhoi manylion i chi am ei gynllun cyhoeddi y mae'n rhaid iddo ei gynhyrchu o dan y Ddeddf Rhyddid Gwybodaeth.

Pwy ydym ni a beth rydym yn ei wneud

Mae Archwilydd Cyffredinol Cymru (yr Archwilydd) yn gyfrifol am archwilio Cynulliad Cenedlaethol Cymru, a'i gyrrf cyhoeddus cysylltiedig, gan gynnwys cyrrf y GIG. Mae'n ymgymryd â gwaith gwerth am arian yn y cyrrf cyhoeddus hyn a chyrrf cyhoeddus eraill, gan gynnwys awdurdodau lleol a sefydliadau addysg bellach ac addysg uwch. Mae hefyd yn gyfrifol am benodi archwilywr allanol cyrrf llywodraeth leol yng Nghymru, ac am arolygu awdurdodau Gwerth Gorau dynodedig o dan Raglen Cymru ar gyfer Gwella.

Cyflawnir gwaith yr Archwilydd gan staff Swyddfa Archwilio Cymru neu gwmniau cyfrifyddu preifat sy'n gweithredu fel archwilywr penodedig o fewn llywodraeth leol neu fel isgontactwyr mewn mannau eraill. Cyfeirir at staff Swyddfa Archwilio Cymru a'r Archwilydd fel Swyddfa Archwilio Cymru o dan Ddeddf Archwilio Cyhoeddus (Cymru) 2004. Mae swyddogaethau archwilio ac arolygu'r Archwilydd yn darparu'r canlynol:

- sicrwydd mewn perthynas â'r datganiadau ariannol blynnyddol a bod arian cyhoeddus wedi'i ddefnyddio'n briodol at y dibenion bwriadedig;
- sicrwydd bod cyrff cyhoeddus yng Nghymru yn rhoi gwerth da am arian o ran darparu eu gwasanaethau i'r cyhoedd;
- adborth i gyrrf a archwili'r ac a arolygir er mwyn eu helpu i wella gwasanaethau;
- gwybodaeth i'r rhai sy'n gyfrifol am graffu ar bolisiau, i lunwyr polisi eu hunain, ac i ddefnyddwyr gwasanaeth a threthdalwyr.

Mae'r archwilywr a benodir gan yr Archwilydd i archwilio cyrff llywodraeth leol yng Nghymru, boed hwy'n aelodau o staff Swyddfa Archwilio Cymru neu'n gwmniau cyfrifyddu preifat, yn gwneud hynny'n annibynnol ar yr Archwilydd; er bod yn rhaid i bob archwilydd penodedig gydymffurfio â gofynion Cod Ymarfer Archwilio ac Arolygu'r Archwilydd ac arweiniad cysylltiedig.

Mae cynghorau'n bodoli i wasanaethu'r cyhoedd. Mae gan y rhan fwyaf ohonynt linellau cymorth a desgiau cymorth i helpu pobl leol i ddatrys problemau posibl gyda gwasanaethau, budd-daliadau, a threthi a thaliadau lleol. Ond, hyd yn oed yn y cynghorau gorau, gall pethau fynd o chwith. Mae'r daflen hon yn crynhoi eich hawliau i archwilio, cwestiynu a gwrthwnebu cyfrifon y cyngor. Mae'n dechrau gydag amlinelliad byr ac yna'n rhoi mwy o fanylion os ydych am wybod mwy.

Os credwch fod rhywbeth wedi mynd o chwith yn eich cyngor, dylech wneud y canlynol:

- ffonio'r cyngor;
- ysgrifennu at y prif weithredwr – mewn cynghorau cymuned y clerc yw hwn;
- cysylltwch â'ch cynghorydd lleol.

Mae gan y rhan fwyaf o gynghorau eu system gwyno eu hunain. Gellir datrys cwynion, naill ai'n ysgrifenedig neu dros y ffôn. Ond weithiau ceir problemau y mae'n rhaid i rywun arall ymdrin â hwy.

- Os credwch fod eich cyngor wedi gwneud rhywbeth yn anghywir, ac nad ydych yn fodlon ar y modd y mae'r cyngor wedi ymdrin â'ch cwyn, dylech gysylltu ag Ombwdsmon Llywodraeth Leol Cymru. Bydd yn anfon gwybodaeth am sut y gallwch fynd â'ch cwyn ymhellach.
- Os byddwch yn amau twyll neu'r defnydd anghywir o arian y cyngor, dylech ysgrifennu at brif archwiliwr mewnlol y cyngor, neu ei ffonio. Bydd eich cyngor yn rhoi ei enw a'i gyfeiriad i chi.
- Ar gyfer pob cyngor, os credwch fod ymddygiad aelod o'r cyngor yn is na'r safonau uchel y disgwyllir i weision cyhoeddus eu cyrraedd, dylech gysylltu ag Ombwdsmon Llywodraeth Leol Cymru.

Os byddwch am gwestiynu neu herio cyfrifon eich cyngor, effallai y bydd archwiliwr allanol y cyngor yn gallu eich helpu. Archwilydd Cyffredinol Cymru sy'n penodi'r archwiliwr allanol.

Eich hawliau: crynodeb

Deddf Rhyddid Gwybodaeth 2000

Rhydd Deddf Rhyddid Gwybodaeth 2000 yr hawl gyffredinol i chi weld gwybodaeth 'gofnoddedig' a ddeler gan awdurdodau cyhoeddus. Gallwch gael gwybodaeth gan awdurdod cyhoeddus drwy gynnllun cyhoeddi cymeradwy. Fodd bynnag, os na chynhwysir y wybodaeth yn y cynllun cyhoeddi, gallwch wneud cais ar wahân o dan y Ddeddf. Rhaid cyflwyno ceisiadau'n ysgrifenedig, sy'n cynnwys negeseuon e-bost. Yn gyffredinol, caiff awdurdodau cyhoeddus 20 diwrnod gwaith i ymateb i gais. Caiff awdurdodau cyhoeddi godi tâl am ymateb i'ch ceisiadau ac os na chaiff ei dalu o fewn tri mis tybir nad yw'r ymgeisydd am gael y wybodaeth mwyach. Ceir eithriadau i'r wybodaeth y gallwch ei chael e.e. gwybodaeth fasnachol sensitif neu wybodaeth bersonol. Os bydd unrhyw wybodaeth y gofynnwyd amdani wedi'i heithrio dylech gael gwybod pa eithriadau sy'n caniatáu i'r awdurdod cyhoeddus ymatal rhag cyhoeddi'r wybodaeth.

Deddf Archwilio Cyhoeddus (Cymru) 2004

Mae gennych yr hawl i archwilio cyfrifon eich cyngor ac i ofyn cwestiynau i'r archwiliwr am y cyfrifon. Gall etholwyr y cyngor hefyd herio'r cyfrifon. Gallwch ganfod pwy yw'r archwiliwr priodol, ynghyd â'r cyfeiriad neu'r rhif ffôn, drwy:

- ffonio eich cyngor;
- ffonio Swyddfa Archwilio Cymru ar 029 2026 0260;
- anfon neges e-bost at info@wao.gov.uk.

Yr hawl i archwilio'r datganiad cyfrifon ac adroddiadau'r archwiliwr a gwneud copïau ohonynt

Pan fydd eich cyngor wedi llunio ei gyfrifon terfynol ar gyfer y flwyddyn ariannol flaenorol, tua mis Mehefin neu fis Gorffennaf fel arfer, rhaid iddo hysbysebu'r ffaith eu bod ar gael i bobl fwrw golwg drostynt. Gallwch gael copïau o'ch cyfrifon o'ch cyngor. Gallwch hefyd archwilio a gwneud copi o unrhyw adroddiad a gyflwynir i'r cyngor gan yr archwiliwr.

Archwilio dogfennau a gofyn cwestiynau yn ystod yr archwiliad

Pan fydd eich cyngor wedi hysbysebu'r ffaith bod ei gyfrifon ar gael i'w harchwilio gallwch hefyd archwilio pob llyfr, gweithred, contract, bil, taleb a derbyn neb sy'n berthnasol iddynt. Yna bydd gennych 20 diwrnod gwaith i fwrw golwg dros y cyfrifon a'r dogfennau atodol.

Ni allwch archwilio dogfennau nad ydynt yn berthnasol i'r cyfrifon neu a ddiogelir yn gyfreithiol fel arall. Dim ond gofyn cwestiynau i'r archwiliwr am y cyfrifon sy'n berthnasol i'r flwyddyn a archwiliwr y gallwch ei wneud.

Nid oes rhaid i'r archwiliwr ateb cwestiynau am bolisiau, cyllid a gweithdrefnau'r cyngor nac unrhyw beth arall nad yw'n berthnasol i'r cyfrifon. Ar y cam hwn, nid oes rhaid i'r archwiliwr ddweud p'un a yw'n credu bod rhywbeth y mae'r cyngor wedi'i wneud, neu eitem yn ei gyfrifon, yn anghyfreithlon.

Yr hawl i wrthwynebu'r cyfrifon

Os ydych yn un o etholwyr cofrestredig (ar y gofrestr etholiadol) y Cyngor, neu'n gynrychiolydd awdurdodedig rhywun ar y gofrestr honno, gallwch wrthwynebu'r cyfrifon neu'r eitemau ynddynt. Gallwch wrthwynebu'r cyfrifon am ddau reswm.

Os credwch fod un o eitemau'r cyfrifon yn anghyfreithlon, gallwch anfon gwrthwynebiad ysgrifenedig at yr archwiliwr (ystyrir hwn yn 'hysbysiad gwrthwynebiad' ffurfiol). Rhaid i chi roi rhesymau am eich gwrthwynebiad. Rhaid i'r archwiliwr ddod i benderfyniad yngylch eich gwrthwynebiad a darparu datganiad o resymau os gofynnwch am hynny. Os na fyddwch yn fodlon ar y penderfyniad hwnnw, gallwch apelio i'r llysoedd.

Gallwch hefyd wrthwynebu os credwch fod rhywbeth yn y cyfrifon y dylai'r archwiliwr hysbysu'r cyhoedd amdano mewn 'adroddiad lles y cyhoedd'. Unwaith eto, rhaid i chi roi eich rhesymau. Yn yr achos hwn, rhaid i'r archwiliwr benderfynu p'un a ddylid cymryd unrhyw gamau gweithredu. Fel arfer bydd yr archwiliwr yn rhoi rhesymau am ei benderfyniad, ond nid oes rhaid iddo wneud hynny, ac ni allwch apelio i'r llysoedd. Fodd bynnag, ni allwch ddefnyddio'r 'hawl i wrthwynebu' hon i wneud cwyn bersonol neu i hawlio yn erbyn eich cyngor. Dylech gyflwyno cwynion personol neu hawliadau i'r Cyngor, eich Canolfan Cyngor ar Bopeth leol neu eich cyfreithiwr.

Beth arall y gallwch ei wneud

Gallwch roi gwybodaeth i'r archwiliwr sy'n berthnasol i'w gyfrifoldebau ar unrhyw adeg. Er enghrafft, gallwch hysbsu'r archwiliwr os credwch fod rhywbeth o'i le ar y cyfrifon neu yngylch gwastraff ac aneffeithlonrwydd yn y modd y mae'r cyngor yn rhedeg ei wasanaethau. Nid oes rhaid i chi ddilyn unrhyw derfynau amser neu weithdrefnau. Dyma'r sefyllfa o ran sefydliadau'r GIG hefyd, lle nad oes gennych yr hawl i ofyn cwestiynau i'r archwiliwr am y cyfrifon, neu eu gwrthwynebu.

Nid oes rhaid i'r archwiliwr roi adroddiad manwl i chi ar unrhyw ymchwiliad i faterion a godwyd gennych, ond fel arfer bydd yn eich hysbsu o'r canlyniad cyffredinol os gofynnwch iddo wneud hynny.

Y gair olaf

Rhaid i gynghorau, ac felly trethdalwyr lleol, dalu'r gost o ymdrin â chwestiynau a gwrthwynebiadau. Bydd archwiliwyr yn derbyn gwrthwynebiadau dilys ond byddant yn ystyried amryw ffactorau wrth benderfynu ar sut i ymdrin â hwy. Rhaid iddynt ystyried y costau dan sylw. Dim ond os ydynt o'r farn ei bod er lles y cyhoedd i barhau â'r gwrthwynebiad y byddant yn gwneud hynny. Os byddwch yn apelio i'r llysoedd, efallai y bydd yn rhaid i chi dalu am hynny eich hun.

Eich hawliau mewn mwy o fanylder

Mae'r nodiadau hyn yn darparu gwybodaeth fanylach am eich hawl i archwilio, cwestiynu a gwrthwynebu cyfrifon y cyngor, ond eto gwybodaeth gyffredinol ydyw. Os bydd angen manylion mwy penodol arnoch, dylech gyfeirio at y deddfau, y rheoliadau a'r dogfennau eraill a grybwyllir yn y testun yn uniongyrchol, neu gael cyngor cyfreithiol.

Cofiwch nad oes gennych yr un hawliau mewn perthynas â chyfrifon cyrrf a ariennir yn ganolog (megis Llywodraeth Cynulliad Cymru a chyrrf y GIG) lle mai Archwiliyd Cyffredinol Cymru sy'n gyfrifol am gynnal yr archwiliad ac nid un o'i archwiliwyr penodedig.

Eich sefyllfa gyfreithiol

Nodir eich hawliau mewn perthynas â chyfrifon awdurdodau lleol yn adrannau 29, 30 a 31 Deddf Archwilio Cyhoeddus (Cymru) 2004. Ceir y rheoliadau manwl sy'n nodi sut y gallwch ddefnyddio'r hawliau hyn yn y Rheoliadau Cyfrifon ac Archwiliadau.

Eich hawl i archwilio'r datganiad cyfrifon ac adroddiadau'r archwiliwr a gwneud copiâu ohonynt

Deddf Archwilio Cyhoeddus (Cymru) 2004 – adran 29(1)

Nid yw'r rhan hon o'r ddogfen hon ar gael yn Gymraeg gan mai dyfyniad o ddeddfwriaeth nad yw wedi ei gwneud yn Gymraeg ydyw.

At each audit of a local government body scheduled under paragraph 12 of this Act, a local government elector for the area of a local government body in Wales may:

- (a) at all reasonable times and without payment inspect and make a copy of any statement of accounts prepared by the body under the accounts and audit regulations;***
- (b) at all reasonable times and without payment inspect and make a copy of any report made to the body by an auditor;***

Erbyn diwedd mis Gorffennaf bob blwyddyn, mae'r rhan fwyaf o awdurdodau lleol yn cwblhau'r gwaith o baratoi eu cyfrifon ar gyfer y flwyddyn ariannol a ddaeth i ben 31 Mawrth y flwyddyn honno. Rhaid iddynt hysbysu'r cyhoedd, drwy hysbysebu mewn un papur newydd lleol o leiaf, bod eu cyfrifon ar gael i bobl eu harchwilio am 20 diwrnod gwaith llawn. Gall Cynghorau Cymuned gyhoeddi hyn drwy osod hysbysiad mewn man cyhoeddus, yn hytrach na rhoi hysbyseb mewn papur newydd.

Gall unrhyw un â diddordeb archwilio'r cyfrifon ac unrhyw adroddiadau a gyhoeddir gan archwiliwr a gwneud copi ohonynt, neu ofyn am gopiâu gael eu hanfon atynt (ar ôl talu ffi fach yn ôl disgrifiwn y cyngor).

Archwilio dogfennau a gofyn cwestiynau yn ystod archwiliad

Deddf Archwilio Cyhoeddus (Cymru) 2004 – adran 30(1)

Nid yw'r rhan hon o'r ddogfen hon ar gael yn Gymraeg gan mai dyfyniad o ddeddfwriaeth nad yw wedi ei gwneud yn Gymraeg ydyw.

At an audit of accounts an interested person 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.***

Rhaid i gynghorau hefyd hysbysebu'r ffaith bod y dogfennau eraill a grybwyllir yn adran 30(1) Deddf Archwilio Cyhoeddus (Cymru) 2004 ar gael i bobl eu harchwilio am 20 diwrnod gwaith llawn. Rhaid i'r hysbyseb neu'r hysbysiad hefyd roi'r dyddiadau, amseroedd a mannau lle y gall y cyhoedd weld y dogfennau a gwneud copiâu ohonynt. Mae'n drosedd i unrhyw un geisio eich atal rhag archwilio dogfennau a gwneud copi ohonynt, er y disgwyllir i chi drefnu amser cyfleus ar y ddwy ochr i wneud hynny. Os ceir unrhyw anghytundeb ynghyllch eich hawliau, dylech gysylltu â'ch cyngor yn uniongyrchol neu drwy'r llysoedd. Ni all yr archwilydd ymwnaeth â hyn.

Ni allwch archwilio dogfennau sy'n cynnwys gwybodaeth bersonol am aelod o staff, na gwneud copiâu ohonynt, (gweler adran 30(3) Deddf Archwilio Cyhoeddus (Cymru) 2003). Golyga hyn, er enghraift, y bydd manylion am daliadau neu fudd-daliadau eraill y mae cyflogai yn eu derbyn yn gyfrinachol. Ni all y cyngor ac archwiliwr roi gwybodaeth bersonol i chi am unrhyw un pan fyddant yn ateb eich cwestiynau.

Deddf Archwilio Cyhoeddus (Cymru) 2004 – adran 30(2)

Nid yw'r rhan hon o'r ddogfen hon ar gael yn Gymraeg gan mai dyfyniad o ddeddfwriaeth nad yw wedi ei gwneud yn Gymraeg ydyw.

At the request of a local government elector for the area to which the accounts to be audited the auditor of those accounts must give an elector or any representative of his an opportunity to question the auditor about the accounts.

Bydd yr hysbyseb neu'r hysbysiad sy'n nodi bod y cyfrifon ar gael i bobl eu harchwilio hefyd yn nodi pryd y gallwch ofyn cwestiynau i'r archwiliwr a gwrthwynebu'r cyfrifon. Cyfngir ar eich hawl i ofyn cwestiynau i'r archwiliwr. Mae gennych yr hawl i ofyn cwestiynau am y cyfrifon, ond ni allwch ofyn cwestiynau am bolisiâu, cylldi neu weithdrefnau cyngor nad ydynt yn ymwneud â'r cyfrifon.

Cyn i chi ofyn unrhyw gwestiynau i'r archwiliwr, dylech archwilio'r cyfrifon fel eich bod yn gwybod beth sydd ynddynt. Yna gallwch ofyn i'r archwiliwr egluro rhai pwyntiau yn y cyfrifon cyn penderfynu p'un a ydych am 'wrthwynebu' ai peidio (caiff yr hawl hwn ei hegluro yn ddiweddarach).

Os byddwch yn gofyn cwestiynau nad ydynt yn ymwneud â'r cyfrifon, efallai y bydd yr archwiliwr yn awgrymu eich bod yn gofyn i'r cyngor am y wybodaeth. Ond, yn gyffredinol, ni all yr archwiliwr weithredu fel cyfrwng i chi ofyn cwestiynau i'r cyngor a chael ymateb ganddo.

Dylai eich cwestiynau ymwneud â ffeithiau, nid barn. Felly ni ddylech ofyn i archwiliwr p'un a yw o'r farn bod rhywbeth y mae cyngor wedi'i wneud, neu eitem yn ei gyfrifon, yn gyfreithlon neu'n rhesymol. Rhaid i archwiliwr weithio'n annibynnol felly ni allwch ofyn cwestiynau iddo ynghylch y modd y mae'n cyflawni ei waith, neu wedi cyflawni ei waith.

Gwrthwynebu'r cyfrifon

Deddf Archwilio Cyhoeddus (Cymru) 2004 – adran 31(1):

Nid yw'r rhan hon o'r ddogfen hon ar gael yn Gymraeg gan mai dyfyniad o ddeddfwriaeth nad yw wedi ei gwneud yn Gymraeg ydyw.

At an audit of accounts a local government elector for the area to which the accounts relate, or any representative of his, may make objections to the auditor as to:

- (a) any matter in respect of which the auditor has a power to apply for a declaration that an item of account is unlawful;**
- (b) any other matter in respect of which the auditor has the power to make an immediate or other report in the public interest.**

Gallwch chi, neu eich cynrychiolydd, wrthwynebu os credwch y dylai archwiliwr:

- wneud cais i'r Uchel Lys, o dan adran 32(1) Deddf Archwilio Cyhoeddus (Cymru) 2004, i gadarnhau bod eitem yn y cyfrifon yn torri'r gyfraith;
- llunio adroddiad, o dan adran 22 Deddf Archwilio Cyhoeddus (Cymru) 2004, ar fater y dylai'r cyngor ei ystyried, yn ei farn ef, neu y dylent hysbysu'r cyhoedd amdano ('adroddiad er lles y cyhoedd')

Eitemau yn y cyfrifon sy'n torri'r gyfraith

Bydd eitem yn y cyfrifon yn torri'r gyfraith os yw'n cofnodi gwariant neu incwm:

- nad oes gan y cyngor yr hawl i'w wario na'i dderbyn;
- a wariwyd neu a dderbyniwyd heb awdurdod;
- a dynnwyd o'r gronfa neu'r cyfrif anghywir, neu a ychwanegwyd iddynt;
- a wariwyd at ddiben cyfreithlon ond a oedd mor uchel fel ei fod yn anghyfreithlon.

Os bydd archwiliwr o'r farn bod eitem yn anghyfreithlon, gall wneud cais i'r Uchel Lys i gadarnhau bod eitem yn y cyfrifon yn anghyfreithlon. Os bydd y llys yn cytuno, gall orchymyn bod y cyfrifon yn cael eu hunioni. Wrth ddod i benderfyniad yngylch p'un a ddylai wneud cais i'r llys, bydd yr archwiliwr yn ystyried nifer o ffactorau, gan gynnwys y gost.

Adroddiad er lles y cyhoedd

Os na fyddwch yn fodlon ar benderfyniad cyngor neu gamau gweithredu a gymerwyd ganddo ond nad yw eich gwrthwynebiad yn ymwneud ag unrhyw beth anghyfreithlon neu fethiant i gyfrif am wariant neu incwm, dim ond llunio adroddiad er lles y cyhoedd y gall yr archwiliwr ei wneud – yn amodol ar yr archwiliwr yn cytuno bod y mater yn briodol ar gyfer adroddiad o'r fath.

Gwneud gwrthwynebiad

Os byddwch am wrthwynebu cyfrifon cyngor, rhaid i chi gyflwyno hysbysiad ffurfiol o'ch gwrthwynebiad, yn ysgrifenedig, i'r archwiliwr. Rhaid i'r hysbysiad ffurfiol gynnwys y canlynol:

- pam eich bod yn gwrthwynebu;
- manylion unrhyw eitem yn y cyfrifon sy'n anghyfreithlon yn eich barn chi;
- manylion unrhyw fater y dylai'r archwiliwr lunio adroddiad er lles y cyhoedd yn ei gylch, yn eich barn chi.

Rhaid i chi hefyd anfon copi o'ch gwrthwynebiad i'r cyngor. Eglura Deddf Llywodraeth Leol 1972 sut i gyflwyno hysbysiadau i gynghorau. Noda Adran 231(1) y Ddeddf y canlynol ynghylch hysbysiad:

Nid yw'r rhan hon o'r ddogfen hon ar gael yn Gymraeg gan mai dyfyniad o ddeddfwriaeth nad yw wedi ei gwneud yn Gymraeg ydyw.

...shall be given or served by addressing it to the local authority and leaving it at, or sending it by post to, the principal office of the authority or any other office of the authority specified by them as one at which they will accept documents of the same description as that document.

Pan fyddwch yn ystyried p'un a ddylid gwrthwynebu ai peidio, rhaid i chi ddeall bod gan gynghorau'r p_eir i benderfynu ar yr hyn sydd orau yn eu barn hwy. Nid yw'r ffaith eich bod yn anghytuno'n gryf â rhywbeth y mae'r cyngor wedi'i wneud yn golygu y gallwch herio'r penderfyniad hwnnw. Ni all archwiliwr a llys gwestiynu polisi neu benderfyniadau cyngor oni bai eu bod yn anghyfreithlon. Os byddwch yn penderfynu gwrthwynebu, ac os yw eich gwrthwynebiad yn cynnwys gwybodaeth bersonol neu sensitif, dylech nodi hynny'n briodol er mwyn osgoi'r risg y gallai person amhriodol weld y wybodaeth. Er na ellir gwarantu unrhyw beth, gallwch ddangos hyn drwy roi 'Preifat a chyfrinachol - at sylw'r Prif Weithredwr (neu'r Clerc)' ar y gwrthwynebiad a'r amlen.

Ni allwch ddefnyddio'r broses wrthwynebu i wneud cwyn bersonol neu hawliad yn erbyn y cyngor. Os credwch fod eich cyngor wedi gwneud rhywbeth o'i le, bydd yr Ombwdsmon Gwasanaethau Cyhoeddus yn ymchwilio i'r mater. Os credwch fod ymddygiad aelod o'r cyngor yn is na'r safonau y disgwyli'r weision cyhoeddus eu cyrraedd, bydd yr Ombwdsmon Gwasanaethau Cyhoeddus yn ymchwilio i'r mater. Os credwch fod gennych hawliad yn erbyn cyngor, gallwch gael cyngor gan eich Canolfan Cyngor ar Bopeth leol, Canolfan y Gyfraith leol neu eich cyfreithiwr.

Penderfyniadau ynghyllch eich gwrthwynebiad

Pan fydd archwiliwr yn cyhoeddi ei benderfyniad ynghyllch gwrthwynebiad, bydd fel arfer yn egluro ei resymau am y penderfyniad. Os na fydd yr archwiliwr yn rhoi rheswm, mae gennych 14 diwrnod o'r adeg y'ch hysbyswyd o'r penderfyniad i ofyn i'r archwiliwr am 'ddatganiad o resymau' yn ysgrifenedig. Os na fyddwch yn fodlon ar benderfyniad archwiliwr gallwch apelio. Rhaid i chi gofrestru eich apêl yn Llys y Goron yn yr Uchel Lys o fewn 28 diwrnod i dderbyn datganiad o resymau'r archwiliwr ynghyllch ei benderfyniad.

Mae penderfyniad archwiliwr ynghyllch gwrthwynebiadau sy'n gofyn iddo lunio 'adroddiad er lles y cyhoedd' yn derfynol. Bydd yr archwiliwr yn eich hysbysu o'i benderfyniad ond ni allwch ofyn am ddatganiad o resymau nac am apêl.

Cyfeiriadau defnyddiol

Archwilydd Cyffredinol Cymru

2/4 Park Grove
Caerdydd
CF10 3PA

Ffôn: 029 2026 0260
E-bost: info@wao.gov.uk
Ffacs: 029 2026 0026
Gwefan: www.wao.gov.uk

Ombudsmon Gwasanaethau

Cyhoeddus Cymru

1 Ffordd yr Hen Gae
Pencoed
CF35 5LJ

Ffôn: 01656 641 150
E-bost: ask@ombudsman-wales.org.uk
Ffacs: 01656 641 199
Gwefan: www.ombudsman-wales.org

Swyddfa'r Comisiynydd

Gwybodaeth - Cymru

2 Alexandra Gate
Ffordd Pengam
Caerdydd
CF24 2SA

Ffôn: 02920 894929
E-bost: Wales@ico.gsi.gov.uk
Ffacs: 02920 894930
Gwefan: www.ico.gov.uk