2025

THE GOOD COUNCILLOR'S GUIDE TO FINANCE



CHAIR'S INTRODUCTION

It gives me great pleasure to introduce the second edition of *The Good Councillor's Guide to Finance*, aimed specifically at councillors and prospective councillors to local councils.

It dovetails with the updated Good Councillor's Guide 2024 but focuses on the financial, audit and publication requirements of the council as it is important that councillors fully understand their responsibilities in relation to the finances of the council.

This revised and updated guide provides an overview of the various aspects of local council finance written with the new councillor in mind, although for more experienced members it covers various topics that have evolved over time, noting that many areas of local council finance are different to those of principal authorities.

As local councils have grown and taken on additional responsibilities, budgets have increased to fund these extra services and therefore it is now even more important that councillors are able to plan, discuss, approve and monitor the finances of their council with a level of understanding and knowledge. Whilst the clerk and Responsible Financial Officer will manage the budget and finances, it is councillors who set and agree the budgets, overview and monitor the financial position through the year and confirm the required governance assertions at the end of the financial year.

The local council sector now collects nearly £800 million annually in precept income and invests around £2 billion annually in local communities. This is a significant amoun

of money for which local councils and councillors are responsible for spending and investing for the benefit of their communities.

Local council funds are public money, much of which is raised through a precept or tax on local electors, therefore it is the responsibility of all councillors to understand and be pro-active guardians of council funds, ensuring their council complies with the various legislation and government codes, spending the money in accordance with the needs and aspirations of their local community, and publishing documents to enable local electors to see where funds are being spent.

Whilst there are relatively few financial mismanagement issues in the sector, it only takes a couple of high-profile cases and the consequent adverse publicity to damage the reputation of the sector, which can detract from the excellent work being undertaken around the country by the majority of councils and councillors.

More detailed advice is available from your clerk and/or finance officer, who are tasked with advising the council and producing the financial information you need to make informed decisions on council income and expenditure. They are also able to call upon the advisory services and training of sector membership organisations such as your local County Association of Local Councils and NALC.

I trust that you find the guide useful in gaining greater understanding of the financial responsibilities of local councils and councillors, further developing your role as a good councillor.

Cllr. Keith Stevens, Chair of the National Association of Local Councils

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GLOSSARY & ACRONYMS

Local council: Town, Parish or Community Council

Principal authority: District, Borough, County or Unitary Authority

Billing authority: principal authority that issues precept and collects council tax

MHCLG	Ministry of Housing, Communities and Local Govt.
NALC	National Association of Local Councils
CALC	County Association of Local Councils
AGAR	Annual Governance and Accountability Return
CIL	Community Infrastructure Levy
DPA	Data Protection Act
DPI	Disclosable Pecuniary Interest
FSCS	Financial Services Compensation Scheme
GPC	General Power of Competence
JPAG	Joint Panel on Accountability and Governance
LGA	Local Government Association
LPA	Local Planning Authority
NAO	National Audit Office
PWLB	Public Works Loan Board
RFO	Responsible Financial Officer
SAAA	Smaller Authorities' Audit Appointments
SAPPP	Smaller Authorities' Proper Practices Panel
SLCC	Society of Local Council Clerks
VAT	Value Added Tax

INTRODUCTION

This guide is divided into sections and whist it can be read in its entirety, it is also designed to enable councillors to refer to individual sections when events or the need arises or at specific times of the year e.g. budget setting, audit.

Throughout the guide the term 'local council' refers to all parish, town, city, community or neighbourhood councils as they all have the same level of authority and duties.

A local council is a corporate body, a separate legal entity from its members, and a local authority. Decisions are the responsibility of the whole council and all councillors share collective responsibility for financial management of the council.

Local councils have been given statutory powers by government including the authority to raise money through taxation (the precept) and a range of powers to spend public money. Financial rules and procedures set by government through various statutes and regulations are designed to protect the council and ensure that it takes no unacceptable risks with public money. The rules protect community assets and aim to make best use of public money.

Every local council is required to make suitable arrangements for the proper administration of its financial affairs. It is responsible for ensuring that its financial management is adequate and effective, and that it has a sound and robust system of internal control and record keeping, including arrangements for the management of risk and an effective

system of internal audit. This makes financial management and regular financial oversight one of the most important tasks for the council and councillors.

The financial accounting year for a council runs from 1 April to 31 March in line with the government and other public authorities' financial year.

Local councils are not subject to income, corporation or capital gains tax.



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1. FINANCIAL MANAGEMENT AND ADMINISTRATION

Local councils are required to comply with "proper practices", which have statutory force and are set out in the publication *Governance and accountability for smaller authorities in England*, also known as the "Practitioners' Guide" which the clerk/RFO should use as reference.

Councillors should ensure they have an up-to-date knowledge of the financial position throughout the year, as all councillors generally have the right to question any item of expenditure or payment and the council has to be satisfied with the explanation.

Some larger councils have established a 'Finance Committee' which examines and decides on financial matters; however, this committee must then report to the full council. Many councils have a finance report as a standing item on the council meeting agenda.

RESPONSIBLE FINANCIAL OFFICER (RFO)

The council must ensure that one of its officers has responsibility for financial matters and is an employee accountable to the council; that officer is appointed by the council and is legally known as the Responsible Financial Officer (RFO). The RFO role is usually carried out by the clerk in smaller councils, whilst in larger councils it is usually a separate post and officer.

The RFO:

- acts under the policy direction of the council;
- administers the council's financial affairs in accordance with all legislation and 'proper practices';
- determines its accounting records and control systems;
- ensures the accounting control systems are observed;
- ensures the accounting records are kept up to date;
- seeks economy, efficiency and effectiveness in the use of council resources; and
- produces financial management information as required by the council.

The RFO ensures that the records and accounts of the council are prepared in accordance with the specified proper practices and kept up to date. Councillors continue to be accountable for ensuring that the council does not spend beyond its means, but the RFO designs and implements the accounting arrangements to assure members that finances are being properly managed.

Throughout the year the council needs to satisfy itself that expenditure is both lawful and in line with council decisions, and that proper controls are in place to prevent

The council should ensure that the RFO acts properly and efficiently to avoid the risk of loss, fraud or bad debt, whether through deliberate or careless actions.

any possibility of fraud. No council wants to risk being the subject of local media coverage relating to financial mismanagement, lack of control or poor budgeting.

The clerk/RFO will be able to provide general advice on finance and should have access to advice from the sector membership organisations. However, for more complex or large projects, it is important to ensure that specialist advice is obtained, especially in relation to areas such as VAT.

The council's financial system should set out the general rules applicable at council and committee meetings and for carrying out council business. These rules are covered in Standing Orders and Financial Regulations.

STANDING ORDERS

Standing Orders are the rules of procedure that describe how the council conducts its business and meetings including committees and sub-committees. They are used to confirm the council's internal organisational, administrative and procurement procedures.

They must include guidelines for the purchasing and procurement of goods and services, including how tenders are invited. The aim of the purchasing process is to obtain best value for money for the council, although the best value may not necessarily be the cheapest quote.

To comply with these requirements, councils should set within their Financial Regulations a limit for the purchase of goods and services above which estimates or quotes should be invited. Standing Orders will state a higher value above which competitive tenders should be invited. The council can determine its own limits appropriate to local circumstances.

There are model standing orders published by the National Association of Local Councils (NALC) which can be adopted and/or adapted to suit the needs of the council.

FINANCIAL REGULATIONS

Financial Regulations are one of the council's governing documents and must be observed in conjunction with the council's Standing Orders. They guide and protect the council and councillors in decision making to make best use of public money.

Financial Regulations govern the financial management and accounting procedures of the council, set out in detail how the financial affairs of the council will be managed and controlled and give instructions to the clerk/RFO on how to conduct the financial administration of the council. For instance, they will set out the process for making and approving payments, should set out the procedure for purchasing goods and services above a certain value and may delegate certain expenditure, within limits, to the clerk/RFO.

Financial regulations are approved by the full council and can only be amended by full council. They should be reviewed annually.

The council must not delegate any decision regarding:

- setting the final budget or the precept;
- the outcome of a review of the effectiveness of its internal controls;
- approving accounting statements;
- approving the annual governance statement;
- borrowing;

- declaring eligibility for the General Power of Competence; and
- addressing recommendations from the internal or external auditors

All councils should have adopted a set of 'Financial Regulations'. If the council has not adopted a set of financial regulations, then it is open to considerable risk and these should be put in place immediately.

There are model financial regulations which can be adopted and/or adapted to suit the needs of the council – NALC has recently published updated model financial regulations (April 2024) that are available from the NALC website or local county association of local councils (CALC).

These updated model financial regulations enable local councils to modernise financial practices by focusing on digital transactions and processes and aim to enhance operational efficiency and transparency.

BUDGET

The preparation of an annual budget is one of the key statutory tasks undertaken by the council, irrespective of its size. The budget:

- results in the council setting the precept for the year;
- gives the clerk and other officers overall authority to make spending commitments in line with decisions of the council;
- enables progress monitoring during the year by comparing actual spending against planned spending.

It is important that councillors understand how the budget is put together and how it should be used. The budget is an essential tool for controlling the council's finances and demonstrates that the council will have sufficient income to meet its objectives and carry out its activities.

The key stages in the budgeting process are:

- review of current year budget and spending;
- determine the cost of spending plans;
- assess levels of anticipated income;
- provide for contingencies and the need for reserves;
- approve the budget;
- set the precept

The council should also consider consulting the local community for their views and priorities on spending, which will enable the council to evidence community support for any plans and/or proposed increases. Community consultation and support can also be useful as evidence to government if it is considering extending referendum principles to local councils.

Any member with council tax unpaid for more than two months is prohibited from voting on the budget or precept by Section 106 of the Local Government Finance Act 1992 and must disclose at the start of the meeting that Section 106 applies to them.

The Responsible Financial Officer (RFO) will prepare a draft budget for councillors to consider, discuss and amend and then the detailed final budget will be brought to a full council meeting for approval, usually in January. The budget and precept amounts should be specified in the minutes.

The agreed budget then provides a basis for monitoring progress during the year by comparing actual spending and income against what was planned.

In recent years many principal authorities have sought to devolve various assets and services to local councils, and the potential and funding implications of taking on these assets and services should be considered in the budgeting process.

Some larger councils consider a three-year budget forecast to provide continuity and a longer term plan on how they intend to meet their objectives. As larger assets and more significant services are taken on, then longer term budgets increase in importance.

If large or long-term projects are being undertaken, then these should also have their own separate budgets, financial plans and monitoring arrangements.

It is possible to delegate some budgets to either officers or a committee if they have responsibility for a specific project, such as the running of a sports facility or the organisation of an event. Committees with devolved budgets should also feed into the budget-setting process setting out future requirements and plans.

During the year the clerk/RFO should produce at meetings budget monitoring documents, bank reconciliations, and draft accounts which will enable progress against the budget to be regularly monitored. Councillors should be aware of any variances and the reasons for these variances.

By reviewing the budget against actual expenditure on a regular basis at council meetings, the council can control and monitor its finances which will provide early warning of any potential shortfall and what action may need to be taken.

The budget and budget monitoring are important as it is not unknown for some councils to overspend and run out of money prior to the year end, or for the precept to have been miscalculated. If this or other unforeseen events should occur, then it is important that the council holds sufficient reserves.

Unspent budgets for completed projects should not be carried forward to a subsequent year; unspent funds for partially completed projects may be carried forward by placing them in an earmarked reserve.

Any unspent balances at the year end will be transferred to the general reserve.

Some local councils may budget to minimise spending to keep the local precept as low as possible, which may sometimes result in the council appearing to do little for their local community. However, there is evidence that local taxpayers are willing to pay an increased local precept if they can see results in terms of better services at local level. Local electors will often be prepared to contribute more for tangible local community benefits, rather than pay an amount where it appears that the council is not active on behalf of the community and is merely administering itself.

COUNCIL TAX PRECEPT

The precept is the local council tax required from local electors to meet the council's budget. Every local council has the power to levy a precept each financial year as

a local precepting authority. The local council precept is a component of the total council tax levied on local government electors in the local council area.

Local councils do not receive any direct funding from central government therefore are reliant on the local precept and any other income they generate from the services or facilities that they provide.

The council tax requirement is the shortfall after the council has deducted its predicted income from its planned and estimated expenditure for the upcoming year. However, the council may decide to use some of its existing reserves to reduce the council tax requirement, or it may decide to increase its reserves to build up funds to enable future expenditure to be planned or to allocate to a longer term project.

The budget and precept both need to be approved at a full council meeting and minuted; the council must then manage its activities within budget.

The precept must be set by the council **before 1st March** of the preceding financial year and the RFO must advise the precept to the billing authority (district, borough or unitary council) no later than the end of February, although many

Before setting a precept, the council must calculate its council tax requirement by preparing and approving a budget.

billing authorities will request the information earlier. The local billing authority will add this amount to the council tax bills in the local council area, and then pay that amount over to the local council.

The amount is paid by the billing authority either at the beginning of the financial year in April, or paid in two instalments usually in April and September. Once the precept has been notified there is no provision for it to be increased for that year.

There is also a calculation for what is referred to as the Band D Equivalent. This is the middle band of council tax and aims to illustrate the amount of council tax paid on an average property in the area. It aims to provide a measure which enables average precepts across councils of different sizes to be compared. However, this measure may be less representative for councils that have a majority of houses towards the lower or upper ends of the bandings.

REFERENDUM PRINCIPLES

The Localism Act 2011 introduced statutory controls to restrict "excessive" increases in council tax by precepting authorities. Principal authorities are subject to referendum principles (often referred to as 'capping') for increases above a certain percentage determined as "excessive" by the government each year. This amount can often be as low as a 2% increase.

This then limits the council to a maximum % council tax increase for the year unless a referendum is held and the proposed increase is approved by electors.

So far local councils have had an unlimited power to precept. This is for several reasons including closeness to their local

electorate, the relatively low total precept as a proportion of overall council tax bills, the large % change that can result from a relatively small monetary increase, the cost of a referendum, and the fact that many local councils have needed to increase the precept to enable them to take over assets and services previously run by principal authorities.

However, the government has previously consulted on proposals to extend these referendum principles to local councils, particularly those "larger spending" councils with the highest total precepts and Band D equivalents, and the position is reviewed annually in the local government policy finance statement.

Whilst referendum principles have not been imposed on the local council sector at the time of writing, the government has previously stated that they expect local councils to "exercise restraint" and it is a measure that will be kept under review. Therefore the possibility remains that this restriction could be introduced at some future date especially for larger spending councils.

The introduction of referendum principles would be a major restriction on the ability of local councils to operate in line with the wishes of their local community, therefore it is important that councillors are able to explain and justify any large precept increases and demonstrate they have the support of the local community through consultation and communication.

This will also enable local councils to respond to any future government consultation on such measures with substantive evidence, facts and community engagement results relating to any past increases and specific issues restrictions may cause to future plans and objectives.

RESERVES

Local councils need to hold an amount in reserves to meet unexpected expenditure, otherwise they could run out of money before the end of the year.

A council should typically hold between three and 12 months' expenditure as a general reserve. If the general reserve is too low then it may not be enough to cover unexpected expenditure or emergencies, whilst if the general reserve is too high then local electors have paid a tax which is not being used for the benefit of the local community.

Local councils have no legal powers to hold revenue reserves other than for reasonable working capital or for specifically earmarked purposes, therefore the year-end general reserve should not be significantly higher than the annual precept.

The council may have 'earmarked reserves' for specific projects, where money is allocated for a specific purpose but may not be spent in that financial year. This may include reserves to purchase or renovate a building, develop a sports facility or community centre.

Many councils also hold an election reserve, as all reasonable costs of holding local council elections can be fully recharged by the district or unitary council to the local council. In the case of contested elections for a local council with several wards then these costs can be relatively high.

If the amount of reserves at the year end is more than twice the precept for that year, then the council must advise the external auditor as to why this level of reserves is required.

2. ACCOUNTING PRACTICE

Local councils are required to prepare a summary income and expenditure account and a statement of balances in the format set out in the annual governance and accountability return.

Where a council's gross income or expenditure is £200,000 or less for the current financial year (or for either of the previous two financial years), then it may simply prepare a summary record of receipts and payments.

Receipts and payments is a simple form of accounting which just records the 'cash' transactions when income is received and payments made during the financial year. It records transactions on the dates they were received or paid without considering the period to which they relate.

However, **if the council's gross income or expenditure exceeds £200,000** then the accounts must be prepared on an income and expenditure basis.

Income and expenditure accounting is a summary of all items of income and expenditure which relate to a financial year, which means income and expenditure owed or spent but which may not yet have been paid. It records transactions by the date or period to which they relate, rather than the date when they were received or paid. Adjustments are then made at the end of the year to take account of timings. This is similar to a profit and loss account in a commercial organisation.

The clerk/RFO must calculate what items should have been paid as at the year end (creditors/accruals), what has been paid in advance (prepayments), what income was owing (debtors) or what income has been received in advance.

Statutory accounting guidelines, termed proper practices, are available to the clerk/RFO in the publication *Governance and accountability for smaller authorities in England* which is also known as the "Practitioners' guide".

This is a technical guide providing extensive guidance for the clerk/RFO to support the preparation of statutory annual accounting and governance statements found in the Annual Governance and Accountability Return. It sets out the appropriate standard of financial and governance reporting for local councils and best practice guidance.

The guide is issued by the sector Joint Panel on Accountability and Governance (JPAG), published jointly by NALC and SLCC and available on their websites. It is updated annually, and the council should ensure it is using the latest version.

From March 2025 the guide will be issued by the Smaller Authorities' Proper Practices Panel (SAPPP), the new name for JPAG.

3. ANNUAL GOVERNANCE AND ACCOUNTABILITY RETURN (AGAR)

It is a statutory requirement to complete and publish the summary accounting statements contained in the Annual Governance and Accountability Return (AGAR), although most larger councils will also produce and publish a more detailed set of accounts.

This document needs to be completed by **every** local council regardless of size at the end of the financial year. It is the principal means of reporting to the public and forms the basis for both the internal audit, and if required, the external audit. It includes required templates for the Annual Internal Audit Report, Annual Governance Statement and Accounting Statements.

Legislation requires a council to prepare accounting statements for each financial year, which then must also be externally audited for **all councils with an annual turnover over £25,000**. This is a further audit carried out so that local taxpayers can be assured that risks to public money have been managed.

Councils with turnover of £25,000 or less that meet the exemption criteria from external audit must still complete and publish an annual governance and accountability return. However, only a certificate of exemption needs to be agreed, signed, published and submitted to the appointed external auditor.

All income (such as grants) and expenditure must be included when assessing the £25,000 threshold – if a council wrongly

certifies itself as exempt from external audit, then a public interest report with costs will be issued by the external auditor.

GOVERNANCE

Governance provides the necessary structure for the efficient running of the council. It demonstrates to the public, partners and stakeholders that the council is acting responsibly and transparently within the current legislation. It minimises the risk of the council being non-compliant or unlawful in its operations and the risk of fraud or corruption.

The council must approve an annual governance statement by resolution of the full council, and then needs to consider and formally approve its statement of accounts and the annual return before 30th June each year.

WHAT ARE THE ANNUAL GOVERNANCE ASSERTIONS?

The annual governance statement forms part of the AGAR and contains a list of annual governance assertions, with which the council, as a corporate body, needs to assert that it has complied. To be able to confidently make these assertions councillors need to have sound information about the operation of internal controls.

These assertions acknowledge the responsibility of councillors for ensuring a sound system of internal control and governance arrangements during the past year, confirming as the members of the council that they have:

- *put arrangements in place for effective financial management during the year, and for the preparation of the accounting statements.*

This means that the council has prepared its accounting statements in accordance with the legislation (detailed in the practitioners' guide) and in the correct format.

- *maintained an adequate system of internal control, including measures to prevent and detect fraud and corruption and reviewed its effectiveness.*

  This means that the council has made proper arrangements and accepted responsibility for safeguarding the public money and resources in its charge.

- *taken all reasonable steps to assure ourselves that there are no matters of actual or potential non-compliance with laws, regulations and proper practices that could have a significant financial effect on the ability of this council to conduct its business or manage its finances.*

  This means that the council has only done what it has the legal power to do and has complied with Proper Practices.

- *provided proper opportunity for the exercise of electors' rights in accordance with the requirements of the legislation.*

  This means that during the specified period the council provided the opportunity for local electors to inspect the council's accounts and ask questions if necessary. The council must publish a notice on its website stating the time period during which electors can view the accounts and ask questions – this is a period of 30 working days which must include the first 10 working days of July.

- *carried out an assessment of the risks facing this council and took appropriate steps to manage these risks, including the introduction of internal controls and/or external insurance cover where necessary.*

  This means that the council considered and documented the financial and other risks it faces and dealt with them properly. For example, the council has a risk register which is regularly reviewed, considered risk management reports during the year, or includes a risk section in all council reports.

- *maintained throughout the year an adequate and effective system of internal audit of the accounting records and control systems.*

  This means the council arranged for a competent person, independent of the financial controls and procedures, to give an objective view on whether internal controls meet the needs of the council. This would include the appointment of a suitable independent internal auditor and consideration of the internal audit report.

- *taken appropriate action on all matters raised in reports from internal and external audit.*

  This means that the council considered the internal and external audit reports and responded to any matters brought to its attention by internal and external audit.

- *considered whether any litigation, liabilities or commitments, events or transactions, occurring either during or after the year end, have a financial impact on this authority and have included them in the accounting statements.*

This means the council has disclosed everything it should have about its business activity during the year including any events taking place after the year-end. For example, such as an impending claim against the council.

The final assertion is only for councils that manage trust funds including charitable trusts:

- *as the sole managing trustee, discharged our accountability responsibilities for the funds/assets, including financial reporting and, if required, independent examination or audit.*

  This means the council met all its responsibilities where, as a corporate body, the council is a sole managing trustee of a local trust or trusts. For example, a council may be the sole managing trustee of a village hall. (More information on trustees can be found in section 17).

The annual governance statement must be approved by the council and signed by the chair and clerk of the meeting where approval was given. This must be completed **before** approving the accounting statements.

WHAT ARE THE ACCOUNTING STATEMENTS?

The AGAR also includes accounting statements which are a summary of income and expenditure, specifically including the precept, staff costs, loan interest and capital repayments, value of cash and short-term investments, total fixed assets and long-term investments, and total borrowings.

These should have been prepared by the clerk/RFO in accordance with the practitioners' guide and present fairly the financial position of the council.

The figures required are for the previous two financial years and explanations provided for any significant variances.

Following completion of the accounts at the close of the financial year (31st March), the accounting statements must be certified by the RFO **before** being presented to a full council meeting for approval and signed by the chair of the meeting. This approval meeting must take place **before 30th June**, following which the AGAR or Certificate of Exemption must immediately be sent to the external auditor.

PUBLICATION

The approved and signed Annual Governance Statement and Accounting Statements must be published on the council website/webpage **before 1st July**.

4. AUDIT

Councils must ensure that they have adequate and effective financial management, with a sound system of internal control. They are required by legislation each financial year to conduct a review of the effectiveness of internal controls and approve an annual governance statement in accordance with "proper practices" in relation to accounts.

There is a dual system of independent annual audit, namely 'internal audit' and 'external audit', which fulfil different purposes.

INTERNAL AUDIT

Every local council must undertake an effective internal audit to evaluate the effectiveness of its system of internal control, risk management, and governance processes.

Internal auditing is an independent, objective assurance designed to improve the operations of the council. It brings a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes. It places more emphasis on systems and processes than the accuracy of figures.

The purpose of internal audit is to review, evaluate and report to the council on whether its systems of financial and other internal controls over its activities and operating procedures are working effectively. It **does not** involve the detailed inspection of all records and transactions of an authority to detect error or fraud.

The council arranges for an internal audit by appointing a competent person, acting independently of the council, to check the council's financial systems and internal controls. The internal auditor could be a local competent individual, a firm of accountants or auditors, or a principal authority service. It **must not** be a councillor, or an officer involved with the finances of the council.

There is a best practice guide for internal audit in the "Practitioners' guide" which sets out the basic requirements for the conduct of an effective internal audit.

The auditor will carry out tests focusing on areas of risk and produce an internal audit report for the council which should focus on key internal control objectives covering key financial and accounting systems. The findings of the internal auditor are reported to the council.

The internal auditor must confirm and report on the internal control objectives and sign the annual internal audit report which forms part of the Annual Governance and Accountability Return. It is recommended as best practice to publish the Annual Internal Audit Report in the AGAR and any other report of the internal auditor. The council must respond to any matters reported to them with actions recorded in the minutes.

EXTERNAL AUDIT

Local councils are subject to a 'light touch' system of external audit known as a limited assurance review, rather than a full audit if annual turnover does not exceed £6.5 million.

HOW IS THE EXTERNAL AUDITOR APPOINTED?

External auditors are appointed for the council by Smaller Authority Audit Appointments (SAAA), which is a not-for-profit sector-led body established by the sector membership organisations to provide a compliant and cost-effective auditor procurement and appointment service for local councils and other smaller authorities. Local councils are automatically opted-in to this central procurement service unless they specifically choose to opt-out and undertake the complex procurement process to appoint their own external auditor.

External auditors (usually large national accountancy and audit firms) are appointed for a five-year period and the council will be advised by SAAA of their appointed auditor (appointments are usually made on a county basis).

SAAA also sets the fees for the external audit based on the turnover of the council and publishes a fee scale.

WHAT IS THE ROLE OF THE EXTERNAL AUDITOR?

The appointed auditors review the annual governance and accountability return (AGAR), which is the principal means by which the council is accountable to its electorate. All members of the council have responsibility for making sure that the AGAR accurately presents the financial management information of the council.

The audit work that the external auditor is required to undertake is set by the National Audit Office in a published auditor guidance note "Specified procedures for assurance engagements at smaller authorities."

The external audit firm will review the governance assertions, check that the accounting summary is consistent and

reconciles with the bank account, and that year-on-year variances are explained.

They review the AGAR for a fixed scale fee dependent on the annual turnover of the council and provide an independent opinion on the council's financial statements.

The amount of testing work undertaken by the external auditor increases at various income/expenditure thresholds; councils with income or expenditure exceeding £200,000 are subject to an 'intermediate audit', with further testing undertaken at the thresholds of £500,000 and £2,000,000.

The annual audit process requires the council to advertise the availability of its accounts and supporting documents for inspection by "interested persons" (usually local electors) for **a six-week (30 working days) period which must include the first 10 working days of July**. This is known as the inspection period or "period for the exercise of public rights."

The documents that can be inspected are the accounts to be audited and all books, deeds, contracts, bills, vouchers and receipts relating to them for that financial year. The inspection must be about the accounts or relate to an item in the accounts – documents that are unrelated to the accounts, include personal information about staff, or information which is protected by commercial confidentiality cannot be inspected.

During this six-week period, interested persons can ask the auditor questions about the accounts for that year, and a local elector can raise an objection with the external auditor if they believe an item of expenditure is unlawful or there are serious matters of wider concern, for instance around corporate governance, arising from the authority's finances. The objection cannot be for reasons such as disagreeing with

a lawfully taken decision of the council, and the auditor is only obliged to consider the objection and may decide not to investigate further.

If all is in order and the council has acted properly during the year then it will receive the signed external auditor's certificate and an "unqualified opinion" on the annual return. This means that nothing has come to the external auditor's attention that gives cause for concern, although the external auditor may wish to bring some minor matters to the attention of the council ("other matters").

Finance questions for a new councillor to ask

- What is the total income of the council and how much is the precept?
- What are the largest items of expenditure in the budget?
- What level of reserves does the council have and for what purpose?
- What were the key findings and any recommendations from the latest internal audit and external audit reports?
- Where on the local council website are the financial documents published?
- What finance training is available for councillors?

If the external auditor has any cause for concern that relevant legislation or regulatory requirements have not been met, then the auditor will 'qualify' the accounts ("except for matters") on the external auditor report and certificate, which are serious issues that must be addressed by the council.

PUBLICATION

The council must then publish on its website a notice stating that the audit has been completed, the external auditor's report and certificate, and the annual governance statement and accounting statements. These must be published by **no later than 30th September**.



Age Cymru/unsplash

5. DISCLOSABLE PECUNIARY INTERESTS (DPIS)

A disclosable pecuniary interest or DPI is basically any relevant financial or business interest that a councillor should be open about in relation to council business.

It is considered essential that there is confidence that all councillors are putting the public interest first and not benefiting their own financial affairs from being a councillor. Accordingly, there are national rules about councillors' interests.

The basic principle is that a councillor should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare any interests and relationships.

The national rules require a council to adopt a code of conduct for its members and to have a register of members' interests. For a local council, the monitoring officer of the district, borough or unitary council must establish and maintain the local council's register of members' interests.

DPIs include employment, trade, contracts, ownership of land and assets, and business interests in the local council area.

Other interests are usually non-pecuniary or personal interests. The council's code of conduct will determine what actions must be taken in respect of personal interests.

A councillor must disclose to the monitoring officer of the principal authority any DPIs and any other disclosable interests referred to in the council's code of conduct

within 28 days of becoming a member of the council. The monitoring officer will compile a register of interests which is available to the public, usually on the principal authority website.

This rule on disclosure also applies to councillor's spouses, civil partners or cohabitees, as if their interests were those of the councillor. The register of interests does not distinguish between a councillor's interests and those held by a partner.

If the monitoring officer decides that, by making a disclosable interest public, a councillor might be subject to a threat of violence or intimidation, the interest can be registered but with the details withheld from the public register. This is known as a sensitive interest.

A copy of disclosable interests should be given to the clerk for the local council's website, or it can be published on the website of the principal authority with a link on the local council website to where the information is located.

If a councillor (or his/her partner) has a DPI in any matter to be considered on the meeting agenda, then they must declare that interest and not take part in the discussion or vote on the matter without a dispensation.

If the DPI is not recorded in the register and relates to any business considered at a meeting where you are present, you must disclose this to the meeting and tell the monitoring officer about it so that it can be added to the register within 28 days.

For instance, if a planning application is made by a councillor relating to their own property, then the councillor clearly has a financial interest in the outcome of that planning application. Therefore taking part in discussion and voting on their own planning application is clearly a DPI.

However, liability to pay council tax does not create a DPI, as it is a decision affecting the general public in the council area rather than an individual.

The declaration of interests' item on meeting agendas gives councillors an opportunity to declare an interest early in a meeting and is intended to give the public confidence in council decision making.



Sincerely Media/unsplash

DISPENSATIONS

The local council can decide that a councillor with a DPI can participate and vote on a council motion by granting a dispensation if it is thought appropriate. A councillor who has a DPI but thinks they should be able to participate in the discussion and vote on the matter, should make a request in writing to the council through the clerk.

Dispensations are a safe way of removing any doubt or any theoretical risk of prosecution.

If you cease to have an interest, that interest can be removed from the register. If you cease to be a member of the council, all your interests can be removed from the register.

FAILURE TO DISCLOSE

There are a number of potential criminal (rather than civil) offences associated with the failure to register or disclose a DPI and discussion and/or voting on a DPI.

If you have a DPI and you fail to register it or participate in a meeting without dispensation, then under the Localism Act you have committed a criminal offence. The aim of the offence is to sanction those very few councillors at all levels who might deliberately abuse public office for their own financial benefit.

Sanctions are a fine of up to £5,000 and disqualification for five years from the local council and other local authorities.

6. BANKING AND PAYMENTS

BANK MANDATE AND SIGNATORIES

The council should have a bank current account for its day-to-day banking requirements either with one of the traditional providers or a smaller community orientated bank. The clerk/RFO is responsible for setting up the banking arrangements as approved by the council.

The bank mandate and list of authorised signatories must be approved by the council. It is sensible to have several councillors as signatories to allow for absences and changes, and whilst not all councillors will be a signatory to the bank account, all councillors remain responsible for the council finances. It is important to remove a councillor from the bank mandate as soon as they cease to be an elected member.

The bank mandate should require at least two councillors to authorise all payments and/or sign all cheques; the clerk/RFO should only be a signatory in conjunction with two other councillor signatories.

The council may make payments either electronically or by cheque, and there should be a system in place to reduce the risks of error or fraud. All payments must be authorised by the council or under authority delegated by the council. Even where a purchase has been authorised, the payment must also be authorised to allow the funds to leave the council's bank account.

Electronic banking has now become more widespread and provides an easier and more efficient way of making council

payments; adopting electronic payment systems improves the efficiency and traceability of transactions. However, it is important to ensure that proper controls are in place and that payments are always authorised by two signatories.

If the council uses internet banking the clerk/RFO should be appointed as the 'Service Administrator'. The bank mandate should be agreed by the council and identify councillors authorised to approve transactions with a minimum of two people involved in any online approval process. The clerk may be an authorised signatory, but no signatory should be involved in approving any payment to themselves.

The Service Administrator can set up items due for payment online, and send a list of payments for approval, together with copies of the relevant invoices, to authorised signatories to approve each payment using the online banking system.

Direct debits and standing orders are permitted if approved by the council. Regular payments (such as gas, electricity, telephone, broadband, water, rates, HMRC payments) may be made by variable direct debit, provided that the instructions are approved by two authorised signatories. The approval of the use of each variable direct debit should be reviewed at least every two years.

Fund transfers within the banking arrangements can be delegated with the payments submitted to the next appropriate meeting.

A full list of all bank payments made in a month should be provided to the next council meeting.

Any cash and cheques received should be entered into the accounting records on the date of receipt and banked

promptly, without any of the cash being kept back for spending.

The council may also have separate interest-bearing bank accounts to hold funds either for general reserves or ear-marked reserves for specific projects.

APPROVAL OF PAYMENTS

The council must have safe and efficient arrangements for making payments to safeguard against the possibility of fraud or error.

Invoices for payment should be checked and verified to confirm that the work, goods or services were received, and represent expenditure previously authorised by the council. Where invoices are certified as a batch or listing, they should include a statement by the RFO that all invoices listed have been 'examined, verified and certified' by the RFO.

It is usual for the clerk/RFO to have delegated authority to authorise payments in certain circumstances. For instance, this may include smaller payments within an agreed budget, and larger payments where there is a risk to safety or delivery of services, or to comply with contractual terms where payment is due before the next meeting. The payment amounts under delegated authority should be commensurate with the income and budget of the council and any limits can be defined in the financial regulations

Any Debit Card issued should be restricted to the clerk/RFO with a single transaction maximum value. A pre-paid debit card may be issued to employees with varying limits set by the council. Any corporate credit card opened by the council may be specifically restricted to use by the clerk/RFO and

any balance should be paid in full each month. Transactions and purchases made should be reported to the council.

Personal credit or debit cards of officers or councillors should not be used under any circumstances. As well as not complying with financial regulations, this may also prevent the council recovering any VAT due.

Payments should be supported by invoices and/or receipts, and councillors should never sign blank cheques as this presents a very high risk of fraud. Cheques should not be passed through any other bank account, nor should the council account be used to pass cheques for other local organisations.



Janay Peters /unsplash

The RFO must ensure that all salary and associated payments for council employees comply with HMRC PAYE rules.

The latest accounting records, including all payments for approval and any payments made since the last meeting, bank statements and a bank reconciliation should be available at every council meeting and should be signed and certified as correct by the chair of the meeting.

In cases where a fraud has been discovered having gone undetected for some time, it is usually because matters have been taken on trust and accounting records not properly examined, particularly actual bank statements.

FINANCIAL SERVICES COMPENSATION SCHEME

The Financial Services Compensation Scheme (FSCS) extended its protections in 2015 to include 'small local authorities', which are defined as authorities with an annual budget of less than €500,000 (currently £430,000, updated annually). This means that small councils with an annual budget under this limit have the same protections as individuals, and deposits of up to £85,000 per UK bank or building society are fully protected if a UK authorised financial services firm fails.

For larger councils with budgets over this limit there is no FSCS protection and an investment strategy should be agreed to establish set formal criteria for any investments.

7. SPENDING POWERS

In addition to having a power to levy a precept each year, the council has the power to incur expenditure.

Legislation permits local councils to exercise a wide range of discretionary statutory powers to provide additional services and/or amenities in their area. These powers include a wide variety of things such as providing litter bins, lighting, transport, public toilets, and recreation facilities.

However, the council must have the legal power to act and use a specific statutory power to undertake an activity and incur expenditure on specific activities or items. If there is no legal power to act then that decision and expenditure could be legally challenged as being 'unlawful'. The clerk should be able to advise on the statutory powers available for expenditure.

GENERAL POWER OF COMPETENCE

A local council may be eligible to use the "general power of competence" (GPC) if it can meet certain conditions, which gives it the power to do anything that an individual can do (unless specifically prohibited) and does not have to rely on specific powers. The conditions for eligibility are that the council must pass a resolution, have a 'qualified' clerk who has passed a specified sector qualification, and have two-thirds of councillors elected or have stood for election, even if unopposed (but not co-opted or appointed).

The aim of providing eligible local councils with the general power of competence is to enable them to take on an enhanced role and allow them to do things they had previously been unable to do under existing powers. This general power is useful and should give local councils adopting it confidence in their legal capacity to act for their communities, and to provide cost-effective services and facilities to meet the needs of local communities.

If a council does not have the general power of competence, then it either must rely on a specific power or the power under s.137 of the Local Government Act 1972.

SECTION 137 EXPENDITURE

This refers to a section of the Local Government Act 1972, usually known simply as "Section 137", which enables a local council to spend a limited or capped amount of money for purposes for which they have no other specific statutory power.

Section 137 is used when there is no other specific power and confers powers to make grants to voluntary bodies, organisations providing not-for-profit public services, fund raising events and to contribute to charities and disaster appeals. Examples of s.137 expenditure include village histories, plaques, prizes, flood relief, landscaping and flower shows.

Section 137 expenditure is limited to a specified amount each year, which is then multiplied by the number of electors in the parish. The set amount is increased for inflation and advised by MHCLG annually.

8. INVESTMENT AND CAPITAL RECEIPTS

INVESTMENTS

A local council has the power to invest surplus funds for "any purpose relevant to its functions or for the purpose of prudent financial management."

The Ministry of Housing, Communities and Local Government (MHCLG) issues guidance for councils which can be considered and adopted where investments may exceed £10,000 at any time during a financial year, and this statutory guidance must be followed where investments exceed £100,000.

The guidance recommends that the council prepares an investment strategy which should be approved by full council before the start of each financial year, setting out policies for the prudent investment of funds that it holds on behalf of the local community. The strategy should give priority firstly to the security of those investments and, secondly, to their liquidity (availability).

Specified investments are defined as those with relatively high security and high liquidity and must be in sterling with a maturity of no more than a year. Investments with the UK government and those with financial institutions with high credit ratings of under one year would fall into this category.

If the council is considering investments that are non-specified investments, then it should consider obtaining independent professional advice. If it is considering fixed or longer-term investments then the council should be clear

on future spending plans as obtaining early repayment can be costly.

The council should identify the procedures for monitoring, assessing and mitigating the risk of loss of invested sums and for ensuring that such sums are readily accessible for expenditure whenever needed.

CAPITAL RECEIPTS

A capital receipt is generally a receipt arising from the disposal of an interest in a capital asset. A receipt of under £10,000 is not treated as a capital receipt, but as income; therefore only receipts over £10,000 can be capital receipts, and then only if they arise from the disposal of an interest in a capital asset (such as land or buildings) or a long-term investment.

Grants received by the council are not capital receipts and neither are Community Infrastructure Levy receipts.

Local councils can only use capital receipts to meet capital expenditure, or to repay debts or other borrowings.

Capital receipts cannot be mixed with the council's general funds or used for grants; therefore they should be held in a separate bank account. In the accounts they are not treated as income but as 'other receipts'.

9. PROCUREMENT

A local council must make provision for the competitive tendering for contracts for the supply of goods and services or execution of works (procurement) in both its standing orders and financial regulations. However, it can set a limit below which a competitive tendering exercise is not required, which will be influenced by the size of the council, level of precept and likely contracts.

Financial regulations should then set out the procedure for purchasing goods and services above a certain value.



Gabrielle Henderson /unsplash

Members and officers are responsible for obtaining value for money at all times. Any officer procuring goods, services or works should ensure, as far as practicable, that the best available terms are obtained, usually by obtaining prices from several suppliers.

For **contracts over £30,000** (including VAT) local authorities are required by legislation to publish information on contracts they intend to award on the government "contracts finder" service if they have undertaken an open competitive tender process. They must also publicise the award of contracts over £30,000 regardless of whether they were advertised.

The requirement to obtain competitive prices need not apply to contracts that relate to items such as specialist services, legal professionals acting in disputes; repairs to existing machinery or equipment; extensions of an existing contract; goods or services that are only available from one supplier.

It will be generally appropriate to exclude members of the public from the meeting when discussing tenders and awarding contracts.



10. CAPITAL EXPENDITURE AND BORROWING

Capital expenditure means expenditure on the acquisition or improvement of a capital asset such as land and buildings, vehicles or machinery expected to be of benefit to the council or its area or its inhabitants for more than a year. Unlike with capital receipts, expenditure of any amount can be capital expenditure

Major capital projects such as the purchase of land or construction of buildings should not be embarked upon without a detailed feasibility report and a full financial appraisal being considered, covering funding sources, cashflow forecast, revenue and future budget implications.

Procedures for the management of large capital projects should be covered by Standing Orders. These should require payments to be against certified completions under a planned and approved programme of works, governed by a properly negotiated contract, and supervised by a named authority officer.

These larger projects which the council wishes to undertake are unlikely to be financed by the precept or other income in a single year, which then may require the council to borrow funds for the capital expenditure to be repaid over several years.

Local councils have the power to borrow money for statutory functions or for prudent management of their financial affairs, but it should only be for capital expenditure.

Any decision to borrow money must be taken by the full council, not a committee or officer.

PUBLIC WORKS LOAN BOARD (PWLB)

Local councils usually borrow from the PWLB which is a government lending facility operated by the UK Debt Management Office (DMO) on behalf of HM Treasury and provides loans to local authorities from the National Loans Fund, operating within a policy framework set by HM Treasury who also set the interest rates. This borrowing is for capital projects.

Loans to local councils are automatically secured on the revenues of the council rather than on any property or specific assets.

The council needs to obtain a borrowing approval from the Ministry of Housing and Communities and Local Government (MHCLG); an application form should be submitted through the local county association of local councils (CALC). If the application is agreed, MHCLG will send the council a borrowing approval letter which will set out the purpose of a loan, the amount, the maximum period and various conditions that need to be fulfilled. It will specify how much the council can borrow, and the maximum term of the loan period.

When a council decides to borrow from the PWLB the interest rate will reflect the cost of government borrowing to finance the loan; rates are set by statute and not at the discretion of the PWLB. Setting rates with reference to government borrowing rates allows councils to share the low rates at which the government can borrow. There is an arrangement fee payable.

Two types of loan are available from the PWLB:

- **Fixed-rate loans**, where the interest rate is fixed for the term of the loan, minimum term 12 months and maximum of 50 years, half-yearly repayments;
- **Variable-rate loans**, where the interest rate is variable at one-, three- or six-monthly intervals, minimum term 12 months and maximum of 10 years, half-yearly repayments.

Local councils may also borrow from other lenders including banks, other local councils or principal authorities, public trusts and foundations.

Temporary borrowing by way of a bank overdraft is permitted without government approval only where funds are needed quickly and funds are expected but have not yet reached the council. It is not permitted pending receipt of a promised grant or pending receipt of funds from the sale of land.



11. GRANTS

MAKING GRANTS

Grant applications will often be made to the council by local bodies, societies and clubs such as sports clubs, residents associations, conservation groups, charities, allotment holders etc.

It is useful for the council to agree and publish a grant making policy setting out the type of funding and organisations that the council will consider assisting, provide a standard grant application form, and an indication of the decision-making process and timescales.

The clerk should check that the council has the statutory power to make the grant. Local councils are empowered to make grants to voluntary bodies, charities, disaster appeal funds, and where in the council's opinion the grant will benefit any part of its area or any of the inhabitants.

The council can also make a capital grant or loan to a non-profit making voluntary organisation to provide recreational facilities which the council would also have power to provide, such as a sports centre or playing field. The advantage of providing such grants or loans is that a voluntary organisation can often also apply for other grants and loans for a project that are not available to local councils.

If the value of a grant exceeds £2,000 in any one year the council must make it a condition that a written report is provided on how the money has been used, although this is generally good practice for all grants.

The council can attach whatever conditions it chooses to a grant or loan; it is also good practice to ask applicants to produce financial statements and details of other fund-raising activities.

RECEIVING GRANTS

Local councils may apply for a range of grants from various sources such as lottery funding for a number of specific purposes. Grants can be a useful addition to council income or can enable projects that may not otherwise be possible. These could range from a grant towards a new playground or the village hall, to a large National Lottery Heritage Fund application to purchase and restore a significant community asset.

Councils can often access central government funding to support specific initiatives such as neighbourhood planning, with such opportunities being publicised by the sector membership organisations.

Various organisations and government departments often publicise the availability of funding, county associations and principal councils can provide advice, and the clerk/RFO should be aware of various potential sources of additional funding.

12. DEVOLUTION OF ASSETS AND SERVICES

Due to funding pressures, many principal authorities have sought to devolve assets and services to local councils to operate and fund. These may often appear attractive as it can mean that the asset or service can be better managed by the local council at the most local level for the benefit of the community, the local council may be able to provide better value for money, or sometimes there may be the threat that the service will simply cease to operate if the local council is not prepared to take it over.

Whilst there are many examples where this devolution of services has worked very well for the local council and community, they will usually result in increased costs and therefore require an increase in budgets and the local precept.

Local councils should therefore ensure that they have full information and undertake due diligence as to the likely/potential costs and impacts on budgets both in the short term and the longer term. For instance, if a large building or open space is being taken on, what are the ongoing maintenance costs and what is the state of repair of any building where the council will become liable for maintenance and repairs. It is important to ensure that surveys are obtained otherwise the local council may find itself liable for unexpected costs e.g. a new roof or major structural repairs. These potential costs can then be factored into any negotiations with the principal authority prior to any transfer.

If the new assets and services are likely to result in a large precept increase then it is important that the council consults with the local community on its plans setting out the likely costs against the community benefits.



Troy Mortier /unsplash

13. PLANNING AGREEMENT FUNDS AND LEVIES

Planning agreements are designed to fund infrastructure to support local developments.

SECTION 106 AGREEMENTS

Section 106 of the Town and Country Planning Act 1990 allows a Local Planning Authority (LPA) to enter into a legally binding agreement or planning obligation with a landowner as part of the granting of planning permission. The obligation is termed a 'section 106 agreement.'

Developers are charged a contribution by the LPA depending on the size and number of dwellings being built. This money is used to develop facilities to support the additional residents living in the community.

These agreements aim to address issues that are necessary to make a development acceptable in planning terms. They can be used to support the provision of services and infrastructure, such as highways, recreational facilities, health and affordable housing.

Local planning authorities should work with local councils to deliver community benefits and improvements in the parish, ward, town or area relating to the location of the development from which the contribution was received.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

The Community Infrastructure Levy (CIL) runs in tandem with s.106 agreements and is a charge which, if adopted, can be levied by local authorities on new development in their area. It is an important tool for local authorities to help them deliver the infrastructure needed to support development in their area.

A Local Planning Authority (LPA) does not have to adopt CIL, but it is the government's preferred means of securing funding from developers for community infrastructure. The money can be used to fund a wide range of infrastructure that is needed as a result of development.

CIL came into force as a new way of securing developer contributions towards infrastructure provisions and can be a replacement for individually negotiated Section 106 agreements. It allows local planning authorities to raise funds from developers undertaking new building projects in their area.

CIL is a non-negotiable charge (based on a charging schedule set by a planning authority for its area) on the amount of new floor space created by development. There are some exceptions where it is not charged, such as small residential extensions and social housing.

The levy is also designed to incentivise communities to welcome and promote new development in their area. The regulations require the LPA to pass a proportion of CIL funds raised in a particular area to the relevant local council. The figure is 15%, subject to an annual cap or maximum amount (the cap is £100 multiplied by the number of council tax dwellings in the parish).

When a development liable for CIL is built in an area covered by an adopted Neighbourhood Plan (a local development plan for a specific place), then the relevant local council will receive 25% and there is no annual cap.

Whilst principal authorities can only spend CIL on infrastructure projects, local councils can spend their CIL funds more widely on anything concerned with addressing the demands that development places on an area. The funds cannot be used for everyday expenditure, but infrastructure can include physical, social and green infrastructure e.g. cycleways, community halls, parks and play areas.

The monies must be spent within five years of receipt.

The Levelling Up and Regeneration Act 2023 contains provisions and sets out a general framework for a new Infrastructure Levy (IL) to replace CIL and reduce the use of s.106 agreements. However, its detailed design will be delivered through future Regulations.



Ave Calvar /unsplash

14. VALUE ADDED TAX (VAT)

VAT can be a complex area for local councils and many have found themselves in breach of HMRC regulations through a lack of understanding.

The basic premise is that a local council can recover the VAT paid for non-business activities without being VAT registered, where the council acts as a public authority and provides free services (such as children's play areas or street lighting). For many smaller councils, this may just mean submitting a VAT reclaim form.

However, a local council may need to register for VAT if it charges people in furtherance of a business, for instance by charging for sports facilities. Councils are required to register for VAT if the amount of VAT that would be charged is over £1,000 annually. The council needs to understand whether it is making taxable supplies (which attract VAT) or not, as not all charges are subject to VAT.

Charging for the supply of goods or services is normally a taxable business activity. Examples include café sales, advertising, car parking and admission to events such as firework displays. A council that is not VAT registered (with a VAT number) must not charge VAT and it is not entitled to reclaim VAT incurred on costs relating to its taxable business activities.

To recover the VAT attributable to its non-business activities, a local council must order the goods or services, receive the

supply of goods or services, receive a VAT invoice addressed to the council and pay from its own funds.

A common area where councils find themselves in breach of the regulations is where a local organisation or trust requests that the local council purchase some equipment on its behalf so it can then reclaim the VAT for them.

If the council is not purchasing the equipment for itself and will not own the asset, then it cannot pass the invoice through its books to reclaim the VAT for another organisation. This is unlawful and could result in a VAT investigation and a fine or penalty.

However, if the council purchases equipment using its own funds and then chooses to donate the equipment to a local organisation then it is allowed to reclaim the VAT as it has purchased the items with its own public funds.

The adverse consequences of VAT mistakes can be severe if the council is undertaking a large building or development project and could potentially involve the council in thousands of pounds of unbudgeted expenditure.

Detailed guidance on VAT is published by HMRC, but it is sensible to seek written professional advice on the VAT implications before any major project is commenced. The council should not assume that it will simply be able to claim back any VAT paid.

15. RISK MANAGEMENT

The council must ensure that it has a sound system of internal control, which delivers effective financial, operational and risk management.

The accounting control systems determined by the RFO must include measures to:

- ensure that risk is appropriately managed;
- ensure the prompt, accurate recording of financial transactions;
- prevent and detect inaccuracy or fraud;
- allow the reconstitution of any lost records;
- identify the duties of officers dealing with transactions, and
- ensure division of responsibilities.

Local councils face a variety of risks, therefore it is important to have a risk management policy in place, then identify and assess key risks in terms of the likelihood and severity of any potential occurrence.

The clerk/RFO should prepare, for approval by the council, a risk management policy covering all activities of the council. This policy and risk management arrangements should be reviewed by the council at least annually.

The clerk/RFO should also prepare a risk assessment including risk management proposals when considering any new activity.

At least once a year the council must review the effectiveness of its system of internal control, which is a requirement before the annual governance statement can be approved at the end of the financial year.

RISK ASSESSMENT

It is important to ensure that all identified risks have been formally assessed and that written assessments are completed and kept on record, as this will assist and may be used in evidence in case of any claims.

All individual events organised by the council should have a risk assessment undertaken, especially for higher risk events such as firework displays. This should include checking that any contractors have appropriate insurance in place. An insurance company or broker is usually willing to offer advice before events and would rather be contacted in advance for guidance than afterwards following a claim.

An important part of risk assessment is in relation to health and safety risks. It is essential that all council equipment such as mowers etc. are properly maintained and regularly checked in accordance with all health and safety guidelines. Employees must have undertaken the required training and been provided with the correct safety and personal protection equipment.

A breach of health and safety responsibilities is a serious matter and may lead to an investigation by the Health and Safety Executive (HSE), who have a range of sanctions available including prosecution. In extreme cases involving a fatality a corporate manslaughter charge could be brought against the council if it is considered to have been grossly negligent.

RISK REGISTER

The council should maintain a risk register which should be reviewed and updated every year as part of the annual governance review.

The register should ideally specify and describe the risk, assess numerically the likelihood and the severity of the risk, which when multiplied together give a total risk score. In smaller councils it may be sufficient to assess the risk as low/medium/high. The council should then look at any risk mitigation measures that are already in place, and any additional measures that would further reduce the risk.

For instance, an identified risk may be an injury caused by council play equipment. Mitigation measures could include weekly inspections by a council official or councillor, annual inspections by a qualified engineer and a contact point for members of public to report any damage. These measures would assist a council in defending any public liability claim as they could demonstrate that the council had not been negligent.

To reduce the risk, a risk transfer mechanism would be to have adequate public liability insurance in place, which would transfer the financial risk to an insurance company who would seek to defend any claims and cover any compensation and legal costs awarded against the council.

16. INSURANCE

It is important that every local council is adequately insured through a reputable insurance company given the litigious nature of society today.

Key areas of risk that should be covered through insurance by the council are:

PUBLIC LIABILITY

Public liability is vital to protect the council against any legal liability for injury to people and/or damage to their property on any land or buildings for which the council is legally responsible. For example, if a child is injured on the council's play equipment, someone trips over in a park, or injures themselves in the village hall then the council may face a large compensation claim.

Seemingly minor incidents and injuries can sometimes lead to very high awards for damages and legal costs if it can be shown that the council has been negligent in some way. Therefore, it is important to ensure the sums insured are sufficient.

EMPLOYERS' LIABILITY

Employers' liability is a compulsory insurance if the council has any employees, such as the clerk. It covers the council against any injury or illness sustained by employees, councillors and volunteers whilst undertaking council business.

PROPERTY

If the council owns any property or physical assets these should be insured on a reinstatement or replacement basis. For buildings, it is important to ensure the sums insured are correct and would cover the rebuilding of the property. Professional valuations should be obtained where necessary.

Contents, including items such as computer equipment, should be covered on a 'new for old' basis to ensure they can be replaced if lost or damaged. Items of equipment should be recorded on an inventory list.

The council should maintain an asset register listing all the assets it owns. This should record the date and cost of acquisition, and a value for insurance purposes.

To ensure value for money, consideration should be given to the level of 'excess', or the initial sum of any claim that the council is prepared to pay; this will ensure the council is insuring significant losses and not small everyday minor losses.

BUSINESS INTERRUPTION

If the council runs an office or other facilities then this would provide cover for renting alternative accommodation whilst premises are repaired following an insured loss, such as a fire or flood. Loss of revenue can also be included if the council generates an income from a property, such as sports facilities, which is important if the revenue is being relied on to balance the budget.

LIBEL AND SLANDER

Libel and slander cover has become more important in recent years with the increased use of e-mail and social media. It provides protection against verbal or written comments made by the council which a member of the public considers to be both incorrect and damaging and causes financial loss. For instance, a derogatory comment by a councillor in an e-mail or recorded at a council meeting about a local tradesman could lead to a compensation claim for loss of business. Therefore it is important that councillors do not make damaging statements in any e-mail correspondence or on social media platforms, especially as e-mail trails are often circulated and forwarded on to others.

It does not cover councillors libelling each other.

It is advisable for a council to adopt a social media policy to ensure all councillors are clear on what is 'acceptable' to publish on social media platforms.

MOTOR

Motor insurance is compulsory under the Road Traffic Acts if the council owns any vehicles driven on a public road such as ride-on mowers etc. Cover is not compulsory if a tractor never leaves the council playing fields, but it is still advisable to cover third-party risks in respect of all council vehicles and equipment.

FIDELITY GUARANTEE

Fidelity guarantee covers the council against fraud or dishonesty by any official of the council including loss of property. Employment references must have been

obtained for all employees, therefore it is important to follow correct recruitment procedures if the council wishes to ensure it is covered.

HIRERS' INDEMNITY

This covers legal liability for hirers of council property should injury or damage occur. It gives the hirer cover against accidental damage to third party property and compensation for accidental injury to third parties during the period of the hire.

OTHER INSURANCES

There are other covers that can be purchased including money, terrorism, personal accident, legal expenses and cyber insurance.

The council should ensure that any contractors or event organisers have appropriate liability insurance in place.

Insurance will not cover health & safety fines; any criminal prosecution or sanction for a breach of health and safety legislation is the responsibility of the council.

If the council is unsure then it should discuss its policy with its insurance broker or insurance company; it is good practice to review the cover and sums insured annually.

Insurance Premium Tax cannot be recovered by the council.

17. CHARITABLE TRUSTS

A local council may find itself in the position of being a trustee of a charity. The charity can only operate in accordance with its objects and trustees must always act in the best interests of the beneficiaries.

Many local councils are trustees of community buildings such as village halls, whereby the council as a corporate body holds the property and oversees its application as charity trustee, either as sole trustee or joint trustee together with individual trustees. A local council can act as:

CUSTODIAN TRUSTEE

Unincorporated charities do not have their own legal identity, therefore when an unincorporated charity owns property or land it might appoint a custodian trustee to hold the title deeds on their behalf in perpetuity.

Many charities find it convenient to appoint the local council as custodian trustee because the council has a perpetual legal status and identity, therefore it is capable of holding charity property forever. The situation contrasts with individual trustees who may die or retire and, consequently, new trustees are then required and the charity property needs to be transferred into the name of the new trustees.

The custodian trustee holds the title to all property on behalf of the charity, and possibly any capital funds which are owned by the charity. However, it takes no decisions

on their use and has no responsibility for the day-to-day management and operation of the charity. The custodian trustee must act in accordance with the instructions of the managing trustees.

A local council does not have to be a custodian trustee – the Official Custodian for Charities is a corporation created by the government to hold land on behalf of charities.

SOLE OR JOINT MANAGING TRUSTEE

Managing trustees are responsible under the charity governing document for controlling the charity's management and administration.

The deed which created the charitable trust will usually specify how the managing trustees are to be appointed, which may give the local council the power to appoint one or more representatives. It is important to note that these representatives become trustees and therefore owe a duty to the beneficiaries of the trust rather than the council which appointed them.

If a council is the sole trustee, it should set up a committee with clear terms of reference as this will ensure that the charity business is kept separate and distinct.

The individual committee members are not charity trustees, it is the council as a corporate body which is the managing trustee. The committee will be governed in accordance with charity law and decisions made in the best interests of the charity, not the council.

Where the council is sole managing trustee of a charitable body the clerk/RFO must ensure that separate accounts are kept of the funds held on charitable trusts and separate

financial reports made, in accordance with Charity Law and legislation or as determined by the Charity Commission.

Charity funds must not be mixed with council funds.

Conflicts of interest between the council and the charity can often occur as well as the council not understanding that it must deal with the charitable property in accordance with the charitable trusts.

There is an additional governance assertion on the Annual Governance and Accountability Return that must be completed by local councils that are a sole managing trustee:

In our capacity as the sole managing trustee, we discharged our accountability responsibilities for the funds/assets, including financial reporting and if required independent examination or audit.

COUNCILLORS APPOINTED AS A TRUSTEE

Local councils may have the right (under the governing document) to appoint trustees. A council may appoint a councillor to be a trustee of a charity. If so:

- you, rather than the council, are responsible for the administration of the charity, along with your fellow trustees.
- you and your fellow trustees are personally liable for the decisions you make.
- you must act in the interests of the charity, not those of the council.
- you do not 'represent' the council on the trustee board.

APPENDICES

TRANSPARENCY CODE FOR SMALLER COUNCILS

A Transparency Code (the Code) was issued by the government for all smaller local councils with an annual turnover not exceeding £25,000 which came into force from April 2015.

The Code was developed to meet the government aim to give more power to citizens and to increase democratic accountability. Transparency aims to give local electors the information they may need to hold local councils to account.

It requires the online publication of certain information to allow local electors to access relevant information about council finances and provide taxpayers with a clear picture of council activities, spending, and governance.

The audit framework means that smaller councils with an annual turnover not exceeding £25,000 can exempt themselves from routine external audit. In its place, these councils are subject to the transparency requirements laid out in the Code.

COMPLIANCE WITH THE CODE

The data and information specified in this Code must be published on a website which is publicly accessible and free of charge.

Members and officers are responsible for obtaining value for money at all times.

For example, this requirement could be achieved by publishing the data on the council's own website or that of the billing authority in its area. It could also be achieved by publication on a community or village website that has a section for the local council.

The information should be published under separate headings as set out in the Code.

If the information is only displayed on local notice boards, then this is not sufficient to comply with the Code – it is required to be available on a website.

The provisions below apply to all councils with annual income or expenditure not exceeding £25,000.

PUBLICATION OF EXPENDITURE

Smaller councils are required to publish annually the details of each individual item of expenditure above £100.

Publishing a complete list of all expenditure transactions will meet this requirement, or alternatively a separate document of those items above £100 needs to be published. Information for each individual spending transaction above £100 rather than each item bought should be published.

For each item of expenditure above £100 the following information must be published:

- date expenditure was incurred;
- purpose of the expenditure;
- amount;
- VAT that cannot be recovered.

Councils should consider whether the Data Protection Act 1998 imposes any restrictions or constraints on publication and whether personal information should be withheld from publication.

PUBLICATION OF END OF YEAR ACCOUNTS

Smaller councils must publish their statement of accounts according to the format included in the annual return form (the annual return is covered in the audit section of this guide). The relevant page of the completed annual return form will meet this requirement.

The statement of accounts must be approved and signed by the Responsible Financial Officer and the chair of the meeting approving the statement of accounts.

The statement of accounts must be accompanied by:

- copy of the bank reconciliation for the relevant financial year;
- explanation of any significant variances (e.g. more than 10–15%, over £200) in the statement of accounts between the current year and previous year;
- explanation of any differences between 'balances carried forward' and 'total cash and short-term investments'

PUBLICATION OF ANNUAL GOVERNANCE STATEMENT

Councils must publish their annual governance statement according to the format included in the annual return form. The relevant page of the completed annual return form will meet this requirement.

The annual governance statement should be signed by the chair of the meeting at which it was approved and the clerk of the council. Where the governance statement contains any negative responses, these should be explained fully, including how any weaknesses will be addressed.

PUBLICATION OF INTERNAL AUDIT REPORT

Councils must publish their annual internal audit report according to the format included in the annual return form. The internal audit report must be signed by the person who carried out the internal audit. The relevant page of the completed annual return form will meet this requirement but should not be confused with the external auditor certificate and report.

If the internal audit report contains any negative response to the internal control objectives, these should be explained fully, including how any weaknesses will be addressed. Where the response to any internal controls objectives is 'not covered', an explanation of when the most recent internal audit work was completed in this area and when it is next planned should be provided.

PUBLICATION OF LIST OF COUNCILLOR RESPONSIBILITIES

Councils must publish a list of councillor or member responsibilities.

The list should include the following information:

- names of all councillors;
- committee membership and function (if chair or vice-chair) of each councillor;
- representation on external local public bodies (if nominated to represent the council) of each councillor

PUBLICATION OF LAND AND BUILDING ASSETS

Smaller local councils should publish details of all public land and building assets.

Where this information is included in the council asset and liabilities register, this register may be published in its entirety or as an edited version displaying only public land and building assets.

The following information should be published for each land and building asset:

- description (what it is, including size/acreage);
- location (address or description of location);
- owner/custodian, e.g. the council manages the land or asset on behalf of a local charity;
- date of acquisition (if known);
- cost of acquisition (or proxy value);
- present use

If no land and buildings are owned then it is useful to state this fact.

PUBLICATION OF MINUTES, AGENDAS AND PAPERS OF FORMAL MEETINGS

Councils must publish the draft minutes from all formal meetings (i.e. full council, committee and sub-committee meetings) not later than one month after the meeting has taken place. Even if the minutes have not been finalised the draft minutes should be published.

Councils must also publish meeting agendas, which are as full and informative as possible, and associated papers not later than three clear days before the meeting is taking place.

TRANSPARENCY CODE FOR LARGER COUNCILS (OVER £200K)

The Local government transparency code 2015 is recommended as best practice for local councils with either gross annual income or expenditure exceeding £200,000.

This code is not a mandatory requirement for a parish council whose gross annual income or expenditure is £6.5 million or less, as a statutory instrument (2015/480) created a dispensation for town and parish councils from the code.

However, larger councils may wish to follow the principles of the code to demonstrate transparency, and for those councils with over £6.5 million annual turnover the code is mandatory.

FURTHER READING

Transparency code for smaller authorities (gov.uk/government/publications/transparency-code-for-smaller-authorities)

Local government transparency code 2015 (gov.uk/government/publications/local-government-transparency-code-2015)

Openness and transparency on personal interests: guidance for councillors (gov.uk/government/publications/openness-and-transparency-on-personal-interests-guidance-for-councillors)

Local authorities (or councils) as trustees of charities – a guide for councillors (gov.uk/government/publications/local-authorities-as-charity-trustees/local-authorities-or-councils-as-trustees-of-charities)

Statutory Guidance On Local Government Investments. (3rd Edition) (https://assets.publishing.service.gov.uk/media/5a81fe0ee5274a2e87dc0946/Draft_guidance_on_Local_Government_Investments.pdf)

Local authority accounts: A guide to your rights. National Audit Office (www.nao.org.uk/wp-content/uploads/2022/08/Council-accounts-a-guide-to-your-rights.pdf)

Governance and Accountability for Smaller Authorities in England (Practitioners' Guide – updated annually) – available on NALC website www.nalc.gov.uk

The Good Councillor's guide 2024. NALC. (www.nalc.gov.uk/resource/the-good-councillors-guide.html)

Local councils explained. NALC.

Talyor, R (2022) A*rnold-Baker on Local Council Administration* (13th edition) LexisNexis Butterworths: London

TRAINING

Training for councillors, online and in person, is available through the County Association of Local Councils (CALC).

The clerk should receive regular notifications of upcoming courses and events – it is advisable to include a training budget in the overall council budget.

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The Good Councillor's guide

The Good Councillor's guide to community business

The Good Councillor's guide to cyber security

The Good Councillor's guide to finance

The Good Councillor's guide to neighbourhood planning

The Good Councillor's guide to transport planning

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