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 any possibility of fraud. No council wants to risk being the subject of adverse 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 projects it is important to ensure that specialist advice is obtained, especially in relation to subjects such as VAT.

STANDING ORDERS AND FINANCIAL REGULATIONS

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, model versions of which are available.

Financial Regulations govern, set-out and detail how the council conducts, controls and manages its financial affairs. They give instructions to the finance officer on how to conduct the financial administration of the council; for instance, they will set out the process for making and approving payments. These regulations should also set out the procedure for purchasing goods and services above a certain value, and may delegate certain expenditure within limits to the clerk/RFO.

They are approved by the full council and can only be amended by full council, and should be reviewed annually. All councils should have adopted a set of Financial Regulations - if the council has not adopted financial regulations then it is open to considerable risk and this should be rectified.

Model sets of financial regulations can be adopted and/or tailored – the National Association of Local Councils (NALC) publishes model financial regulations which are available from the local county association of local councils (CALC).

Standing Orders 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.

For contracts over £25,000, if an open competitive tender process has been undertaken then local authorities are required to publish information on contracts they intend to award on the government "contracts finder" service.

Procedures for the management of capital projects should also 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 supervised by a named authority officer.

Where the council is the sole trustee of a charity, the clerk/RFO needs to ensure that all legal and administrative requirements are met, and that separate accounts are kept of the charity transactions, which are audited and returns submitted.

BANKING AND INTERNAL CONTROLS

The council should have a bank current account for its day to day banking requirements either with one of the traditional high street providers, or a smaller community orientated bank. The council may also have separate interest bearing bank accounts to hold funds either for general reserves or ear-marked reserves for specific projects. The RFO is responsible for setting up the banking arrangements as approved by the council.

Local councils with a budget up to the equivalent of 500,000 euros are now "eligible depositors" under the Financial Services Compensation Scheme (FSCS), which provides protection for deposits up to £85,000 if an authorised bank or building society fails.

The bank mandate and list of authorised signatories must be approved by the council. It is sensible to have a number of councillors as signatories to allow for absences and changes, and whilst not all councillors need to be or will be a bank account signatory, all councillors still remain responsible for the council finances.

The bank mandate should require at least 2 councillors to sign all cheques and payments; the clerk/RFO should only be a signatory in conjunction with 2 other councillor signatories. It is important to remove a councillor from the bank mandate as soon as they cease to be an elected member.

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.

Cheques and 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.

Where electronic banking is used, arrangements should ensure that at least 2 people are involved in any transaction, one of whom must be a member. Direct debits and standing orders are permitted if approved by the council.

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 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 chairman of the meeting.

In cases where 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.

BUDGETING AND RESERVES

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 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.

Some larger councils find it useful to consider a 2 or 3 year rolling budget to provide continuity and a longer term plan on how they intend to meet their objectives.

Some local councils may budget to minimise spending to keep the local precept as low as possible, which may sometimes result in the council doing little for their local community. However, there is evidence that local taxpayers are willing to pay more if they can see the results in terms of better local services. 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. The council should consider consulting the local community for their views.

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. 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.

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.

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.

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

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 financial year.

A council should typically hold between 3 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 council with several wards then these costs can be relatively high.

If the amount of reserves at the year-end are above a certain level in relation to the annual precept then the council must advise the external auditor of why this level of reserves is required.

COUNCIL TAX PRECEPTS

The precept is the local council tax requirement 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 difference between the council's estimated income and estimated expenditure for the year. The council must approve a budget before it sets a precept. 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 has to be set by the council before 1st March of the preceding financial year, although many billing authorities will request the information earlier. The precept amount required is advised to the local billing authority (district, borough or unitary council), who 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 either paid by the principal authority at the beginning of the financial year in April, or paid in 2 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 is supposed to illustrate the amount of council tax paid on an average property in the area. It provides a measure which enables precepts across councils of different size to be compared. However, different areas have different mixes of housing which can mean that it does not reflect the actual average amount paid.

REFERENDA PRINCIPLES

The Localism Act introduced statutory controls to restrict "excessive" increases in council tax by precepting authorities. Principal authorities are subject to referenda principles (often referred to as 'capping') for increases above a certain percentage determined as "excessive" by the government each year, which can often be as low as a 2% increase. This limits the council to a maximum % council tax increase for the year unless a referendum is held and the proposed increase is approved by local electors.

So far, local councils have had an unlimited power to precept. This is for a number of reasons including closeness to their local electorate, the relatively low total precept amounts as a proportion of overall council tax bills, the large % change that can result from a relatively small monetary increase, the high cost of a referendum, and the fact that many local councils have increased the precept to take over community assets and services previously owned or run by principal authorities.

However, the government has consulted on proposals to extend referenda principles to local councils, particularly those "larger spending" councils with the highest total precepts and band D equivalents. Whilst referenda principles have not been imposed on any local councils at the time of writing, the government has stated that they expect local councils to "clearly

demonstrate restraint" when increasing precepts that are not a direct result of taking on additional responsibilities, and that the level of precepts set by local councils will be kept under close review. Therefore the possibility remains that this form of control could be introduced at some future date especially for larger spending councils.

It is important that local councils are able to demonstrate that they are engaged and extensively consult with local residents when proposing precept increases, that they are able to separately identify any increases associated with taking on additional assets and services from principal authorities, and that they are open and transparent and fully comply with the transparency code publication requirements (covered in section B of this guide).

The extension of these principles to the local council sector could place a major restriction on the freedom and flexibility of a local council to operate in accordance with the wishes of the local community unless it was prepared to hold a referendum. Therefore it is imperative that councillors are able to explain and justify larger precept increases and demonstrate that they have the support of the local community.

Local councils should also be able to respond to any further government consultation on such measures with substantive evidence and facts relating to any past increases and specific issues it may cause for future plans and objectives.

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 provide details of the statutory powers available for expenditure.

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 it then does not have to rely on specific powers. The conditions for eligibility are that the council must pass a resolution, employ 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 in 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 very 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 has to 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 incur expenditure which is "in the interests of and will directly benefit its area or any part of it and some or all of its inhabitants".

Section 137 is used when there is no other specific power available and confers powers to make grants to voluntary bodies, fund raising events, organisations providing not for profit public services, and to contribute to charities and disaster appeals. The benefit accruing must be commensurate with the expenditure incurred, which is a decision for the council. 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 updated and advised by DCLG annually.

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 Heritage Lottery Fund application to purchase and restore a significant community asset.

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

A council tax support grant is made to billing authorities from central government and is sometimes passed on to local councils, although there is no statutory requirement for them to do so. The grant is not ring-fenced and different billing authorities have different policies regarding the council tax support grant, with an increasing number not passing on either all, some or even any of the grant.

CAPITAL FINANCE BORROWING

There may sometimes be larger projects, for instance the purchase of land, construction of buildings, or purchase of equipment which the council wishes to undertake that cannot be financed by the precept or other income in a single year. This may require the council to borrow funds for the capital expenditure which will then be repaid over a number of years. Capital expenditure is defined as larger expenditure on assets such as land and buildings, equipment, or vehicles and machinery that will last more than one year.

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

Local councils may borrow from any willing lender including banks, other local councils or principal authorities, public trusts and foundations (e.g. Playing Fields Associations, Natural England). However, most local councils usually borrow from the Public Works Loan Board (PWLB) which is a government department that makes available finance to public authorities including local councils.

The council then needs to obtain a borrowing approval from the Department for Communities and Local Government (DCLG) before taking up any borrowing; an application form should be submitted through the local county association. If the application is agreed, DCLG will send the council a borrowing approval letter which will set out a number of conditions that need to be fulfilled and 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 a fee payable with repayments made half-yearly.

Any borrowing is secured by an automatic charge on the revenues (not the property) of the council.

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;
- 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

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.

CAPITAL FINANCE AND BORROWING

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 usually treated as a capital receipt, but as income.

Local councils may only use capital receipts to meet capital expenditure, or to repay debts or other liabilities.

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". DCLG 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 guidance must be followed where investments exceed £500,000.

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 of less than one year with the UK government and those with financial institutions with high credit ratings 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.

There is protection available to some local councils with a budget up to the equivalent of 500,000 euros who are now "eligible depositors" under the Financial Services Compensation Scheme (FSCS). This provides protection if a UK authorised financial services firm fails or goes into default (but not for poor performance) for investments up to £50,000 per financial institution, or up to £85,000 for deposits in an authorised bank or building society.

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.

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 full understanding.

The basic premise is that a local council can recover the VAT paid out for non-business activities, where the council acts as a public authority and provides free services. 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 members of the public 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 collected is over £1,000. The council needs to understand whether it is making taxable supplies (which attract VAT) or not, as not all charges are subject to VAT.

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 (using the organisation's funds) so it can then reclaim the VAT for them.

If the council is not actually purchasing the equipment for itself and will not own the asset, then it cannot simply pass the invoice through its books in order to reclaim the VAT for another organisation. This 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.

It is important that the council does not mix its monies and purchases with other organisations, even if they are charitable and for the benefit of the local community.

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 and potential penalties.

Detailed guidance on VAT is published by HMRC, but it is sensible to seek written professional advice in respect of 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.

PLANNING CONTRIBUTIONS- SECTION 106 AGREEMENT AND COMMUNITY INFRASTRUCTURE LEVY

SECTION 106 AGREEMENT

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 INFRASTUCTURE LEVY (CIL)

The Community Infrastructure Levy (CIL) came into force in 2010 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 the planning authority) on the amount of new floor space created by development. There are some exceptions where it is not charged, such as affordable development and where it would affect the viability of the development scheme.

Local planning authorities do not have to adopt the CIL and many have not, 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.

The levy is also designed to incentivise communities to welcome and promote new development in their area. Therefore the regulations were amended in 2013 to 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 development liable for a charge is built in an area covered by an adopted neighbourhood development plan, the relevant local council will receive 25% and there is no annual cap.

Principal authorities can only spend CIL on infrastructure projects, however local councils can spend their CIL funds more widely on anything concerned with addressing the demands that development places on an area.

DISCLOSABLE PECUNIARY INTEREST (DPI)

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

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.

It is considered essential 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 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 or borough council must establish and maintain the 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 principal authority's monitoring officer 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.

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.

The monitoring officer will compile a register of interests available to the public, usually on the principal authority's website. 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 without details of the interest. This is known as a 'sensitive' interest.

A copy of disclosable interests should be given to the clerk for the 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.

The declaration of interests at meetings is intended to give the public confidence in council decision making. The agenda will usually give councillors an opportunity to declare an interest early in a meeting. If a councillor (or his or her partner) has a DPI in any matter to be considered on the meeting agenda, then they must not take part in the discussion or vote on the matter without a dispensation.

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 through their own planning application clearly creates 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.

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.

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 of your interests can be removed from the register.

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.

CRIMINAL OFFENCES

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 you 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.

RISK MANAGEMENT

Local councils face many potential risks, therefore it is important to identify and assess key risks in terms of the likelihood and severity of any occurrence.

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 against the council.

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. All 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 if the council 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. The council should then look at any risk mitigation measures that are already in place, and any further 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, a contact point for members of public to report any damage. These measures would all assist a council in defending any 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.

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 compensation claim

Seemingly minor incidents such as trips and slips causing injury 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.

The council should ensure that any contractors have appropriate insurance in place.

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 any 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 local council which a member of the public considers to be both incorrect and damaging and which 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 as a result of the comments. 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 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, including any self-propelled vehicle 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 protected.

OTHER INSURANCES

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

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 in doubt about any aspect then it should consult and 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.

ACCOUNTING PRACTICE

Local councils are required to prepare an 'income and expenditure' account and statement of balances in the format set out in the 'annual return'. Income and expenditure accounting is similar to profit and loss in a commercial organisation, and is completed on an accruals basis for a specific time period.

However, where a council's gross income or expenditure is not more than £200,000 for the current year (or one of the previous 2 years) then it may instead simply prepare a record of 'receipts and payments'. This is a much simpler form of accounting as it just records the 'cash' transactions when income is received and payments made.

Statutory accounting guidelines termed "proper practices" are available to the Clerk/RFO in "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 on risk and internal control, issued by the sector Joint Panel on Accounting Guidance (JPAG). It is published jointly by NALC and SLCC and available to download from their websites. It is regularly updated, and the council should ensure it is using the latest version.

All councils have to complete and publish an annual return which includes a section on the accounting statements of the council, which are a summary of income and expenditure, the precept, staff costs, assets and liabilities, and reserves taken from the council accounts.

After completion of the accounts at the close of the financial year (31st March), they must be certified by the RFO, considered and approved by full council by no later than 29th June, and published by 30th September.

AUDIT

Councils must ensure that they have adequate and effective financial management, with a sound system of internal control. They are required 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 and are covered in the following sections.

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.

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 effective. It does not involve the detailed inspection of all records and transactions of the council in order 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 cannot be a councillor, or an officer involved with the finances of the council.

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, and the internal auditor must complete and sign the report on the internal control objectives included as part of the annual return. 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.

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

External auditors are appointed for the council to review a document known as the "annual return". The annual return is the principal means by which the council is accountable to its electorate, and needs to be completed by all councils with any financial transactions. All members of the council have responsibility for making sure that the annual return accurately presents the financial management information of the council.

The council needs to 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 by 29 June each year.

The annual return contains a number 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 responsibility by councillors for the system of internal control and governance arrangements during the past year, confirming that the council has:

- put arrangements in place for effective financial management, and prepared the accounts in accordance with regulations;
- maintained an adequate system of internal control, accepting responsibility for safeguarding public money and resources;
- taken reasonable steps to comply with laws and regulations, has only done what it has the legal power to do, and has complied with proper practices;
- published financial information for general inspection so that local electors' had the opportunity to inspect and ask questions about the accounts;
- considered, assessed and managed financial and other risks;
- appointed a competent and independent person to review the financial controls and procedures and give an objective view on them;
- responded to any matters brought to its attention by internal and/or external audit;
- disclosed whether there are any potentially damaging liabilities or events, such as an impending claim against the council;
- met its responsibilities and properly managed any trust funds (if applicable)

The annual return also includes accounting statements which are a summary of income and expenditure, the precept, staff costs, assets and liabilities, and reserves taken from the council accounts.

After completion by the council and by the internal auditor, the annual return has to be signed by the chairman of the meeting approving it and the clerk/RFO. If income or expenditure totals over £25,000 it must then be sent to the external auditor with explanations of any variances together with the bank reconciliation and bank statement.

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.

The external auditor is usually centrally appointed for a 5 year period and will be a large national accountancy and audit firm. They review the annual return for a fixed scale fee dependant on the annual turnover of the council, and provide an independent opinion on the council's annual financial statements.

The legislation for almost all councils with under £25,000 annual turnover changed from the financial year 2017/18; whilst these councils still need to complete and publish an annual return, only a "certificate of exemption" from external audit needs to be signed and submitted to the external auditor.

The annual audit process requires the council to advertise the availability of its accounts and supporting documents for inspection for a 6 week period by "interested persons" (usually local electors). This is known as the "exercise of public rights". During this 6 week period, interested persons can ask the auditor questions about the accounts for that year, and raise an objection with the external auditor if they believe an item of expenditure is unlawful or there is something they believe the auditor should bring to the attention of the public. The objection cannot be for reasons such as disagreeing with a lawfully taken decision of the council.

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. Only a significant problem would cause the auditor to "qualify" the accounts, which is a serious issue that must be addressed.

The council then has to publish a notice stating that the audit has been completed and publish and display its annual return by no later than 30th September.

NOTES

TRANSPARENCY CODE FOR SMALLER COUNCILS (UNDER £25K)

A Transparency Code (the Code) was issued by the government for all smaller local councils with an annual turnover not exceeding £25,000 and came into force from 1 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.

A new audit framework means that smaller authorities such as local councils with an annual turnover not exceeding £25,000 can exempt themselves from routine external audit from 2017/18. In its place, these councils are subject to the new 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.

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.

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

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

The provisions below apply to those councils with annual turnover 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 that 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 external 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 chairman 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 chairman 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

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 controls 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 chairman or vice-chairman) 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 applies to any local council which has either gross annual income or expenditure exceeding £200,000.

The Code is designed to increase democratic accountability and ensure that local people can access and scrutinise data covering:

- how money is spent – all spending transactions over £500 and contracts valued over £5,000;
- use of assets – how the council manages its assets;
- decision making – how and by whom decisions are taken, including how much senior officers are paid;
- issues important to local people – for example, parking

Where information falls within one of the exemptions from disclosure, then it is at the discretion of the council whether or not to rely on that exemption or publish the data.

Below is a summary guide to the type and detail of information that the council is required to publish and how often.

INFORMATION TO BE PUBLISHED QUARTERLY

Under the Local Government Transparency Code larger local councils are required to publish the following data:

Expenditure exceeding £500

Larger councils must publish details of each individual item of expenditure that exceeds £500. Items of expenditure includes:

- individual invoices
- items on procurement cards
- grants and grant payments
- expense payments
- payments for goods and services
- rent
- transactions with other public bodies

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

- date expenditure incurred
- beneficiary
- purpose of the expenditure
- amount
- VAT that cannot be recovered
- category (e.g. computers, grounds maintenance

Procurement information

Larger councils must publish details of every invitation to tender for contracts to provide goods and/or services with a value that exceeds £5,000.

For each invitation to tender, the following must be published:

- reference number
- title
- description of the goods and/or services sought
- start, end and review dates

Councils must publish details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000.

For each contract, the following details must be published:

- reference number and title of agreement
- description of goods and/or services being provided
- supplier name and details
- amount to be paid over the length of the contract, or the estimated annual spending or budget for the contract
- VAT that cannot be recovered
- start, end and review dates
- whether the contract was the result of an invitation to quote or a published invitation to tender
- whether or not the supplier is a small or medium sized enterprise and/or a voluntary or community sector organisation

INFORMATION TO BE PUBLISHED ANNUALLY

Local council land

Larger local councils must publish details of all land and building assets including:

- service and office properties
- all properties owned or used e.g. garages and depots
- surplus, sublet or vacant properties
- undeveloped land
- temporary offices where occupation exceeds three months
- future commitments, for example under an agreement for lease

For each land or building asset, the following information must be published:

- unique property reference number
- asset identity - local name or building block
- name of the building/land
- full postal address
- map reference
- whether the council owns the freehold or a lease for the asset
- whether the asset is land only (i.e. without permanent buildings) or land with a permanent building

Grants to voluntary, community and social enterprise organisations

Local councils must publish details of all grants to voluntary, community and social enterprise organisations by either:

- identifying transactions relating to voluntary, community and social enterprise organisations within published expenditure over £500, or
- publishing a separate list or register

For each identified grant, the following information must be published:

- date the grant was awarded
- time period of the grant
- beneficiary
- company or charity registration number
- purpose of the grant
- amount

Senior salaries and organisation chart

Local councils must publish:

- number of employees whose remuneration in that year was at least £50,000 (in brackets of £5,000)
- pay multiple - the ratio between the highest paid taxable earnings and the median earnings figure of the whole of the council workforce
- an organisation chart covering staff whose salary exceeds £50,000

Information for each member of staff included in the organisation chart required:

- grade
- job title
- department and/or team
- permanent or temporary staff
- contact details
- salary in £5,000 brackets
- salary ceiling (maximum salary for the grade)

Parking

If a larger local council provides parking it must publish on the website:

- breakdown of income and expenditure on the council's parking account, (income must include details of revenue from on-street parking, off-street parking and penalty charge notices)
- breakdown of how the council has spent a surplus on its parking account
- number of marked out controlled on and off-street parking spaces, or an estimate of the number of spaces where not marked out

COMPLIANCE WITH THE CODE

The Local Government Association (LGA) has published detailed guidance on transparency (e.g. guidance notes, best practice examples and case studies) to help compliance with the code. They recommend that the data is published on a single web page that links to the individual files and datasets.

NOTES

GLOSSARY

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

NALC – National Association of Local Councils

CALC – County Association of Local Councils

CIL – Community Infrastructure Levy

DCLG – Department of Communities and Local Government

DPA – Data Protection Act

DPI – Disclosable Pecuniary Interest

FSCS – Financial Service Compensation Scheme

GPC – General Power of Competence

HSE – Health and Safety Executive

JPAG – Joint Panel on Accounting Guidance

LGA – Local Government Association

LPA – Local Planning Authority

NDP – Neighbourhood Development Plan

PWLB – Public Works Loan Board

RFO – Responsible Financial Officer

SLCC – Society of Local Council Clerks

VAT – Value Added Tax

FURTHER READING

Local Government Transparency Code 2015 (councils over £200k) – DCLG

Transparency code for smaller authorities (councils under £25k) – DCLG

Openness and transparency on personal interests - A guide for councillors - DCLG

Local transparency guidance – Local Government Association

Local Council Administration (Tenth edition) – Charles Arnold Baker

Governance and Accountability for Smaller Authorities in England – NALC/SLCC

The Good Councillor's guide – National Training Strategy

Local councils EXPLAINED – NALC

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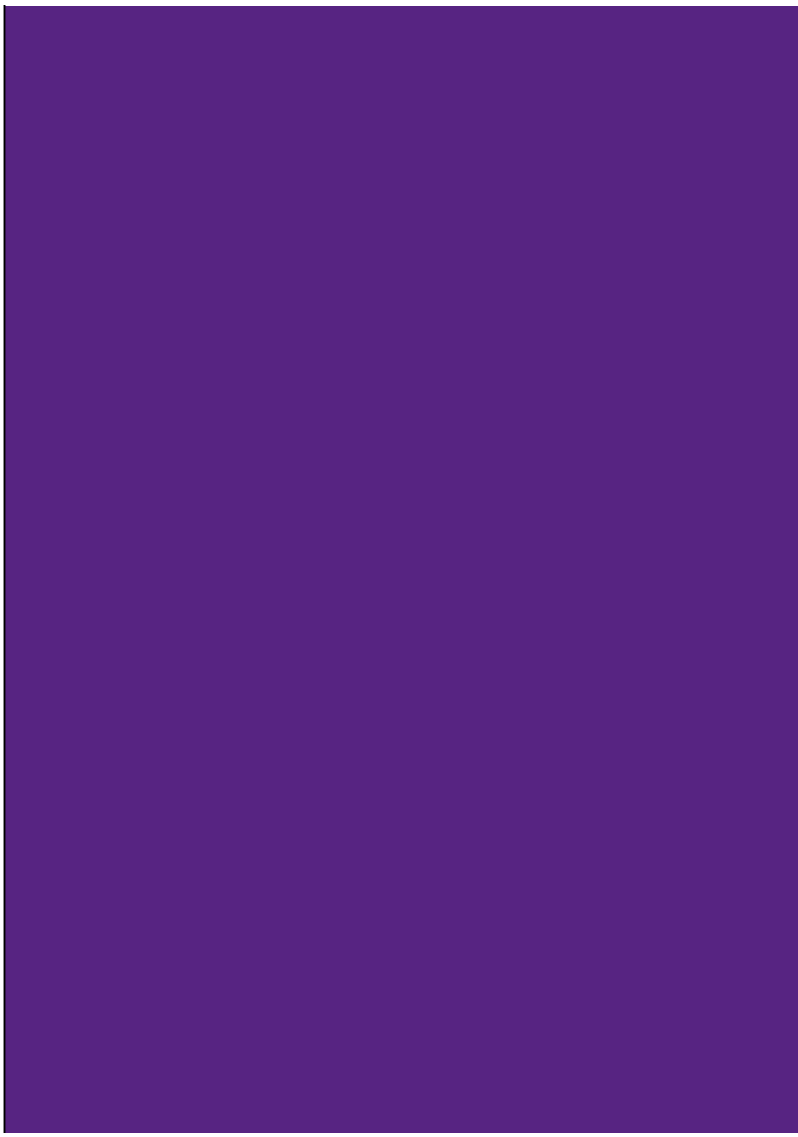

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