



CONTROLLER AND AUDITOR-GENERAL

Tumuaki o te Mana Arotake

Councillors' guide to the Auditor- General

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Introduction

E ngā mana, e ngā reo, e ngā karangarangatanga maha o te motu,
tēnā koutou.

This booklet is for the elected members of councils and for new members in particular. It gives an overview of my role and also outlines the kinds of interaction you can expect with me and with my staff.

Elected members are ultimately responsible for what a council does, how it does it, and the consequences of those decisions.

Our job is to ensure that councils are accountable to, and subject to the scrutiny of, local communities. We also aim to improve trust in government, including local government, and to promote value in spending.

We mainly do this by carrying out annual audits of councils and the organisations that councils control. Our interest is in providing the independent assurance that communities need about whether councils are operating as they planned to, and properly accounting for their use of public money.

We are mindful of the importance of trust and confidence to the effective operation of all levels of government – central and local. In that regard, how elected members are seen to conduct themselves can be just as important, if not more so, to the public as the performance of the council. For example, a perceived conflict of interest can be just as damaging as an actual one. Your auditor's findings and recommendations will be invaluable to you.

I trust that the content of this booklet will also be of use to you.

Nāku noa, nā John



John Ryan
Controller and Auditor-General

23 September 2019

The Auditor-General at a glance

The Controller and Auditor-General – more commonly known as the Auditor-General – is an officer of Parliament who audits all of New Zealand’s public organisations.

The Auditor-General has a Deputy who is also an officer of Parliament. The Deputy can perform all the functions and exercise all the powers of the Auditor-General.

As an officer of Parliament, the Auditor-General is independent of the Executive Government and cannot be directed by them in how to do the job or what to do.

The position of Auditor-General has been in place in New Zealand since the 1840s. The current role and functions are set out in the Public Audit Act 2001.

The Governor-General appoints the Auditor-General on the recommendation of the House of Representatives for a once-only seven-year term.

As an officer of Parliament, the Auditor-General is independent of the Executive Government. The Government cannot tell the Auditor-General what to do or how to do it.

This independent status, as set out in the Public Audit Act, ensures that the Auditor-General’s investigations and views about the use of public money are objective and free from political influence. Having an impartial and independent “public watchdog” to provide a check on government spending is important.

The Auditor-General’s staff work in two business units: the Office of the Auditor-General (the OAG) and Audit New Zealand. We call the whole organisation “the Office”.

By law, the Auditor-General is responsible for auditing about 3500 organisations, including:

- councils and council-controlled organisations;
- government departments;
- Crown entities;
- schools, universities, and polytechnics;
- district health boards;
- port and airport companies;
- State-owned enterprises;
- Crown Research Institutes;
- electricity distribution companies; and
- licensing trusts.

Collectively, we call these “public organisations”.

The work of the Auditor-General is designed to give assurance to Parliament, public organisations, and the public that public organisations are fairly reflecting the results of their activities in their annual reports.

The Auditor-General and their staff may carry out inquiries into issues that arise from their audit work, a written concern, or a request for an inquiry. The Auditor-General is not obliged to act on a request. The final decision on whether to carry out an investigation into any particular issue rests with the Auditor-General. Sometimes, this will result in a major inquiry and public report, such as *Inquiry into the procurement of work by Westland District Council at Franz Josef*, published in March 2019.

No other organisation has the overview of the whole public sector that the Auditor-General has.

Additionally, the Auditor-General keeps an eye on whether public organisations are carrying out their activities effectively and efficiently, and on matters of waste, probity, legislative compliance, and financial prudence in the public sector.

The Auditor-General reports findings and makes recommendations so that those with responsibility for making improvements can take action. This includes highlighting examples of good practice that can help improve public sector governance, management, and performance.

The Auditor-General does not have the power to enforce recommendations or to change or overturn decisions made by others. However, the independent and objective nature of the Auditor-General's work, the scrutiny by Parliament that it supports, and the ongoing contact between public organisations and the Auditor-General's staff sees most recommendations acted on.



Our reports are available on the Auditor-General's website at oag.govt.nz/reports.

The Auditor-General's work

The Auditor-General's work fulfils two statutory functions:

- the audit function; and
- the Controller function.

The audit function

The audit function involves:

- annual audits;
- audits of councils' long-term plans and consultation documents;
- performance audits;
- reviews of Auckland Council's service performance;
- inquiries;
- good practice guidance; and
- other assurance services.

Annual audits

About 88% of the Auditor-General's work involves carrying out annual audits of the financial and service performance information of public organisations.

Each year, the Auditor-General's appointed auditors and their teams audit each public organisation's accountability information, such as its annual report.

In carrying out the audit function, the Auditor-General's staff and appointed auditors apply audit procedures set out in *The Auditor-General's Auditing Standards*. These standards are based on the ethical and professional standards issued by the External Reporting Board, with additional standards that are unique to the public sector audit environment in New Zealand.

During an annual audit, the appointed auditor:

- examines a public organisation's financial statements, service performance information, and other information that must be audited;
- assesses the results of that examination against a recognised framework (usually generally accepted accounting practice); and
- forms and reports an audit opinion.

An annual audit provides a high, but not absolute, level of assurance about whether a public organisation's financial statements comply with generally accepted accounting practice and fairly reflect its financial position and its financial performance for the year. The auditor evaluates the overall adequacy of all the accountability information.

An audit of the annual accountability statements of a public organisation results in two kinds of report. One is the audit report (including the audit opinion) that is included in the public organisation's published annual report. The other is a report to the public organisation's governing body and/or managers on matters arising from the audit.

The published audit report gives readers assurance about the reliability of the public organisation's annual accountability information.

Councils' long-term plans and consultation documents

Every three years, councils are required to prepare a long-term plan (LTP). The LTP is the main way for councils to describe the services they plan to provide, the community outcomes they plan to contribute to, and the forecast cost of those services. LTPs must include the council's financial strategy and infrastructure strategy.

Consultation with communities is an important step in making sure that the LTP is the right one for the community and councils are required to produce a consultation document for their LTPs.

The Local Government Act 2002 requires each consultation document to contain an audit report from the Auditor-General providing an opinion on:

- whether the consultation document achieves its purpose; and
- the quality of the information and assumptions underlying the information provided in the consultation document.

We audit each council's consultation document to determine whether it provides an effective basis for consultation, with a particular emphasis on whether it fairly represents the matters a council proposes to include in its LTP. We determine whether the consultation document identifies and explains the main issues and choices facing a council and the consequences of those choices for rates, debt, and levels of service provided. We also audit each council's underlying supporting information, to determine its reasonableness.

The purpose of an LTP is, broadly, to describe the council's proposed 10-year activities and community outcomes in an integrated and co-ordinated way, and provide a basis for accountability to the community. In doing so, it should outline the financial and service delivery circumstances that the council faces and the proposed response to those circumstances. Our role is to assess, and provide an opinion on, whether the LTP achieves this purpose. Again, we audit and provide an opinion on the underlying supporting information, to determine its reasonableness.

Performance audits

In carrying out performance audits, the Auditor-General gives Parliament independent assurance about the performance and accountability of public organisations, including councils. Under section 16 of the Public Audit Act, the Auditor-General may at any time examine:

- the extent to which public organisations are carrying out their activities effectively and efficiently;
- public organisations' compliance with their statutory obligations;
- any act or omission of public organisations, to determine whether waste has resulted, may have resulted, or may result; and/or

- any act or omission showing or appearing to show a lack of probity or financial prudence by public organisations or one or more of their members, office holders, and employees.

The aim of a performance audit is to assure Parliament, public organisations, and the public that public organisations are delivering what they are required to. The Auditor-General reports both good and poor performance, and often highlights aspects of performance that apply to the wider public sector.

Performance audits usually result in a report that is presented to Parliament. As soon as the report is tabled in the House, a copy is published on the Auditor-General's website and an email link to the document is sent to website subscribers. Under Standing Orders, a performance audit report will be referred to the Finance and Expenditure Committee. If the Finance and Expenditure Committee refers the report to another select committee, the Auditor-General will offer a briefing on the report to the relevant select committee(s).

Reviews of Auckland Council's service performance

The Local Government (Auckland Council) Act 2009 requires the Auditor-General, from time to time, to review the service performance of the Auckland Council and each of its council-controlled organisations. We aim to carry out one of these reviews at least annually.

Our reports about these reviews are likely to be of interest to all councils.

The final decision on whether to carry out an investigation into any particular issue rests with the Auditor-General.

Inquiries

The Auditor-General may carry out an inquiry into any matter concerning a public organisation's use of its resources. An inquiry might involve looking into financial, accountability, governance, or conduct issues. The concerns might have arisen in the course of the Auditor-General's work or have been raised by a member of the public,

a member of Parliament, a select committee, or another organisation. The final decision on whether to carry out an inquiry rests with the Auditor-General.

An inquiry might cover questions such as whether the public organisation:

- applied its resources effectively and efficiently;
- complied with its legal obligations;
- acted honestly and with integrity in its dealings; and
- managed its finances prudently.

When a matter is referred to the Auditor-General, they and their staff decide whether to carry out an inquiry and determine its scope. The Office may decide not to look into it (for example, because the Auditor-General is not the appropriate authority to do so), or might refer it to the appointed auditor to consider during the next annual audit of the public organisation, or might consider the matter when planning performance audits.

The Auditor-General decides what information to report, based on its relevance, and taking into account principles of fairness and natural justice.

Good practice guidance

The Auditor-General also publishes good practice guidance to help public organisations develop effective systems, policies, and procedures.

Our current good practice guidance covers a range of topics, including guidance for members of councils about the Local Authorities (Members' Interests) Act 1968, conflicts of interest, charging fees for public sector goods and services, and procurement.

Other assurance services

The Auditor-General's staff advise and provide assurance to public organisations about a range of matters. They also advise public organisations on matters of accountability information, in order to improve the quality of the information available to Parliament and the public.

At the request of a public organisation, the Auditor-General can provide other auditing or assurance services, such as providing assurance about tendering or contract procedures.

The Controller function

The Controller function supports the constitutional principle that the Government cannot spend without the consent of Parliament.

Under this function, the Auditor-General provides independent assurance to Parliament that the expenses and capital expenditure of government departments and officers of Parliament are lawful and within the scope, amount, and period of the appropriation or other statutory authority given by Parliament. This function does not apply to councils.

The Local Authorities (Members' Interests) Act 1968 and other conflicts of interests

The Local Authorities (Members' Interests) Act 1968

The Auditor-General has responsibilities under the Local Authorities (Members' Interests) Act 1968 (the Act), which applies to councils and a range of statutory bodies.

The Act helps protect the integrity of council decision-making by ensuring that elected members are not affected by personal financial motives when carrying out their role.

Under the Act an elected member cannot:

- enter into contracts with their council worth more than \$25,000 in a financial year, without approval from the Auditor-General (a **breach of the rule results in a disqualification from office**); or
- discuss or vote on matters before their council in which they have a direct or indirect pecuniary (financial) interest, other than an interest in common with the public (**it is an offence for a member to breach this provision, and, if convicted, they automatically vacate office**).

The Auditor-General's role in administering the Act includes:

- deciding applications for approval of contracts worth more than \$25,000 in a financial year;
- providing guidance to council members and officers, to help them comply with the Act in particular situations; and
- investigating and prosecuting alleged offences against the Act.

You can find out more about the Act in our publication *Guidance for members of local authorities about the Local Authorities (Members' Interests) Act 1968*.

Other conflicts of interests

The Act is a small subset of the law about conflicts of interests that apply to council members, and only applies to financial conflicts of interest. The body of law on non-financial conflicts of interest has been developed by the courts over a long period of time, and applies to council members when they are making certain decisions.

As noted above, the Auditor-General has a specific role in relation to financial conflicts of interest that are regulated by the Act. The Auditor-General does not have the same statutory role for non-financial conflicts of interest – only the courts can determine whether the law has been breached in any particular instance and what the consequence should be.

However, as part of the Auditor-General's broader mandate we can look into matters of probity involving a member of a council and the use of council resources, which could include examining whether a member had a non-financial conflict of interest and how the member and council had managed that.

You can find out more about conflicts of interests in our publication *Managing conflicts of interest: Guidance for public entities*. We also discuss non-financial conflicts in *Guidance for members of local authorities about the Local Authorities (Members' Interests) Act 1968* (see part 5 of the guidance).

Both of these documents are on our website: www.oag.govt.nz

What the Auditor-General cannot do

No private organisations

The Auditor-General cannot inquire into private organisations, including organisations that may have received funding from a public organisation.

However, the Auditor-General can look at the activities of a public organisation that is contracting with or directly funding a private organisation, and how the public organisation has monitored the private organisation's use of public funds.

No policy decisions

The Auditor-General does not have any authority to question matters of government policy or council policy. Making policy decisions is a job for elected representatives. For example, where a council has decided to acquire or dispose of a particular asset, the Auditor-General could consider how well the council had implemented that decision in keeping with the applicable policy, or whether the decision-making process met relevant standards, rather than whether it should or should not have acquired or disposed of the asset.

No judicial function

The Auditor-General does not have a judicial function, so cannot make findings on whether a public organisation has acted lawfully or whether someone is culpable for a particular action. The Auditor-General can express an opinion, but cannot overturn a public organisation's decisions or actions; that is for the courts to decide, such as through the judicial review process. The Auditor-General cannot provide any redress or remedies for particular concerns.

No executive function

The Auditor-General cannot direct a public organisation to act on findings or recommendations.

Not subject to the Official Information Act 1982

Although the Auditor-General is not subject to the Official Information Act 1982, the Office provides information about its activities and performance in the same way as other public organisations do. The Public Audit Act protects the confidentiality of the Auditor-General's investigative and assurance work.

How the Auditor-General is funded

The Auditor-General is funded:

- by the Crown through Vote Audit for audit and assurance services, performance audits and inquiries, and supporting accountability to Parliament; and
- from audit fees paid by public organisations for annual audits, and other assurance work carried out by the Auditor-General's business arm, Audit New Zealand, at the request of public organisations. Contracted audit service providers, including Audit New Zealand, invoice public organisations and collect fees directly.

Who audits the Auditor-General?

The Auditor-General is held to account by the Officers of Parliament Committee, which is chaired by the Speaker, and by the Finance and Expenditure Committee, which reviews Vote Audit.

The Officers of Parliament Committee appoints a private sector auditing firm to do an annual audit of the Auditor-General's financial and service performance.

The Auditor-General also has an independent Audit and Risk Committee and is subject to professional and ethical standards and periodic international peer review by their counterparts from overseas audit offices.

Appointing auditors and monitoring audit fees

The Auditor-General appoints auditors to carry out annual audits. These auditors are appointed from a group of about 50 audit service providers. For councils, the main audit service providers are Audit New Zealand, Ernst and Young, and Deloitte.

Most audits are allocated directly to an auditor, but from time to time an audit is subject to a competitive tender.

Although Audit New Zealand is organised and operates along the lines of a private sector professional services firm, it is not a profit-making business. It is expected to break even. Its audit fees are used as a benchmark for maintaining reasonable fees among all auditors who do work on the Auditor-General's behalf.

The Auditor-General monitors audit fees to ensure that fees are based on realistic hours (that is, hours that reflect the nature and extent of work required), an appropriate audit team mix, and charge-out rates that are in line with market rates. The aim is for fees that are fair to the public organisations and also provide a fair return to the auditors for the work they are required to do to meet the Auditor-General's auditing standards.

The allocation of audits and fee-setting and monitoring systems are independently reviewed annually to ensure that they are carried out with due probity and objectivity.

Who works for the Auditor-General?

The Auditor-General has about 400 employees. They are organised into two business units: the Office of the Auditor-General (the OAG) and Audit New Zealand, supported by a shared Corporate Services Team.

The OAG carries out strategic planning, sets policy and standards, appoints auditors and oversees their performance, carries out performance audits, provides reports and advice to Parliament, and carries out inquiries and other special studies.

Audit New Zealand is the larger of the two business units, and has seven offices throughout the country. It carries out annual audits allocated by the Auditor-General, and provides other assurance services to public organisations within the Auditor-General's mandate.

Standards for auditing and independence

All appointed auditors are required to meet the Auditor-General's auditing standards. These standards underpin the quality and consistency of all audits conducted on the Auditor-General's behalf, including the appropriate identification, scoping, investigation, and reporting of audits, other auditing services, and inquiries.

To effectively and credibly provide assurance to Parliament and ratepayers, the Auditor-General's appointed auditors and their staff must be (and be seen to be) independent. There are strict constraints on them, covering:

- personal involvement with an audited organisation (including family ties);
- financial involvement with the organisation (such as investments);
- providing certain other services to the organisation (such as carrying out valuations); and
- dependence on fees from the organisation.

Publications by the Auditor-General

All available on our website

The Auditor-General's reports are available in HTML and PDF format, and often as an epub, on our website – oag.govt.nz. We also group reports (for example, by sector, by topic, and by year) to make it easier for you to find content of interest to you.

Our staff are also blogging about our work – see oag.govt.nz/blog.

Notification of new reports

We offer facilities on our website for people to be notified when new reports and public statements are added to the website. The home page has links to our RSS feed, Twitter account, Facebook page, and email subscribers service.

Sustainable publishing

The Office of the Auditor-General has a policy of sustainable publishing practices. This report is printed on environmentally responsible paper stocks manufactured under the environmental management system standard AS/NZS ISO 14001:2004 using Elemental Chlorine Free (ECF) pulp sourced from sustainable well-managed forests.

Processes for manufacture include use of vegetable-based inks and water-based sealants, with disposal and/or recycling of waste materials according to best business practices.

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