

# LOCAL AUDIT (PUBLIC ACCESS TO DOCUMENTS) BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Local Audit (Public Access to Documents) Bill as brought from the House of Commons on 27 March 2017 (HL Bill 115).

- These Explanatory Notes have been provided by the Department for Communities and Local Government, with the consent of Baroness Eaton, the Peer in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

## Overview of the Bill

- 1 Section 26 of the Local Audit and Accountability Act 2014 (“the Act”) provides “any persons interested” with the right for six weeks to inspect a wide range of the most recent accounts related documentation of relevant authorities (except Health Bodies) listed in Schedule 2 of the Act, and make copies of any part of those accounting records or related documents. This provision differs from section 25 of the Act which gives local electors the right, at any time, to inspect and make copies of specified accounts documents for their local authority. Under both rights, inspection is free and can be requested at any reasonable time, but authorities may charge a “reasonable sum” for supplying copies.
- 2 Paragraph 4.11 of the December 2014 summary of responses and government response to the consultation on the Future of Local Audit<sup>1</sup> states that the “Government believes that journalists should also be able to inspect accounts and information, in the interests of local people, and therefore intends to legislate at the earliest opportunity to ensure that the definition of persons interested (see section 26 of the Act) is wide enough to enable this”.
- 3 “Interested person” is a broader term than local government elector, but previous case law suggests that it is not so broad as to cover journalists without their having another “interest” in the local authority e.g. by also being a ratepayer in the authority’s area – see *R. (on the application of HTV Ltd) v Bristol City Council* [2004] EWHC 1219 (Admin). The rights of interested persons are more limited than a local government elector in the sense that those which are not also local government electors cannot question the auditor nor make an objection to the accounts.
- 4 The Bill seeks to extend the right of inspection in section 26(1) of the Act to be available to journalists, including “citizen journalists”, that is, bloggers and others who scrutinise local authorities but who may not be accredited members of the press nor local government electors. This seeks to enable them to access a wide range of accounting material in order to report and publish their findings so that it is available to local electors in an area, with the aim of providing them with information that will enable them better to hold their local council to account.
- 5 The Bill makes provision for the commitment made in the government consultation referred to in paragraph 2 above. The overall aim of the Bill is to aid greater local town hall transparency and openness.

## Territorial Extent and Application

- 6 The Bill extends to England and Wales but the provisions apply only to relevant authorities that are generally in England.
- 7 A list of the “relevant authorities” for these purposes can be found in Schedule 2 to the Act.

## Commentary on provisions of Bill

- 8 Clause 1 amends section 26(1) of the Act (inspection of documents etc.) by amending the definition of interested person to include journalists and citizen journalists in relation to the

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/383694/Future\\_of\\_Local\\_Audit\\_Consultation\\_Summary\\_and\\_Response.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/383694/Future_of_Local_Audit_Consultation_Summary_and_Response.pdf)

requirement for relevant authorities (other than health service bodies), as defined in the Act, to make available for inspection the accounting records and supporting documents for such an authority for the audit year and make copies of those documents.

- 9 Subsection (3) of clause 1 will insert a definition of the term of journalist as it applies to section 26(1) of the Act. The concept of journalistic material already appears in legislation and, when coupled with the term 'publication', distinguishes a journalist from a person who works at a newspaper in another capacity or a student producing articles as part of their coursework.

## Commencement

- 10 The Bill provides that its provisions come into force at the end of two months beginning with the day on which it is passed.

## Financial implications of the Bill

- 11 The cost of providing copies associated with additional requests for documentation from journalists can be met by the authority being able to charge for providing the information.

## Impact Assessment

- 12 As the Bill does not regulate or deregulate business, and the Bill will not affect the ability of local authorities to charge for the cost of supplying copies of the information, no Impact Assessment has been provided.

## Compatibility with the European Convention on Human Rights

- 13 In the Government's view the Bill is compatible with the European Convention on Human Rights.



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