

Acknowledgement

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INTRODUCTION

Local Councils Explained (LCE) gives an overview of what local councils in England do. Local councils are the first tier of local government and LCE has been written to help those involved – local councillors, council staff and members of the public who may be affected by their decisions.

LCE sets out the legal framework that determines the extent of local council powers. Local councils are statutory corporations that can only do what the law permits them to do. They have powers to do things that improve their communities, such as the power to tax (precept) their electors, but they do not have the much broader legal powers of Principal Councils that are responsible for, for example, waste collection, highway and traffic regulation and planning.

LCE deals with the practice and procedures of local council meetings and the committee structures that they generally adopt.

LCE sets out who can and who cannot be councillors, what they do and the rules of conduct that govern their behaviour.

LCE explains the legal framework that applies to local council staff including the additional statutory requirements that apply to the clerk or proper officer and responsible financial officer. It also explains how staff can perform council powers.

LCE explains the ways that local councils are accountable to their communities, for example, by publishing information on what they do and by compliance with financial regulations, freedom of information law and data protection law.

GLOSSARY

In this book certain terms are used throughout. Where an explanation of the term is not given in the main text, this is set out below.

Accounting Statements means the annual income and expenditure account, statement of balances or record of receipts and payments that a “local council” (see definition below) is required to prepare in accordance with, and in the form specified in, any annual return required by “proper practices” (see definition below) in relation to accounts.

Councillor unless otherwise indicated, is a person elected (whether their election is contested or not) or co-opted onto a council. For convenience, the word councillor is used throughout the book and includes “non-councillor” (see definition below) unless otherwise stated.

Financial regulations are the “standing orders” (see definition below) of a local council that regulate and control its financial affairs and accounting procedures. Model financial regulations are available to councils in membership of the National Association of Local Councils (see definition below).

Local authority means any type of authority, for example, a local council, Principal Council, and so on.

Local council is used to describe a parish, town, neighbourhood, community or village council.

Local government elector is a person in the register of electors in accordance with the provisions of the Representation of the People Acts 1983 and 1985.

Monitoring officer is the person responsible for advising their Principal Council on the legality of its decisions and for reporting to the authority on any illegality or maladministration. The monitoring officer has specific responsibilities regarding the registration and publicity of certain financial and personal interests held by councillors. The monitoring officer is responsible for the code of conduct and for handling complaints about alleged failures of councillors within Principal Councils and local councils to comply with the code of conduct.

Non-councillor is a member of a committee (including joint committee) or sub-committee (including a joint sub-committee) of a local council who is not a councillor.

Principal council is a reference to a type of local authority. It describes a district, county or unitary authority (including a London borough council).

Proper officer is the statutory office holder, normally the clerk to the council.

Proper Practices is a term that appears in the accounting and audit regulations that apply to local councils. “Proper practices” is a reference to the publication ‘The Practitioners’ Guide’ issued by the Smaller Authorities Proper Practices Panel (SAPPP). The guide is available from the websites of NALC and the Society for Local Council Clerks.

Resolution is the legal term for a decision lawfully made by the majority of those present and voting at a quorate meeting of a local council, a committee (including joint committee) or a sub-committee (including joint sub-committee).

Society of Local Council Clerks (SLCC) is the professional body for local council clerks and senior council employees.

Standing orders are the written rules of a local council. They contain a council’s internal organisational and administrative procedures, and procedural matters for meetings.

ACRONYMS

AGAR	Annual Governance and Accountability Return
CIC	community interest company
DPA	Data Protection Act 2018
DPO	data protection officer
FOIA	Freedom of Information Act 2000
GDPR	General Data Protection Regulation
HMRC	HM Revenue and Customs
ICO	Information Commissioner's Office
LCE	Local Councils Explained
LGA	The Local Government Association
LGSCO	Local Government and Social Care Ombudsman
NALC	National Association of Local Councils
NDP	Neighbourhood Development Plan
NDO	Neighbourhood Development Order
NJC	National Joint Council
NTS	National Training Strategy
PAYE	pay as you earn
RFO	responsible financial officer
SAPPP	Smaller Authorities Proper Practices Panel
SLA	service level agreement
SLCC	Society of Local Council Clerks
WCAG	web content accessibility guidelines

1 THE ROLE OF LOCAL COUNCILS

Key points

- Local councils are a type of local authority. They do not exist everywhere in England.
- Local councils have a range of specific discretionary powers which they may exercise. They also have some duties which are mandatory.
- Local councils do not have statutory responsibility for services such as waste collection, street parking, traffic regulation, environmental health, street trading, planning and building control, licensing, housing, education, development control or social care functions for the area that they represent. Statutory responsibility for the discharge of those functions rests with other types of local authority.
- Local councils have a statutory power to precept (tax) their local government electors in their areas to finance the activities that flow from the exercise of their discretionary powers and subsequent legal obligations. The precept is a component of the council tax levied on the local government electors in the area of a local council.
- Most decisions about local council business are taken at formal meetings of the council.

What are local councils?

Local councils are the first tier of local government. They are incorporated bodies established by legislation. A local council has a separate legal identity from its councillors. Local councils were established by legislation in 1894 and there are around 10,000 local councils. It is important to note that not everywhere in England is parished.

The Local Government and Public Involvement in Health Act 2007 (the 2007 Act) provides a statutory procedure for the establishment of a new parish area with or without a new local council. This is subject to the decision of the district, London borough or unitary authority for that area. The district, London borough or unitary authority may only reach such a decision after it has completed a community governance review¹ for the area concerned. A community governance review can be triggered by the submission of a petition signed by the local government electors living in a particular area. The petition may seek the establishment of a new parish area with a new local council or the establishment of a new local council for an existing parish area or part of that parish. The district, London borough or unitary council must consult the local government electors living in the area that is the subject of the review and have regard to the need to secure that the governance arrangements for the area under review reflect the identities and interests of the community in that area

and are effective and convenient.² Alternatively, a district, London borough or unitary authority may, of its own accord, undertake a community governance review for an area, which may result in the creation of a new local council.³ More information and case studies, including examples of community governance reviews undertaken since the 2007 Act, can be found on NALC's website.

What do local councils do?

Local councils have only a few statutory functions. These functions arise because a local council has a statutory power to raise a precept and spend it.⁴ Some of the statutory functions that a local council must discharge include:

- holding an annual meeting, as well as at least three other meetings per year⁵ which the public have a right to attend;
- appointing a person who is responsible for the administration of the council's financial affairs;⁶ and
- preparing yearly accounts which are externally audited.⁷

A local council must also adopt a code of conduct which sets out the standards of conduct and behaviour that all councillors must abide by when acting in their capacity as local councillors.⁸ A local council has some statutory duties. A local council cannot publish or assist others to publish material which affects public support for a political party.⁹ A local council has a duty to exercise its statutory powers with due regard to the need to do what it reasonably can do to prevent crime and disorder, the misuse of drugs, alcohol and other substances, and re-offending in its area.¹⁰ It also has a duty to consider what action to take to further conservation and biodiversity in England.¹¹ There are other statutory duties which apply to local councils, as they do to all public bodies. These include dealing with requests for information under the Freedom of Information Act 2000.¹² Local councils are also subject to the "Public Sector Equality Duty" under the Equality Act 2010. This is the duty on all public authorities to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity.¹³ A local council is also a public authority under the Human Rights Act 1998 and therefore must not act in a way which is incompatible with a Convention right.¹⁴

Legislation has conferred a range of specific yet discretionary powers on local councils which they may exercise if they wish to. In choosing to exercise the range of statutory powers available to it, a local council has the potential to improve the services and the amenities for the community that lives in its area. The statutory powers originate from legislation made from before 1894 to the present day. A local council must take steps to ensure that it understands the scope of the statutory powers. Before it exercises a power, a local council should ascertain if there are any restrictions that apply. It may wish to seek legal advice.

The following table includes most of the statutory powers that local councils can choose to exercise.

Subject	Summary of discretionary powers	Legislation
Allotments	Power to provide land for allotments and to enter into allotment tenancies in or outside the council's area	Small Holdings and Allotments Act 1908, ss.23, 25
Allowances for councillors	Power to pay councillors allowances	The Local Authorities (Members' Allowances) (England) Regulations 2003
Ancillary power	Power to do anything that will facilitate, be conducive to or incidental to the discharge of its powers and functions	Local Government Act 1972, s.111
Appointment of staff	Power to appoint staff	Local Government Act 1972, s.112
Assets of community value	Power to nominate premises in the Council's area to be entered onto the Principal Council's list of assets of community value	Localism Act 2011, ss.87-108
Bands and orchestras	Power to maintain a band or orchestra or contribute to the maintenance of a band or orchestra in or outside the council's area	Local Government Act 1972, s.145(1)(c)
	Power to charge for admission to performances	Local Government Act 1972, s.145(2)
Bicycles and motorcycles – parking places	Power to provide and maintain parking places for bicycles and motorcycles in the council's area	Road Traffic Regulation Act 1984, s.57(1)(a)
	Power to provide stands and racks for bicycles and motorcycles in the council's area	Road Traffic Regulation Act 1984, s.63
	Power to make byelaws for the use of and charging for parking places	Road Traffic Regulation Act 1984, s.57(7)
Boating pools	Power to provide a boating pool in a park provided or managed by the council	Public Health Act 1961, s.54(1)
	Power to charge a reasonable amount for its use	Public Health Act 1961, s.54(3)

Subject	Summary of discretionary powers	Legislation
Borrowing money	Power to borrow money with approval where necessary	Local Government Act 2003, schedule 1, paragraph 2
Burial grounds and cemeteries	Power to provide and maintain open space or burial ground in or outside the council's area	Open Spaces Act 1906, ss.9–10
	Power to maintain for payment a monument or memorial on a private grave (for no more than 99 years) in the council's area	Parish Councils and Burial Authorities (Miscellaneous Provisions) Act 1970, s.1
	Power to provide and maintain cemeteries in or outside the council's area	Local Government Act 1972, s.214(2)
	Power to contribute towards the maintenance of cemeteries where the inhabitants of the council's area may be buried	Local Government Act 1972, s.214(6)
	Power to grant rights of burial, to place and maintain tombstones or memorials on graves and to charge fees	The Local Authorities' Cemeteries Order 1977
	Power to make byelaws	Open Spaces Act 1906, s.15
Bus shelters	Power to provide and maintain bus shelters on roads or land adjoining roads in the council's area	Local Government (Miscellaneous Provisions) Act 1953, s.4
Byelaws	Power to make byelaws	<i>See specific subject areas in this table</i>
Car parks (off-road)	Power to provide and maintain suitable off-road car parking places in the council's area to relieve or prevent traffic congestion or to preserve local amenities	Road Traffic Regulation Act 1984, s.57(1)(b)
	Power to regulate use of car parks and charge for their use	Road Traffic Regulation Act 1984, ss.59(3), 35(1)
Car sharing schemes	Power to establish and maintain a car sharing scheme that benefits the council's area or to assist others in doing so	Local Government and Rating Act 1997, s.26

Subject	Summary of discretionary powers	Legislation
Charging for discretionary services	Power to charge on a cost recovery basis (that is, not to make any profit) if the council has discretion to provide a service. Power does not apply if the council has a separate power to charge for provision of a service or it is prohibited from charging for it	Local Government Act 2003, s.93
Charities	Power to act as trustee of non-ecclesiastical charity	Charities Act 2011, ss.298–303 Local Government Act 1972, s.139(1)
Cinemas	Power to provide a cinema, or contribute towards the expenses of a cinema in or outside the council's area	Local Government Act 1972, s.145(1)(b)
	Power to charge for admission to a cinema provided by the council	Local Government Act 1972, s.145(2)
Clocks	Power to provide and maintain public clocks within the council's area	Parish Councils Act 1957, s.2
Closed churchyards	Power to maintain a closed churchyard in the council's area if requested to do so by a parochial church council	Local Government Act 1972, s.215
Commons and common pastures	Power to provide land in the council's area for common pasture if the council's expenditure can be recovered from any charges it makes for use of the land	Small Holdings and Allotments Act 1908, s.34
Community gardens	Power to provide and maintain open space as gardens in or outside the council's area	Open Spaces Act 1906, ss.9–10
Conference facilities	Power to provide and encourage the use of facilities in the council's area	Local Government Act 1972, s.144
Contracts	Power to enter into contracts	Local Government Act 1972, s.111
Crime prevention	Power to spend money on crime detection and prevention measures in the council's area	Local Government and Rating Act 1997, s.31

Subject	Summary of discretionary powers	Legislation
Dance halls	Power to provide premises for dances or to contribute to the expenses of dances in or outside the council's area	Local Government Act 1972, s.145(1)(a)
	Power to charge for admission to dances provided by the council	Local Government Act 1972, s.145(2)
Ditches and ponds	Power to deal with ditches, ponds, pools, and gutters by draining them or preventing them from being harmful to public health	Public Health Act 1936, s.260(1)(a)
	Power to carry out works for their maintenance or improvement or to pay others to do this	Public Health Act 1936, ss.260(1)(b), 260(1)(c)
Fêtes and other events	Power to provide entertainments and facilities for dancing in or outside the council's area	Local Government Act 1972, s.145(1)(a)
	Power to charge for admission	Local Government Act 1972, s.145(2)
General power of competence	Power for an eligible council to do anything that an individual can do subject to statutory prohibitions, restrictions and limitations which include those in place before or after the introduction of the general power of competence	Localism Act 2011, ss.1–8
Gifts	Power to accept gifts	Local Government Act 1972, s.139
Graffiti	Power to issue fixed penalty notices for graffiti offences in the council's area	Anti-social Behaviour Act 2003, s.43
Honorary titles	Power to confer title of honorary freeman or freewoman	Local Government Act 1972, s.249
Indemnities	Power to indemnify councillors and staff with insurance cover	Local Government Act 2000, s.101
		The Local Authorities (Indemnities for Members and Officers) Order 2004
Investments	Power to invest property in approved schemes	Trustee Investments Act 1961, s.11

Subject	Summary of discretionary powers	Legislation
Land or premises	Power to purchase or sell land in or outside the council's area	Local Government Act 1972, ss.124, 127
	Power to appropriate land for an authorised purpose	Local Government Act 1972, s.126
	Power to accept and maintain gifts of land	Local Government Act 1972, s.139
Life-saving appliances	Power to provide life-saving appliances (e.g. lifebelts, defibrillators)	Public Health Act 1936, s.234
Lighting	Power to light roads and public places in the council's area	Parish Councils Act 1957, s.3; Highways Act 1980, s.301
Litter	Power to issue fixed penalty notices for litter offences in the council's area	Environmental Protection Act 1990, s.88
Litter bins	Power to provide and maintain litter bins in streets or other public spaces and contribute to their provision and maintenance	Litter Act 1983, ss.5-6
Lotteries	Power to promote lotteries	Gambling Act 2005, ss.98, 252
Markets	Power to establish markets in the council's area and provide a market place and market buildings	Food Act 1984, s.50
	Power for a council that maintains a market to make byelaws	Food Act 1984, s.60
Mortuaries and post-mortem rooms	Power to provide mortuaries and post-mortem rooms	Public Health Act 1936, s.198
	Power to make byelaws to manage and charge for the use of mortuaries and post-mortem rooms	
Neighbourhood planning	Power to act as the lead body for the establishment of a neighbourhood development order or a neighbourhood development plan	Town and Country Planning Act 1990, ss.61F(1), 61F(2) Planning and Compulsory Purchase Act 2004, s.38C(2)
Newsletters etc.	Power to publish information about the council, its services and the services provided in the council's area by other local authorities, government departments, charities and other voluntary organisations	Local Government Act 1972, s.142

Subject	Summary of discretionary powers	Legislation
Non-councillors	Power to appoint non-councillors to council committees and sub-committees	Local Government Act 1972, s.102(3)
Open spaces	Power to provide and maintain land for public recreation	Public Health Act 1875, s.164
	Power to make byelaws	Public Health Act 1875, s.164
	Power to provide and maintain land for open spaces in or outside the council's area	Open Spaces Act 1906, ss.9-10
	Power to make byelaws	Open Spaces Act 1906, s.15
Parish meetings	Power to convene	Local Government Act 1972, schedule 12, paragraph 15
Planning applications	Power to be notified of planning applications affecting the council's area and to comment	Town and Country Planning Act 1990, schedule 1, paragraph 8
Precept	Power to raise a precept	Local Government Finance Act 1992, s.41
Public buildings and village halls	Power to provide buildings for public meetings and assemblies or contribute towards the expenses of providing such buildings	Local Government Act 1972, s.133
Public rights of way	Power to repair and maintain public footpaths and bridleways in the council's area	Highways Act 1980, ss.43, 50
	Power to enter into agreement to dedicate a road as highway in the council's area or an adjoining parish or community area	Highways Act 1980, s.30
	Power to enter into agreement to widen existing highway in the council's area or an adjoining parish or community area	Highways Act 1980, s.72
	Power to provide warning notices on footpaths and bridleways	Road Traffic Regulation Act 1984, s.72(2)
Public toilets	Power to provide public toilets	Public Health Act 1936, s.87
	Power to make byelaws	Public Health Act 1936, s.87

Subject	Summary of discretionary powers	Legislation
Recreation	Power to provide and manage recreation grounds, public walks, pleasure grounds and open spaces	Public Health Act 1875, s.164
	Power to make byelaws	Public Health Act 1875, s.164
	Power to provide and contribute to a wide range of recreational facilities in or outside the council's area	Local Government (Miscellaneous Provisions) Act 1976, s.19
Right to challenge services that are provided by a Principal Council	Power to submit an interest in running a service provided by a Principal Council	Localism Act 2011, ss.81–86
Right to nominate and bid for assets of community value	Power to nominate assets to be added to a list of assets of community value	Localism Act 2011, ss.87–108
	Power to bid to buy a listed asset when it comes up for sale	Localism Act 2011, ss.87–108
Roads	Power to consent or not consent to the local highway authority stopping maintenance of a road in the council's area or stopping up or diverting a road in the council's area	Highways Act 1980, ss.47, 116
	Power to complain to the local highway authority about the obstruction of rights of way and "roadside waste" in the council's area	Highways Act 1980, s.130
	Power to plant and maintain trees and shrubs, and lay out grass verges in the council's area	Highways Act 1980, s.96
	Power to provide and maintain seats and shelters on roads and land bordering any road in the council's area	Parish Councils Act 1957, s.1
Section 137 of the Local Government Act 1972	Power to spend a capped amount for which there is no other statutory power. Expenditure must be proportionate and for the direct benefit of the area or the inhabitants	Local Government Act 1972

Subject	Summary of discretionary powers	Legislation
Sports and recreational facilities	Power to provide sports facilities in or outside the council's area or contribute towards the expenses of any voluntary organisation or local authority that provides sports facilities in or outside the council's area	Local Government (Miscellaneous Provisions) Act 1976, s.19
Swimming pools	Power to provide public baths	Public Health Act 1936, s.221
	Power to charge for use of public baths	Public Health Act 1936, s.222
	Power to make byelaws	Public Health Act 1936, s.223
Traffic signs	Power to provide traffic signs on roads	Road Traffic Regulation Act 1984, s.72(1)
Theatres	Power to provide a theatre or contribute towards their expenses in or outside the council's area	Local Government Act 1972, s.145(1)(b)
	Power to charge for admission to a theatre provided by the council	Local Government Act 1972, s.145(2)
Tourism	Power to encourage tourism to the council's area or contribute to organisations encouraging tourism	Local Government Act 1972, s.144
Traffic calming	Power to make payments to a highway authority for traffic calming schemes for the benefit of the council's area	Highways Act 1980, s.274A
War memorials	Power to maintain, repair and protect war memorials in the council's area	War Memorials (Local Authorities' Powers) Act 1923, s.1
Water	Power to make use of wells, springs or streams in the council's area and provide facilities for obtaining water from them	Public Health Act 1936, s.125
Websites	Power to provide a website to give information about the council, its services and the services provided in the area by other local authorities, government departments, charities or other voluntary organisations	Local Government Act 1972, s.142

Demand for some of the amenities and services in a particular area, highlighted in the table above, may be met by the Principal Council, and some by other organisations in the public or private sector rather than by a local council. Principal Councils sometimes lack the resources to meet such demand because their priorities are to discharge their mandatory statutory functions and obligations – e.g. the provision of housing, educational facilities, highway maintenance, development control, and so on. Local voluntary organisations and charities, which might have an interest in the provision of certain services or facilities to a community, might have funding limitations. Businesses usually provide amenities and services in an area on a profit-making model. By contrast, local councils may exercise the discretionary powers summarised in the table above (some of which are shared by Principal Councils) and are well placed to provide additional services and amenities in their areas. If local councils exercise the discretionary powers that are available to them, they can make subtle, sustainable and valued contributions to the needs of their communities. In addition to the local council itself, local residents, businesses and other organisations may identify additional amenities and services for the council to provide. A local council may work with businesses, charities, voluntary organisations, individuals or other local authorities. See **Chapter 5** for more information.

Incidental and subsidiary powers

In addition to its functions, a local council has power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which facilitates, or is conducive or incidental to, the discharge of any of their functions. It is a subsidiary power for a local council to undertake activity that is necessary or gives effect to the exercise of other specific statutory powers.¹⁵ For example, a local council has a statutory power to provide a village hall or recreational facilities.¹⁶ Exercise of the subsidiary power would then permit the maintenance, repair, improvement and insurance of the premises by the local council. If a council exercises its powers to purchase land for the benefit, improvement or development of its area¹⁷ the exercise of the subsidiary power would permit the council to instruct professional advisers.

What a local council cannot do

A local council cannot undertake activity which is not expressly permitted, implied or subsidiary to the exercise of its statutory powers or the discharge of statutory functions and related legal obligations. A local council cannot undertake activity which legislation only permits another or a particular type of local authority to undertake.

A local council may be asked to provide certain services or amenities, for example, to organise better or different weekly rubbish collections in its area or to provide a new nursery facility. A local council has statutory powers to provide litter bins in public areas, but the collection of waste from residential or commercial premises is a statutory function that has been conferred on Principal Councils. Similarly, a local council cannot provide a nursery or library because these are functions of a county or unitary authority. There are statutory provisions which enable a local

council to discharge the functions of another local authority (for example, relating to waste collection, education or libraries) for and on behalf of that other local authority¹⁸ when a formal agency arrangement is entered into.

Local government finances

Principal Councils are funded by non-domestic rates (or business rates), grants from central government, and council tax. Business rates are a form of local tax which is levied on the owners or occupiers of non-domestic premises, with some exceptions such as agricultural land, churches and parks. Billing authorities collect business rates. Billing authorities are district, unitary and London borough councils.¹⁹ The billing authorities pay the revenue from business rates to central Government. The Government redistributes this money to district, unitary and county councils (but not to local councils) as part of the revenue support grant.

The revenue support grant makes up a significant part of the total income that district, London boroughs and unitary councils (not local councils) need to fund the local services they provide, as discussed above: education, housing, planning, highways, traffic regulation and parking, social services, libraries, leisure and recreation, rubbish collection and disposal, environmental health and trading standards. In every financial year, the shortfall between the income that Principal Councils receive from the revenue support grant and their budget needs must be met by the revenue received from council tax and/or any other income generated or savings which can be made. Council tax is a local tax levied on persons over 18 who own or occupy a dwelling and is based on the capital value of the dwelling.

For each financial year a billing authority must, by 11 March in the preceding financial year,²⁰ set an amount of council tax for different categories of dwelling. The first component of council tax is the amount that the billing authority has calculated it needs for its own statutory purposes, and it also includes the precept from a local precepting authority,²¹ which includes a local council.²² The second component of the council tax is the amount which a major precepting authority has calculated as necessary for its statutory purposes, and in respect of which it has issued a precept to the billing authority. Major precepting authorities include a county council, the Greater London Authority, a mayoral combined authority, a fire and rescue authority, the police and crime commissioner and a metropolitan county fire and civil defence authority.²³

Local council finances

The financial year for a local council begins on 1 April and ends on 31 March. Local councils do not receive a direct grant from Government. A local council can generate income from the services or facilities that it provides (e.g. rent from leased premises, charges from use of car parks, sports facilities, community centres, burial rights fees). However, the main source of income for a local council is from the levy of a precept on the billing authority (district or unitary council) which is collected through the council tax paid by owners or occupiers of dwellings within the parish. The precept is collected through the council tax. A local council must

set its precept for the financial year by 1 March in the preceding financial year.²⁴ For example, the precept for 2025/26 must be set by 1 March 2025, the precept for 2026/27 must be set by 1 March 2026, and so on. In determining the precept for a financial year, a local council must calculate the aggregate of:²⁵

- the expenditure it estimates it will incur in the year in performing its functions and will charge to a revenue account for the year in accordance with proper practices;
- such allowance as it estimates will be appropriate for contingencies in relation to amounts to be charged or credited to a revenue account for the year in accordance with proper practices;
- the financial reserves which it estimates it will be appropriate to raise in the year for meeting its estimated future expenditure; and
- such financial reserves as are sufficient to meet the amount estimated by it to be a revenue account deficit for any earlier financial year as has not already been provided for.

Where a local council has a precept of at least £140,000, it must also provide the following information to the billing authority:²⁶

- its gross expenditure for the year and the previous year;
- its precept for the year and the previous year;
- its reasons for any difference between the gross expenditure and precept figures above; and
- its opinion of the effect that its gross expenditure has on the level of its precept issued for the year.

The formal council tax demand sent to a person in the area of a local council with a precept of at least £140,000 must include the following information:²⁷

- the gross expenditure of the local council for the year that the demand for payment relates to and for the preceding year;
- the precept for the year that the demand for payment relates to and for the preceding year;
- the reasons for any differences between the amounts for the preceding year and the year that the demand relates to; and
- the local council's opinion of the effect that the gross expenditure has on the level of precept that year.

Local councils, like other local authorities, must manage their activities within a budget. Financial budgeting and internal control of their accounts requires a corporate approach that is subject to strict and detailed statutory requirements²⁸ and proper practices. This is detailed further in **Chapter 4**.

Controls in respect of council tax or precept increases

The 2011 Act introduced statutory controls that restrict “excessive” increases in the council tax set by billing authorities and the precepts set by precepting authorities including local councils.²⁹

A billing authority has a statutory duty to determine whether its basic amount of council tax is excessive³⁰ in accordance with a set of principles determined by the Secretary of State for the year, which are set out in a report entitled *The Referendums Relating to Council Tax Increases (Principles) (England) Report*.³¹ The principles for each category of local authority (defined in the report) are set out in an Appendix to the report. Such principles include a comparison between the basic amount of council tax for the current year and the preceding financial year. For most billing authorities, an increase is excessive for 2024/25 if the authority’s relevant basic amount of council tax for 2024–25 is 5% (comprising 2% for expenditure on adult social care, and 3% for other expenditure), or more than 5%, greater than its relevant basic amount of council tax for 2023–24.

However, following a number of reports issued by Principal Councils under s.114 of the Local Government Finance Act 1988, a few Principal Councils were permitted to increase their council tax by more than 4.99%. For example, in 2023/23, Woking Borough Council was permitted to increase its council tax up to 10% overall, with 10% considered excessive. The same year, the government allowed Croydon to raise its rates by 15%, with Thurrock and Slough raising theirs by 10%.

If a billing authority’s council tax is more than a statutorily set percentage increase from the basic council tax in the preceding financial year, it must make a substitute calculation³² that results in a basic amount of council tax that is not excessive. The billing authority must then make arrangements to hold a local referendum in relation to the basic amount of council tax.³³ The persons entitled to vote are those who would be entitled to vote in a local election and are registered in the register of local government electors at an address within the billing authority’s area. If the excessive council tax is approved by a majority of persons voting, then it will be effective. Otherwise, the substitute calculation takes effect.³⁴

Similar statutory provisions to those described above apply to control excessive increases in the precepts set by major and local precepting authorities.³⁵ As with billing authorities, local precepting authorities must determine if an authority’s relevant basic amount of council tax is excessive in accordance with the set of principles determined by the Secretary of State in their report. For 2024–25, the Secretary of State has not set any principles for local precepting authorities (which includes local councils.)

- 1 [Local Government and Public Involvement in Health Act 2007, ss.79–102](#)
- 2 [Local Government and Public Involvement in Health Act 2007, s.93\(3\)](#)
- 3 [Local Government and Public Involvement in Health Act 2007, s.82](#)
- 4 [Local Government Finance Act 1992, s.41\(1\)](#)
- 5 [Local Government Act 1972, schedule 12, paragraph 8\(1\)](#)
- 6 [Local Government Act 1972, s.151\(1\)](#)
- 7 [Local Audit and Accountability Act 2014, ss.3, 4](#)
- 8 [Localism Act 2011, s.27\(2\)](#)
- 9 [Local Government Act 1986, s.2](#)
- 10 [Crime and Disorder Act 1998, s.17](#)
- 11 [Natural Environment and Rural Communities Act 2006, s.40](#)
- 12 [Freedom of Information Act 2000, s.1](#)
- 13 [Equality Act 2010, s.149, schedule 19](#)
- 14 [Human Rights Act 1998, s.6](#)
- 15 [Local Government Act 1972, s.111](#)
- 16 [Local Government \(Miscellaneous Provisions\) Act 1976, s.19\(1\)](#)
- 17 [Local Government Act 1972, s.124\(1\)\(b\)](#)
- 18 [Local Government Act 1972, s.101\(1\)\(b\)](#)
- 19 [Local Government Finance Act 1992, s.1\(2\)](#)
- 20 [Local Government Finance Act 1992, s.30\(6\)](#)
- 21 [Local Government Finance Act 1992, s.31A\(6\)\(b\)](#)
- 22 [Local Government Finance Act 1992, s.39\(2\)](#)
- 23 [Local Government Finance Act 1992, s.39\(1\)](#)
- 24 [Local Government Finance Act 1992, s.41\(4\)](#)
- 25 [Local Government Finance Act 1992, s.49A](#)
- 26 [Council Tax \(Demand Notices\) \(England\) Regulations 2011/3038, regulations 2, 8](#)
- 27 [Council Tax \(Demand Notices\) \(England\) Regulations 2011/3038, schedule 2, part 2](#)
- 28 [The Accounts and Audit Regulations 2015/234](#)
- 29 [Localism Act 2011, s.72](#)

- 30 [Local Government Finance Act 1992, s.52ZB\(1\)](#)
- 31 [Local Government Finance Act 1992, ss.52ZC, 52ZD\(1\); The Referendums Relating to Council Tax Increases \(Principles\) \(England\) Report 2024-25 \(principles for 2024-25 only\)](#)
- 32 [Local Government Finance Act 1992, s.52ZF](#)
- 33 [The Local Authority \(Referendums Relating to Council Tax Increases\) Regulations 2012/460; The Local Authorities \(Conduct of Referendums\) \(Council Tax Increases\) \(England\) Regulations 2012/444](#)
- 34 [Local Government Finance Act 1992, s.52ZH](#)
- 35 [Local Government Finance Act 1992, ss.52ZJ-52ZM](#)

Key points

- A councillor's normal term of office is four years.
- Any person over 18 who is a citizen of the UK, the EU or the Commonwealth can be a councillor if they are an elector in, work in, live in or live within three miles of the area of the local council, unless they are disqualified.
- The first business of the annual meeting of a local council is the election of its chair.
- Most local councils appoint a vice-chair but this is optional.
- The normal term of office for the chair and vice-chair (if there is one) of a local council is one year.
- A councillor is the holder of a public office, not a volunteer.
- A councillor can receive expenses for their role.
- A councillor has no authority to make decisions about council business on their own.
- The main job of a councillor is to participate in the collective decision-making processes of their council.
- A local council may arrange insurance cover to indemnify its councillors against liability resulting from them being representatives of the council.
- A councillor's financial and certain other interests in council business must be transparent.
- A councillor is subject to obligations set out in the code of conduct adopted by the council.
- Information about councillors is available in the council's publication scheme.

Who is a local councillor?

A local council is a legal entity in itself¹ which means that it can enter into contracts, buy and sell land, employ staff, and so on, as a corporate body, without having to act in the name of its individual councillors as in, for example, an unincorporated trust. A local council must comprise at least five councillors,² one of whom must be the chair of the council.³ Subject to the statutory rules about disqualification,⁴ a person is eligible to be elected as a local councillor and to be a member of a local authority if

they are a qualifying Commonwealth citizen or a citizen of the Republic of Ireland or a qualifying EU citizen or an EU citizen with retained rights and on the relevant day, the person has attained the age of eighteen years and:⁵

- they are and thereafter continue to be a local government elector in the local council's area; or
- they have, during the 12 months preceding that day, occupied as owner or tenant any premises in the local council's area; or
- their principal or only place of work during those 12 months has been in the local council's area; or
- during the whole of those 12 months, they have resided either in the local council's area or within three miles of it.

When a person is a councillor, they are first and foremost the holder of a public office. Legislation dictates the term of their office, the conduct expected of them when they are acting as a representative of the local council, and their role in making decisions about council business. Some local councillors regard themselves as volunteers because while they are entitled to receive an allowance or payments for expenses incurred in their office (see section below on councillors' allowances), they often do not. While it is true that councillors give up time to fulfil the responsibilities in their public office and may elect to forgo receipt of an allowance or other payment, they are not volunteers.

Once elected, the normal term of office for a councillor is four years. In a year of elections to a local council, the persons who were councillors immediately before election retire together on the fourth day after an ordinary election, being the same date that the newly elected councillors take office.⁶ Unless the person elected as a local councillor has signed and delivered a prescribed statutory form⁷ to accept their office as a councillor, their office is declared vacant.⁸ All councillors must deliver their acceptance of office form before or at the first meeting of the council after their election unless the council decides this can be done later.⁹ If a local council has decided to take the name of a town council, its councillors are known as town councillors. If a local council has the formal name of a community council or, as the case may be, a neighbourhood council or a village council, its councillors are respectively known as community councillors, neighbourhood councillors or village councillors.¹⁰

The chair

The election of the chair of a local council by and from the other councillors must be the first business of the annual meeting of the council¹¹ in May. A local council is not lawfully constituted without a chair.¹² In a year of elections to a local council, the annual meeting must take place on or within 14 days after the day on which the newly elected councillors take office.¹³ The chair must sign and deliver a form (the same statutory prescribed form¹⁴ that they and other councillors use to accept office as a councillor) which confirms their acceptance of office. The chair must do this at the meeting at which they are elected or by a later date if the council agrees this.¹⁵ The chair holds office until the next annual meeting

of the council when their successor is elected.¹⁶ If the chair ceases to be a councillor following an election, they and the vice-chair, if there is one, continue in office until a new chair is elected at the annual meeting that year.¹⁷ The outgoing chair (or vice-chair if the chair is not present) presides at the annual meeting until the new chair is elected. If the chair of a local council dies, resigns from their office as a councillor or from their office as the chair, or otherwise cannot continue as a councillor, an election to fill the vacancy must be held not later than the next ordinary meeting of the local council after the vacancy occurs, or if that meeting is held within fourteen days after that date, then not later than the next following ordinary meeting of the council, and is conducted in the same manner as an ordinary election. However, a local council can also convene an extraordinary meeting to appoint a new chair and this may be a practical way of dealing with the issue.¹⁸

The vice-chair

A local council may (but is not required to) elect a vice-chair to act as deputy to the chair.¹⁹ A vice-chair may stand in as chair and take any action that the chair may take in the absence of the chair if the local council's Standing Orders allow.²⁰ Unless they resign from their office as a councillor or as vice-chair, die, or otherwise cannot continue as a councillor, the vice-chair of a local council holds office until immediately after the election of a chair of the council at the next annual meeting.²¹

If a local council is a town council, the chair (and vice-chair, if any) may take the title of town mayor (and deputy town mayor).²² If a local council is a community council or, as the case may be, a neighbourhood council or a village council, its chair and vice-chair are known as the chair and vice-chair of the community council or, as the case may be, of the neighbourhood or village council.²³

Information about councillors

The Freedom of Information Act 2000 requires a local council to have a publication scheme²⁴ which makes available to the public certain information about the council. There are further details about the information which a local council is required to publish in the Local Government Transparency Code²⁵ (for larger authorities) and in the Transparency Code for Smaller Authorities.²⁶ An important requirement is for local councils to publish a list of councillors and their responsibilities. Councillors' names, roles within the council (for example, chair or vice-chair or chair of a committee) and contact details should be available to the public via the local council's publication scheme. Further details about transparency and information which must be made available to the public is included in **Chapter 4**.

When does a councillor stop being a councillor?

A councillor's normal term of office comes to an end after four years.²⁷ A councillor's office will of course end upon their resignation or death.²⁸ The date of resignation is the date of receipt of the notice of resignation by the person or body to whom the notice is required to be delivered – in the case of a councillor, to the chair, and in the case of the chair, to the Council.

There are other circumstances in which a local councillor's term of office can come to an end:

- they fail to deliver the form which formally confirms their acceptance of office²⁹ (explained above);
- they fail to attend a meeting of the whole council, a committee, sub-committee or joint committee for a period of six consecutive months or attend a meeting of any joint committee, joint board or other body by whom any of the council's functions are being discharged, or who were appointed to advise the council on any matter relating to the discharge of their functions, or attend as a representative of the council at a meeting of any body of persons and the reason for their absence has not been approved before the expiry of that six-month period by Full Council;³⁰
- they hold a paid office (other than chair or vice-chair) or employment, the appointments to which are made by the local council;³¹
- they are subject to a bankruptcy restrictions order or an interim bankruptcy restrictions order, or a debt relief restrictions order or interim debt relief restrictions order under the Insolvency Act 1986;³²
- they have, within five years before the day of election or since their election, been convicted of an offence in the UK, the Channel Islands or the Isle of Man which has imposed a sentence of imprisonment of three months or more (whether suspended or not) without the option of a fine;³³
- they have been disqualified from being a councillor of a Principal Council as a result of electoral offences; or³⁴
- they have committed sexual offences which are subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (section 81A of the Local Government Act 1972 (the 1972 Act)).

In the case of one of the above situations occurring, a casual vacancy arises. A casual vacancy occurs when an elected member ceases to be an elected member as a result of, for example, their death, resignation, becoming disqualified, or being no longer qualified to remain elected.

Co-option

When a casual vacancy arises, the local council will advise the Principal Council. The local council must make a request to fill a casual vacancy in accordance with the following rules:³⁵

- Any request must be made to the proper officer of the Principal Council of the district in which the parish is situated by 10 persons who are named on the register in use at the time of the request as local government electors for the electoral area in which the vacancy has occurred and within 14 days after the local council has given public notice of the vacancy in accordance with s.87(2) of the 1972 Act.
- If a by-election is requested, it must then be held unless the vacancy has occurred within the last six months of the end of the councillor's term (four-year term of office).

- If no by-election is requested, the local council must, as soon as practicable after the expiry of the 14 days, fill the vacancy by co-option.
- If the vacancy falls within the six-month period, the local council does not have to fill the vacancy but may fill the vacancy by co-option as soon as practicable after the expiry of the 14 days.

A person is eligible to be co-opted if they are qualified to be a councillor and are not disqualified by s.80 of the Local Government Act 1972.³⁶

Local councils can (after the 14 days' notice period) advertise the vacancy and ask for applications from eligible candidates. Co-options are dealt with as agenda items as part of the normal meeting process.

Councillors' conduct and interests

A councillor is subject to statutory rules about how they conduct themselves as a representative of their local council. They are also subject to statutory rules which require them to be transparent about the existence of certain financial and personal interests. The seven Nolan Principles apply to the standards of conduct for those in public life who include, for example, members of Parliament, Ministers, and councillors of all local authorities.

The Nolan Principles

The Nolan Principles were established by the Committee on Standards in Public Life.³⁷ They are:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

The Localism Act 2011

The Localism Act 2011 (the 2011 Act) is the piece of legislation that sets out the standards of behaviour expected of a councillor as a representative of their local council, requires the disclosure of certain financial or personal interests, and restricts the participation in the discussion and voting at a meeting that is considering a matter in which a councillor holds a financial or other interest.

The code of conduct

A local council has a statutory duty to promote and maintain high standards of conduct by its councillors when they are representing the local council.³⁸ In discharging this duty, a local council must adopt a code of conduct that confirms the obligations of councillors when acting in capacity as a councillor.³⁹ A local council's code of conduct must be

consistent with the Nolan principles above,⁴⁰ although the principles themselves do not form part of the code of conduct. A local council's code of conduct may, for example, require its councillors:

- to treat others with respect;
- not to bully or behave in an intimidatory manner;
- not seek to improperly confer an advantage or disadvantage on others;
- to use the resources of the council in accordance with its requirements; and
- not to disclose confidential information.

The Model Code of Conduct

The Local Government Association (LGA) developed a Model Code of Conduct (the Model Code),⁴¹ with the assistance of NALC and SLCC, in response to recommendations from the Committee on Standards in Public Life in their Local Government Ethical Standards report published in 2019. The NALC and SLCC Civility and Respect Working Group endorses the Model Code and aims to encourage its adoption within the local council sector. The LGA also published Guidance to the Model Code of Conduct.⁴² The Civility and Respect Working Group has revised that Guidance to better reflect the needs of local councils. See the NALC website for more information on the work of the group. It is not obligatory for local councils to adopt the Model Code, but many local councils and Principal Councils have done so. Copies of all the documents can be found on the LGA, NALC and SLCC websites. A local council must publicise its adoption, revision or replacement of a code of conduct in such a manner that is likely to receive the attention of people who live in its area.⁴³ The code of conduct adopted by a local council and the register of interests of its councillors (see below) should be available to the public via its publication scheme.

Register of interests

A councillor must register certain financial interests and disclose them if relevant at meetings. These interests are known as disclosable pecuniary interests⁴⁴ and are interests held by a councillor or their spouse, civil partner or the person they live with as if they were a spouse or civil partner. Examples of disclosable pecuniary interests include employment, business interests, or ownership of land in the local council's area. A councillor must give signed written notice of the disclosable pecuniary interests that are held by them or their partner to the monitoring officer of their Principal Council. The formal record of the interests of a councillor is known as the register of interests. A councillor must give written notification of their disclosable pecuniary interests within 28 days of their election⁴⁵ or within 28 days of a meeting that considered a matter in which they held a disclosable pecuniary interest but of which they had not previously notified the monitoring officer.⁴⁶ The monitoring officer has a duty to publish a councillor's register of interests on their authority's website. It should also be available for inspection at a place in the monitoring officer's authority's area.⁴⁷ A local council must also publish its councillors' register of interests on its website.⁴⁸ A councillor may ask the monitoring officer to exclude from their register of interests "sensitive

interests” which are disclosable pecuniary interests, the details of which, if disclosed in the public register of their interests, might lead to a threat of violence or intimidation to them or to a person connected with them.⁴⁹ The monitoring officer has responsibility for deciding if a councillor’s interests are sensitive interests that can be excluded from the public register of their interests.

Declaration of interests

If a councillor has a disclosable pecuniary interest in a matter to be considered at a meeting, they cannot take part in discussions or vote on the matter at a meeting⁵⁰ unless they have been granted a dispensation. If the disclosable pecuniary interest has not already been disclosed to the monitoring officer, the councillor must disclose the interest to the meeting.⁵¹ If it is a sensitive interest, they only need to declare the existence of it, not the nature of it.⁵² A local council may have standing orders that require a councillor to withdraw from the meeting while any discussion or vote takes place in respect of a matter in which the councillor has a disclosable pecuniary interest⁵³ so that they are not perceived to be influencing the discussion or vote.

Other interests

A local council’s code of conduct may, but does not have to, include rules about the registration and disclosure of interests that are not disclosable pecuniary interests, and the availability of dispensations. For example, a local council’s code of conduct could restrict a councillor from participating at a meeting on a matter in which their relatives or friends have a financial interest unless they have been granted a dispensation. The Model Code contains provisions about registering “Other Interests” and also provisions about “Non-Registrable Interests”. The Model Code itself and the Guidance on the Model Code provide further explanation and helpful examples of the various types of interests and the impact on a councillor’s right to participate in and vote on a relevant item where an interest arises.

A local councillor is responsible for deciding if they hold an interest (whether a disclosable pecuniary interest or another interest in their local council’s code of conduct) which they should register or disclose at a meeting, and which may restrict their participation in the discussion or voting at a meeting. If a councillor is not sure about their legal obligations, they can seek general guidance from their clerk or the local monitoring officer.

Dispensations

The 2011 Act and the Model Code allow local councils to give dispensations in certain circumstances to allow councillors to participate in and vote on an item even if they have a disclosable or other relevant interest.

The purpose of a dispensation is to relieve a councillor of some or all of the restrictions which apply to them at a meeting that is considering a matter in which they hold a disclosable pecuniary or other interest. A local council is responsible for granting dispensations. A local council may grant a dispensation, with regard to all the relevant circumstances, if it considers that:⁵⁴

- without the dispensation, the number of persons prohibited from participating in any particular business being considered at a meeting would be so great a proportion of the meeting that it would impede the transaction of the business; or
- granting the dispensation is in the interests of persons living in the local council's area; or
- it is otherwise appropriate to grant a dispensation.

If a councillor requires a dispensation, they must request this in writing and submit it to a designated member of staff. It is recommended that dispensation requests are subject to the local council's standing orders, which might reasonably require a request to be submitted before the meeting in question. A local council's standing orders should confirm who is responsible for considering dispensation requests and granting dispensations – often the clerk. If a dispensation is granted, it must confirm if the councillor is permitted to participate in a discussion of the matter at a meeting or in a discussion and a vote on the matter. The dispensation must also confirm the date of the meeting or the period to which the dispensation applies (not exceeding four years).⁵⁵

Criminal offences in relation to disclosable pecuniary interests

It is a criminal offence for a councillor:⁵⁶

- to fail to register their disclosable pecuniary interests within 28 days of their election or re-election;
- to participate, without a dispensation, in the discussion or the voting at a meeting that is considering a matter in which they hold a disclosable pecuniary interest;
- not to disclose at a meeting a disclosable pecuniary interest they hold in a matter that is being considered at the meeting which they have not already notified the monitoring officer about, or not to register the new disclosable pecuniary interest within 28 days of the meeting; and
- to provide information about a disclosable pecuniary interest that is false or misleading.

Responsibility for dealing with complaints

A complaint that a councillor has not observed the code of conduct of their local council must be submitted to their Principal Council. The Principal Council will notify the complainant of its procedures for handling the complaint.⁵⁷ The Principal Council must have arrangements in place to assess and investigate complaints made under the code of conduct for its own councillors and also for local councillors in its area. Therefore, a complaint is always assessed and investigated (if necessary) under the local council's own code of conduct, but in accordance with the Principal Council's Arrangements. The responsibility for assessing and arranging for investigations is usually delegated to the monitoring officer. However, if an investigation is necessary, the monitoring officer would usually instruct an independent investigator.

If the Principal Council finds that the councillor has failed to comply with the local council's code of conduct, it will notify the councillor and the local council of its decision. The Principal Council cannot take action against, or impose sanctions on, a local councillor. It can only make recommendations to the local council. The final decision rests with the local council⁵⁸ which may, for example, decide to censure the councillor, remove them as its representative on an external body, or request the councillor to attend training or apologise. It is not possible under the 2011 Act for any local council or Principal Council to impose the sanction of suspension or disqualification on a councillor following a finding of a failure to comply with the code of conduct.

What do councillors do?

There is no statutory description for the role of a councillor. A councillor's main role is to influence and contribute to the formal decisions of their council, known also as resolutions. As described in **Chapter 1**, a local council may make decisions about all sorts of matters. The obvious examples are prioritising areas of spend, deciding the precept, setting and working within budgets, provision of its services and facilities, partnership working, and management of staff.

A councillor's main responsibilities are to:

- raise matters that, for example, affect local residents, that the local council can consider and formally decide to act on meetings;
- attend local council meetings;
- make informed contributions which influence the debate on the business that needs to be decided at those meetings;
- participate in their local council's decision-making process, which is subject to strict rules; and
- represent their local council externally.

Councillors are not expected to possess the knowledge, skills or experience that are required for all aspects of their local council's work. At a formal meeting of the local council, committee (including joint committee) or sub-committee (including joint sub-committee) councillors are expected to make informed decisions based on the consideration of relevant information. If councillors find themselves unable to make informed decisions because they lack information or understanding, or because they consider their local council would benefit from the input of experts or professional advice, they should defer making decisions until this is made available to them.

A councillor's main role is to act as a representative of their local council. A councillor may, however, lawfully undertake activities as a councillor that are independent of their local council. For example, a councillor representing a ward may deal with residents' interests specific to their ward. A councillor's campaign for re-election to the local council, or campaigning at other times on behalf of their political party (if relevant), is a matter which is independent of their role as a local councillor. When a councillor acts independently of their local council, they should make their constituents aware of that fact and also remember that they will be acting as a data controller in their own right under the requirements of the

Pre-determination and bias

It is possible that a councillor may be predisposed to a particular view on an issue or question on which the local council is making a decision. For example, the views of a councillor may have been communicated in their election campaign, openly expressed at prior meetings, reported in a local paper, or simply overheard. It is entirely lawful for a councillor to be predisposed to a certain viewpoint but it is not lawful for a councillor to have predetermined views.

CASE LAW ON PREDETERMINATION AND BIAS

R. (on the application of Lewis) v Redcar and Cleveland Borough Council (2008)

There have been several cases about predisposition and/or predetermination which support the fact that councillors may be predisposed to a particular view. A leading case is R. (on the application of Lewis) v Redcar and Cleveland BC [2008] EWCA Civ 746. It related to a decision of a Borough Council's planning committee, but the principles are relevant to all local councils' decisionmaking. The case involved an application on judicial review to quash a planning permission relating to mixed residential and leisure development on the basis that the members of the planning committee demonstrated "closed minds" and predetermination by previously expressing support for the development at a Cabinet meeting and during the election campaign. The court found that this was not the case. In its conclusion, the court stated that:⁵⁹

"The committee consisted of elected members who were entitled, and indeed expected, to have, and to have expressed, views on planning issues. When taking a decision, the members had to have regard to material considerations, but they were not required to cast aside views on planning policy they would have formed when seeking election. What was objectionable was predetermination. The decision maker should be open to new arguments up to the moment of decision. The test was a very different one from that to be applied to those in a judicial or quasi-judicial position. A decision maker in the planning context was not acting in a judicial or quasi-judicial role but in a situation of democratic accountability. He had to address the planning issues before him fairly and on their merits, even though he might approach them with a predisposition in favour of one side of the argument."

CASE LAW ON PREDETERMINATION AND BIAS

R. (on the application of CPRE (Somerset)) v South Somerset District Council (2022)

In contrast, the case of *R. (on the application of CPRE (Somerset)) v South Somerset DC* [2022] EWHC 2817 (Admin) is an example of how appearance of bias and predetermination can affect the validity of a council's decision. The case involved members of South Somerset District Council's planning committee who were also members of the local town council.

The claimant sought judicial review of the grant of planning permission by South Somerset DC to the town council for the erection of five self-contained buildings to store and facilitate the construction of carnival floats. The vice-chair of the planning committee was a member of the town council which had made the planning application. The chair was a member of the carnival committee, in which capacity he supported the application. He was also a close affiliate of another committee which had acted as an agent for the town council in making the application.

The claimant had advised the local authority's monitoring officer that 6 of the 11 planning committee members had personal interests in the application and requested that its consideration be deferred. The chair and vice-chair declared a "personal interest" under the local authority's code of conduct but, on the monitoring officer's advice, decided that they did not have a "prejudicial interest" on a proper interpretation of the code. They participated in the meeting and decision, voting in favour of granting planning permission. A third member also declared a personal interest but voted against granting permission. The other three members declared a personal interest and did not participate in the meeting or decision-making process. The committee voted 6:5 to grant planning permission.

The claimant argued that the decision was unlawful because it was tainted by apparent bias on the part of the planning committee's chair and vice-chair, who had approached the application with closed minds so that the grant of permission was predetermined.

The court held that, on the issue of bias and predetermination, the test for deciding whether a planning committee's decision was tainted by bias was whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the committee was biased.⁶⁰ Predetermination was a different, though related concept. A decision could be impaired by predetermination where there was a real risk that minds were closed. The court recognised, however, that, in assessing that question in the planning context, councillors were not in a judicial or quasi-judicial position but were elected to provide and pursue policies and would be entitled, and indeed expected, to have and to have expressed views on planning issues,⁶¹ as reflected in the case of *R (on the application of Lewis) v Redcar and Cleveland BC*, above.

Section 25 of the Localism Act 2011

As discussed above, predisposition and predetermination are different, but related issues. The 2011 Act supports the point that councillors may hold strong opinions one way or the other on a subject:⁶²

- If, as a result of an allegation of bias or predetermination, or otherwise, there is an issue about the validity of a decision of a relevant authority, and it is relevant to that issue whether the decision maker, or any of the decision makers, had or appeared to have had a closed mind (to any extent) when making the decision then the below applies.
- A decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take, in relation to a matter, and the matter was relevant to the decision.

As an example, a councillor may be predisposed to voting against the development of a building for a nightclub, or against a position of the local council that would undermine the policy of the political party they are a member of, or the informal policy of the political group that has an overall majority in the local council. This is not necessarily a problem if the councillor takes all material considerations into account, such that they do not participate at the meeting with a closed mind. In other words, they must be open to a fair consideration of the information and arguments that are presented at the meeting.

Individual accountability

As explained above, a councillor is accountable for any personal failure to fulfil the obligations in the code of conduct that has been adopted by their local council. A councillor is also subject to potential criminal prosecution if they fail to disclose and register their disclosable pecuniary interests.

A councillor has no individual accountability for the decisions of their local council because they cannot alone make decisions about council business. However, they are at risk of criticism from other councillors (and external parties) for their part in those decisions.

Although a local council operates collective decision making, a councillor's actions are visible to the public. At meetings, voting is normally by a show of hands⁶³ and therefore a councillor's vote is transparent to those present at the meeting. The debate and vote will be published in the minutes of the council meeting and a councillor can exercise their statutory right to request that their vote is individually recorded.⁶⁴

Personal liability

There are circumstances, albeit rare, when legal proceedings may be issued against a councillor (not the local council) because of acts or omissions attributable to them or arising from their acting as a representative of the local council. A councillor may be at risk of a defamation or negligence action or other legal action if, for example, they have failed to comply with provisions in the Equality Act 2010, the Data

Protection Act 2018, the Health and Safety at Work etc. Act 1974, the Bribery Act 2010, or the Protection from Harassment Act 1997.

A local council may arrange insurance cover for its councillors to indemnify them in respect of liability that arises when acting as a representative of the council.⁶⁵ Legislation tightly regulates the conditions under which a councillor may be indemnified. Insurance cover can indemnify a councillor when they are undertaking an activity with the approval of, or for the purposes of, their local council. Insurance cover may also be arranged to indemnify a councillor where their actions were outside the councillor's and the local council's powers, but the councillor reasonably believed that the action in question was within their or the local council's powers. The local council may arrange insurance cover for a councillor to defend (but not to bring) a claim of defamation. The local council may arrange insurance cover for councillors in the defence of criminal proceedings only on the basis that if a councillor is subsequently convicted of a criminal offence not overturned following any appeal, the councillor must reimburse the insurer for any sums expended by the insurer in relation to those proceedings.

The politics of being a local councillor

Many local councillors are not members of a political party. Councillors who are not members of a political party are often referred to as independent councillors. A councillor's membership of a political party is not a disclosable pecuniary interest under the relevant regulations. A local council must not publish or assist anyone else to publish material that affects public support for a political party.⁶⁶ Local councils and councillors are subject to a recommended code of practice about local authority publicity.⁶⁷ **Chapter 5** provides more information about the recommended code of practice.

Councillors may fall into different groups due to their membership of, or support for, the same political party. A "group" is defined as two or more councillors. A group may organise itself before decisions about council business need to be taken. Councillors in the same political group, or even independents, may meet informally or otherwise liaise among themselves to discuss or agree their proposed approach for the business to be decided at a forthcoming meeting. They may agree among themselves who will speak for or against a matter that is on the agenda. The practices of a group of councillors, party political or otherwise, are informal and have no legal force. Informal meetings of groups of councillors are not a substitute for formal council meetings.

A local council cannot appoint a "leader" – legislation which allows Principal Councils to appoint leaders does not apply to local councils. The lead councillor for a local council is always the chair. Neither the chair, nor any individual local councillor, has individual decision-making authority, unlike the role of leader in a Principal Council.

Unlike a Principal Council, local councillors do not have to follow the rules of political proportionality.⁶⁸ This means that the composition of the committees and sub-committees of a local council is not required to represent the same proportions in which the council as a whole may be politically divided.

Councillors' allowances

A local council may pay a basic allowance each year to its chair only or to each of its elected councillors (but not to councillors who have been co-opted). The amount payable to the chair may differ from that of other councillors (that is, a higher sum may be paid considering the extra duties and responsibilities that are required of the chair) but otherwise the sum shall be the same for each councillor.⁶⁹ A basic allowance paid to a councillor is not a salary, but it is treated by HM Revenue and Customs as taxable income. A council is obliged to deduct income tax, where appropriate, under the PAYE system. A local council may also pay councillors and co-opted councillors travelling and subsistence allowances.⁷⁰ The payment of allowances to councillors is subject to a statutory process which involves a local remuneration panel, independent of the local council, whose role is to make recommendations as to the level of the various allowances that a council can pay.⁷¹ Many local councils do not pay allowances and if they do, it is a modest sum. A local council cannot pay an allowance for childcare or other dependants' care expenses. If a local council chooses to pay allowances, a councillor has a statutory right to forgo receipt of an allowance by giving written notice to the proper officer of the council.⁷²

As an alternative to paying the chair⁷³ or all councillors an allowance, a local council has a separate power under the 1972 Act to make payments to the chair which enables them to meet the expenses associated with their office, such as representing the local council at meetings and events, travel expenses, hospitality, and so on. Where a local council has decided the annual budget for the allowance to be paid to the chair, it must decide when it will make such payments. It may make payments on request or simply pay the allowance in quarterly or biannual instalments. Details of councillors' allowances should be made available to the public through the local council's publication scheme.

- 1 [Local Government Act 1972, s.14\(2\)](#)
- 2 [Local Government Act 1972, s.16\(1\)](#)
- 3 [Local Government Act 1972, s.14\(1\)](#)
- 4 [Local Government Act 1972, s.80](#)
- 5 [Local Government Act 1972, s.79](#)
- 6 [Local Government Act 1972, s.16\(3\)](#)
- 7 [The Local Elections \(Declaration of Acceptance of Office\) Order 2012/1465, schedule 1](#)
- 8 [Local Government Act 1972, s.83\(4\)](#)
- 9 [Local Government Act 1972, s.83\(4\)](#)
- 10 [Local Government Act 1972, ss.16\(6\)–16\(8\)](#)
- 11 [Local Government Act 1972, s.15\(2\)](#)
- 12 [Local Government Act 1972, s.14\(1\)](#)
- 13 [Local Government Act 1972, schedule 12, paragraph 7\(2\)](#)
- 14 [The Local Elections \(Declaration of Acceptance of Office\) Order 2012/1465, schedule 1](#)
- 15 [Local Government Act 1972, s.83\(4\)](#)
- 16 [Local Government Act 1972, s.15\(4\)](#)
- 17 [Local Government Act 1972, s.15\(8\)](#)
- 18 [Local Government Act 1972, s.88](#)
- 19 [Local Government Act 1972, s.15\(6\)](#)
- 20 [Local Government Act 1972, s.15\(9\)](#)
- 21 [Local Government Act 1972, s.15\(7\)](#)
- 22 [Local Government Act 1972, s.245\(6\)\(b\)](#)
- 23 [Local Government Act 1972, ss.15\(11\)–15\(13\)](#)
- 24 [Freedom of Information Act 2000, s.19](#)
- 25 [Local Government Transparency Code 2015](#)
- 26 [Transparency Code for Smaller Authorities 2015](#)
- 27 [Local Government Act 1972, s.16\(3\)](#)
- 28 [Local Government Act 1972, ss.87\(1\)\(b\), 87\(1\)\(c\)](#)
- 29 [Local Government Act 1972, s.83\(4\)](#)
- 30 [Local Government Act 1972, s.85](#)
- 31 [Local Government Act 1972, s.80\(1\)\(a\)](#)

- 32 [Local Government Act 1972, s.80\(1\)\(b\)](#)
- 33 [Local Government Act 1972, s.80\(1\)\(d\)](#)
- 34 [Local Government Act 1972, s.80\(1\)\(e\)](#)
- 35 [The Local Elections \(Parishes and Communities\) \(England and Wales\) Rules 2006, regulation 5](#)
- 36 [Local Government Act 1972, s.80](#)
- 37 [The Seven Principles of Public Life](#)
- 38 [Localism Act 2011, s.27\(1\)](#)
- 39 [Localism Act 2011, s.27\(2\)](#)
- 40 [Localism Act 2011, s.28\(1\)](#)
- 41 [The Local Government Association Model Councillor Code of Conduct](#)
- 42 [Guidance on the Local Government Association Model Councillor Code of Conduct](#)
- 43 [Localism Act 2011, s.28\(12\)](#)
- 44 [The Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012/1464](#)
- 45 [Localism Act 2011, s.30\(1\)](#)
- 46 [Localism Act 2011, s.31\(3\)](#)
- 47 [Localism Act 2011, s.29\(6\)](#)
- 48 [Localism Act 2011, s.29\(7\)](#)
- 49 [Localism Act 2011, s.32](#)
- 50 [Localism Act 2011, s.31\(4\)](#)
- 51 [Localism Act 2011, s.31\(2\)](#)
- 52 [Localism Act 2011, s.32\(3\)](#)
- 53 [Localism Act 2011, s.31\(10\)](#)
- 54 [Localism Act 2011, 33\(2\)](#)
- 55 [Localism Act 2011, s.33\(3\)](#)
- 56 [Localism Act 2011, s.34](#)
- 57 [Localism Act 2011, ss.28\(6\), 28\(9\)](#)
- 58 [Localism Act 2011, s.28\(11\)](#)
- 59 [R. \(on the application of Lewis\) v Redcar and Cleveland BC \[2008\] EWCA Civ 746, Pill LJ \[62\]](#)
- 60 [R. \(on the application of CPRE \(Somerset\)\) v South Somerset DC \[2022\] EWHC 2817 \(Admin\), Chamberlain J \[20\]](#)
- 61 [R. \(on the application of CPRE \(Somerset\)\) v South Somerset DC \[2022\] EWHC 2817 \(Admin\), Chamberlain J \[25\]](#)
- 62 [Localism Act 2011, ss.25\(1\), 25\(2\)](#)

- 63 [Local Government Act 1972, schedule 12, paragraph 13\(1\)](#)
- 64 [Local Government Act 1972, schedule 12, paragraph 13\(2\)](#)
- 65 [The Local Authorities \(Indemnities for Members and Officers\) Order 2004/3082](#)
- 66 [Local Government Act 1986, s.2](#)
- 67 [Local Government Act 1986, s.4; Code of Recommended Practice on Local Authority Publicity 2011](#)
- 68 [The Local Government \(Committees and Political Groups\) Regulations 1990/1553](#)
- 69 [The Local Authorities \(Members' Allowances\) \(England\) Regulations 2003/1021, regulation 25; The Local Authorities \(Members' Allowances\) \(England\) \(Amendment\) Regulations 2004/2596, regulation 4](#)
- 70 [The Local Authorities \(Members' Allowances\) \(England\) Regulations 2003/1021, regulation 26; The Local Authorities \(Members' Allowances\) \(England\) \(Amendment\) Regulations 2004/2596, regulation 6](#)
- 71 [The Local Authorities \(Members' Allowances\) \(England\) Regulations 2003/1021, regulation 10](#)
- 72 [The Local Authorities \(Members' Allowances\) \(England\) Regulations 2003/1021, regulation 32](#)
- 73 [Local Government Act 1972, s.15\(5\)](#)

Key points

Local council staff:

- include person(s) to undertake statutory obligations conferred on the “responsible financial officer”;
- include person(s) to undertake statutory obligations conferred on the “proper officer”;
- are needed to support a council’s general administration, and accounting and audit administration;
- may provide or manage a local council’s services and facilities
- may discharge some of a local council’s statutory powers and functions on the council’s behalf;
- cannot be managed by individual councillors.

Local councils as employers

The Local Government Act 1972 confers a specific statutory power on a local council to employ staff as it thinks necessary for it to carry out its statutory functions and powers.¹ The same power confirms that a local council may employ staff on such reasonable terms and conditions, including in respect of pay, as it thinks fit. Council staff may include a person who works for a council directly (an employee), indirectly through an agency (a worker), or as a self-employed person. In practice, most staff are likely to be employed by a council directly. The staff who work for local councils, as with the staff of other local authorities, are often referred to as “officers.”

CASE LAW ON LOCAL COUNCILS & EMPLOYMENT

Heesom v Public Services Ombudsman for Wales (2014)

Local council staff often have direct and sometimes very regular contact with individual councillors. Although it is the corporate body of the council itself, not its councillors or committees and sub-committees or groups of councillors (political or otherwise), that is the employer, councillors should always behave in their interactions with staff as representatives of the local council, as an employer. *Heesom v Public Services Ombudsman for Wales* [2014] EWHC 1504 (Admin) is a case concerning freedom of expression for councillors. Among other issues, it comments on the role of a councillor in relation to officers. It held:²

“...the Appellant, as a councillor, was a “quasi-employer” of the Council officers that were the subject of his comments; and therefore the comments he made had the potential of impairing the mutual trust between the Council (in the sense of Council members) and them.”

Employment contracts

A local council may employ staff on such reasonable terms and conditions, including in respect of pay, as it thinks fit. It must meet minimum wage requirements. It must also provide the main terms of employment in writing. It is recommended that the employees of a local council have a written employment contract.

Collective arrangements

Local authorities may employ staff on terms and conditions which are agreed at a national level by the National Joint Council (NJC) for Local Government Services through a collective bargaining process.

The NJC is made up of representatives from the bodies that represent different local authority employers (for example, the Local Government Association which represents the interests of Principal Councils in England) and the various unions that represent local authority staff.

The NJC is responsible for a national agreement on pay (including pay scales and cost of living increases) and conditions (for example, working hours, annual leave, sick pay and benefits which accrue over time) of employment for local authority staff. This national agreement is known as the Green Book. The Green Book provides a local authority with a comprehensive set of terms and conditions and recommendations in respect of its employment of staff. It identifies terms and conditions of employment which are for the individual local authority to determine.

Information on the impact of NJC agreements on the local council sector and on template employment contracts is available to NALC members in the resources library of the NALC website.

The Pensions Act 2008 requires all local councils to enrol eligible jobholders automatically into a qualifying pension scheme.³

Consistent with the proper practices for the accounting, auditing and financial management of a local council, the job description for council staff with responsibility for collecting money or making payments should

refer to them being subject to the relevant standing orders, financial regulations and internal controls.

Essential local council staff

Some local council staff are essential because they are office holders who have specific statutory obligations that are key to the internal administration of a council. In other words, some work that relates to the internal administration of a local council must be undertaken only by these office holders. An office holder may be, but does not have to be, an employee for the purposes of employment or other legal rights. Legislation identifies two key office holders in a local council, as below.

The responsible financial officer (RFO)

Under the Local Government Act 1972, a local council must appoint a person to be responsible for the administration of its financial affairs.⁴ This person is known as the responsible financial officer (RFO). Accounting and audit regulations⁵ that local councils are subject to confer statutory obligations on the RFO. These responsibilities include signing the annual accounts of the local council.⁶ Further responsibilities that are conferred on the RFO are set out in the Proper Practices that local councils are subject to. In addition to the performance of their statutory obligations, most RFOs provide financial administrative support to the council. In very general terms, an RFO supports the council in respect of the internal control and audit of its accounts and the preparation of the council's budgets, and liaises with the council's internal and external auditors. There must always be a member of staff to undertake the work of the RFO. It is common for local councils to employ a deputy RFO or to nominate another member of staff who can undertake the RFO's responsibilities if the RFO is absent.

The proper officer

The Local Government Act 1972 also confers certain responsibilities to be undertaken by the local council's "proper officer", meaning an officer appointed for a particular purpose.⁷ The proper officer has certain statutory obligations which, for example, include:

- to sign and serve on councillors a summons with an agenda to attend council meetings;⁸
- to convene a meeting of the council if a casual vacancy in the office of the chair occurs;⁹
- to receive and hold copies of byelaws made by other local authorities which affect the council's area;¹⁰ and
- to receive and retain documents or notices.¹¹

In addition to the performance of certain statutory obligations, a local council requires the proper officer to support necessary administration. Examples of work undertaken by the proper officer include:

- receiving and sending the council's correspondence;
- handling face-to-face, telephone, and email queries about the council;

- updating or managing the content on the council's website;
- assisting in the production of the council's newsletters;
- issuing public notices for meetings;
- organising, updating, accessing, storing and destroying council records;
- drawing up agendas for meetings;
- taking minutes of meetings;
- publishing minutes on the website and keeping the council's minute book up to date and available for inspection;
- assisting with requests for information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, and subject access requests under the UK General Data Protection Regulations (UK GDPR) and the Data Protection Act 2018;
- undertaking all data protection work for the council, including acting as the local council's data protection officer;
- assisting with the handling of complaints against the council and its councillors;
- procuring and purchasing office equipment or supplies;
- arranging emergency repairs to the office or other council premises (subject to the council's standing orders and/or financial regulations);
- following up work from committees or sub-committees of the council;
- liaising with the bodies that the council works with, for example, sports and youth clubs, other local authorities, businesses, local interest groups and charities; and
- supervising or managing other staff.

The statutory and other responsibilities of the proper officer are central to the internal administration of a local council. The proper officer is regarded as the most senior member of staff and is commonly known as the clerk to the Council. Some councils apply a different title for the post of the proper officer. These include "executive officer", "chief executive", "head of support services", and "executive manager". Often a local council will appoint a deputy or assistant proper officer.

Many local councils separate the job of the proper officer and the RFO. However, many smaller local councils will combine these two roles and employ one person as the council's proper officer and RFO.

HM Revenue and Customs (HMRC)

Most proper officers and RFOs are directly employed as they are essential for the proper running of the local council. As office holders, they can never be self-employed for PAYE purposes. Income tax and national insurance must therefore be deducted at source unless total income (which includes any income from other jobs or pensions) is lower than the Lower Earnings Limit for National Insurance contributions.

Training

Vocational training and development opportunities have been developed for local council staff via the National Training Strategy (NTS) which is coordinated by NALC, SLCC and other national stakeholders. There are a number of sector qualifications which local council staff can obtain:

- ILCA (Introduction to Local Council Administration);
- FILCA (Financial Introduction to Local Council Administration);
- ILCA to CILCA course (an introductory course designed to build on the content covered in the ILCA course);
- CILCA (Certificate in Local Council Administration), which is the Level 3 entry qualification.

Other staff

A local council may need other staff to run or manage the services and facilities that it provides. For example, a local council may need staff for the running of a village hall, community centre, youth club, sport facilities, market, car parks, theatre or parks. A local council may also need staff to organise community events and local festivals. A local council that provides allotments may need staff to administer the allotment tenancies and manage the allotment site. Local councils that provide facilities or services for vulnerable groups (for example, children or disabled persons) need specialist staff. Local councils who work jointly with other local authorities, local charities and voluntary organisations may require staff to work with those organisations on a day-to-day basis. Local councils that issue fixed penalty notices in respect of graffiti or litter dropping require staff who have undertaken special training.

Although the staff of many local councils consist only of the RFO and proper officer or clerk, the staff structure for a bigger local council may be as Figure 1, below.

The Freedom of Information Act 2000 requires a local council to have a publication scheme¹² whereby certain information about the council is available to the public. The local council's staff structure is a category of information which falls within this scheme.

Figure 1. Staffing of a larger local council

Clerk to the Council		
Responsible financial officer	Head of council services	Estates manager
Accounts administrator	Community liaison officer	Parks and sports facilities maintenance officer
Administration assistant	Allotments manager	General maintenance officer
	Culture and events officer	Caretaker

Staff delegations

Legislation requires certain statutory functions of a local council to be discharged by the council itself. This means, for example, that a local council cannot delegate decision making to staff for the following:

- levying or issuing a precept;¹³
- borrowing money;¹⁴
- approving the council's annual accounts;¹⁵
- considering an auditor's report made in the public interest;¹⁶
- confirming (by resolution) that it has satisfied the statutory criteria to exercise the power of general competence;¹⁷ or
- adopting or revising the council's code of conduct.¹⁸

However, where no statutory prohibition applies, responsibility for the performance of the statutory functions and powers of a local council may be delegated to its staff or to its committees or sub-committees.¹⁹ Functions cannot be delegated to individual councillors. Internal delegations to committees and sub-committees are explained in the section below on staffing committees and in **Chapter 6**. A delegation to staff member(s) means that they are performing the local council's statutory powers or functions on the council's behalf. Legal responsibility for the performance of the statutory powers and functions of the local council remains with the local council. As such, a complaint about matters that have been delegated to staff is to be treated as a complaint against the council, not its staff. A delegation of statutory responsibilities to staff or to its committees and sub-committees will not prevent the local council from performing them itself.²⁰

A local council may, for example, delegate to staff responsibility for the organisation of a local fête,²¹ or the running of a football and cricket pitch facility, or management of a community centre.²² In doing so, it would allocate a budget for them to work with, any such expenditure incurred being subject to proper practices and control by the standing orders and/or financial regulations of the council. A local council may also delegate to staff responsibility for the performance of administrative matters, such as compliance with its obligations under data protection and freedom of information legislation, or the granting of dispensations²³ to councillors. A local council may only delegate responsibilities to staff member(s) by formal resolution at a councillor meeting.

Extensive delegation arrangements with staff are commonplace in other types of local authorities. For example, the staff of Principal Councils have delegated responsibility for dealing with planning applications, street trading, road maintenance, traffic regulation, provision of housing services and social care, staff recruitment and management, contractual matters, and resolving legal disputes. Unless a local council is small, has few staff, or its work is undertaken by committees and sub-committees, staff delegations can be expedient.

Staff management

A local council is no different from any other employer as a recruiter and an employer. Employment law and equality law apply as for any employer. **Chapter 1** confirms that there are additional statutory responsibilities conferred on public bodies, including local councils, by the Equality Act 2010. A council should ensure that its structures, policies and practices enable staff development (via appraisals, promotions, training and other support) and accommodate the handling of staff grievances and disciplinary matters. They must also safeguard against bullying, harassment and discrimination, ensure the health and safety of staff, and protect the unnecessary disclosure of or use of information about individual staff members.

In most workplaces, day-to-day line management is traditionally undertaken by one person. However, in local councils, a single councillor cannot manage staff. A councillor has no statutory authority to make decisions. Therefore, a local council will usually formally delegate some recruitment and staff management functions to staff, for example to the proper officer or the responsible financial officer. Job descriptions for staff should confirm any responsibilities they have, for example, recruitment and supervision of other staff, managing their development and training needs, recording and monitoring their absences, and handling grievance and disciplinary matters.

Staffing committees

Even if a local council has delegated some recruitment and staff management responsibilities to staff, it is not recommended for decisions about staff management to be made by the whole council. It is recommended that responsibility for staff management rests with a committee of the council – for example, a staffing committee. Unless a local council decides otherwise, such a committee may delegate its

responsibilities to a sub-committee (a committee of the committee).²⁴ The local council must decide on the number of councillors and their terms of office for a staffing committee,²⁵ ensuring it has sufficient numbers so that it can appoint sub-committees.

The terms of reference for a staffing committee and its sub-committee (if appointed) must be clearly set out. The local council decides the terms of reference for the staffing committee, as it does for all other committees. The committee itself sets the terms of reference for its sub-committee. The terms of reference for a sub-committee cannot be broader in scope or unrelated to the terms of reference for the committee. The terms of reference for any committee or sub-committee of a council should be available to the public via the council's publication scheme. The standing orders of a local council may be used to confirm issues such as quorum, proceedings, and so on. of the staffing sub-committee as they do for other committees and sub-committees.²⁶

It is recommended that responsibility for the management of a council's most senior member of staff (the proper officer or clerk) is delegated to a staffing sub-committee. It will be necessary for the staffing sub-committee to appoint one of its councillors as the day-to-day contact to support, supervise and appraise the work of the proper officer or clerk, handle leave requests, absences from work, informal grievances and disciplinary matters etc. Any such sub-committee should be made up of three councillors. If an employee appeals a decision made by a staffing sub-committee about a grievance or disciplinary matter, then the appeal must be heard by another sub-committee of three councillors of the staffing committee who have not previously been involved in the grievance or disciplinary matter. There may be insufficient councillors on the staffing committee who have not previously been involved. If so, the sub-committee handling the appeal should be made up of three councillors who may include members of the staffing committee.

Therefore, a staffing committee is likely to benefit from the availability of substitute councillors. The number and term of office of substitute councillors is decided by the local council at the same time that it decides the number and terms of office of the ordinary councillors of a committee. **Chapter 6** explains the role of substitute councillors. **Chapter 7** sets out the statutory rules or standing orders for a meeting of any committee and sub-committee, not limited to a staffing committee or staffing sub-committee.

A meeting of the whole council, a staffing committee or staffing sub-committee will inevitably decide matters that relate to an individual staff member or are otherwise confidential between a member of staff and their employer. A meeting of the full council or a staffing committee may exclude the public when it is considering information about an individual staff member or confidential matters²⁷ and it is expected to do so. It is recommended that the standing orders of a local council confirm that the public has no advance notification or right to attend a meeting of a staffing sub-committee whose decisions under delegated responsibilities will always concern individual staff members and thus be confidential such that disclosure would breach the obligations of a local council under the UK GDPR and the Data Protection Act 2018.

Legal responsibility for the decisions and actions of the staffing committee (or sub-committee) remains with the local council as a whole.

The UK GDPR and the Data Protection Act 2018 impose obligations about the local council's use of information relating to individual staff members and candidates. **Chapter 4** explains a local council's statutory obligations under the UK GDPR and the Data Protection Act 2018. Any employment claims, etc will be against the local council itself as employer, not against the staffing committee.

The code of conduct and staff policies

The local council should have in place a grievance policy and a disciplinary policy for staff. Any grievances raised by a member of staff against another member of staff, or against the local council as their employer, should be dealt with under the grievance policy. However, there may be occasions when a member of staff wishes to raise a grievance against an individual councillor under the grievance procedure. Such grievances are subject to the limitations established in the court case below.

CASE LAW

R. (on the application of Harvey) v Ledbury Town Council 2018

The case of R. (on the application of Harvey) v Ledbury Town Council [2018] EWHC 1151 (Admin) established that a formal grievance process could not be run in tandem with, or as an alternative to, the code of conduct for councillors established by the Localism Act 2011.²⁸ The town council's decision to impose sanctions on a councillor after finding her guilty of bullying and harassment under its grievance procedure was therefore ultra vires as the formal process under the code, including the involvement of an Independent Person, should have been instigated instead.

Therefore, procedures for dealing with a grievance raised against an individual councillor by a member of staff should be run in accordance with the code of conduct procedures. This includes the right for the subject member to consult with the Independent Person and the involvement of the Independent Person in the process.

Staff liability

There may be circumstances, albeit rare, when legal proceedings may be issued against a member of staff (not the local council) because of certain acts or omissions or conduct arising from their employment or attributable to them as a member of the local council's staff. For example, a member of staff may be at risk of a defamation or negligence action, or they may face other legal action because they have failed to comply with provisions in the Equality Act 2010, the Data Protection Act 2018, the Health and Safety at Work etc. Act 1974, or the Bribery Act 2010.

A local council may arrange insurance cover to indemnify staff for liabilities arising from their work.²⁹ Insurance cover can indemnify staff when they are undertaking an activity with the approval of, or for the purposes of, the council. Insurance cover may also be arranged to indemnify a member of staff where their actions were outside their and the local council's powers, but the member of staff reasonably believed

that their actions were within their or the council's powers. The local council may also arrange insurance cover for a member of staff to defend (but not to bring) a claim of defamation. The local council may arrange insurance cover for staff in the defence of criminal proceedings only on the basis that if a member of staff is subsequently convicted of a criminal offence not overturned following any appeal, the member of staff must reimburse the insurer for any sums expended by the insurer in relation to those proceedings.

- 1 [Local Government Act 1972, s.112](#)
- 2 [Heesom v Public Services Ombudsman for Wales \[2014\] EWHC 1504 \(Admin\), Hickinbottom J \[79\]](#)
- 3 [Pensions Act 2008, s.3](#)
- 4 [Local Government Act 1972, s.151](#)
- 5 [The Accounts and Audit Regulations 2015/234](#)
- 6 [The Accounts and Audit Regulations 2015/234, regulations 9, 11](#)
- 7 [Local Government Act 1972, s.270\(3\)](#)
- 8 [Local Government Act 1972, schedule 12, paragraph 10\(2\)\(b\)](#)
- 9 [Local Government Act 1972, s.88](#)
- 10 [Local Government Act 1972, s.236\(9\)](#)
- 11 [Local Government Act 1972, s.225](#)
- 12 [Freedom of Information Act 2000, s.19](#)
- 13 [Local Government Act 1972, s.101\(6\)](#)
- 14 [Local Government Act 2003, schedule 1, paragraph 2\(4\)](#)
- 15 [The Accounts and Audit Regulations 2015/234, regulations 9, 12](#)
- 16 [Local Audit and Accountability Act 2014, schedule 7, paragraph 7\(2\)](#)
- 17 [Parish Councils \(General Power of Competence\) \(Prescribed Conditions\) Order 2012/965, schedule](#)
- 18 [Localism Act 2011, s.28\(13\)](#)
- 19 [Local Government Act 1972, s.101\(1\)\(a\)](#)
- 20 [Local Government Act 1972, s.101\(4\)](#)
- 21 [Local Government Act 1972, s.145\(1\)\(a\)](#)
- 22 [Local Government \(Miscellaneous Provisions\) Act 1976, s.19\(1\)](#)
- 23 [Localism Act 2011, s.33](#)
- 24 [Local Government Act 1972, s.101\(2\)](#)
- 25 [Local Government Act 1972, s.102\(2\)](#)
- 26 [Local Government Act 1972, s.106](#)
- 27 [Public Bodies \(Admission to Meetings\) Act 1960, s.1\(2\); Local Government Act 1972, s.100\(2\)](#)
- 28 [R. \(on the application of Harvey\) v Ledbury Town Council \[2018\] EWHC 1151 \(Admin\), Cockerill J \[103\]](#)
- 29 [The Local Authorities \(Indemnities for Members and Officers\) Order 2004/3082](#)

4 ACCOUNTABILITY TO THE PUBLIC

Key points

- A local council is a public authority under the Freedom of Information Act 2000.
- Information about a local council is available to the public under the Freedom of Information Act 2000.
- A local council must have a publication scheme.
- A local council must register with the Information Commissioner's Office (ICO) and pay an annual fee.
- A local council's annual accounts are internally audited. A local council classed as a larger authority (income or expenditure of more than £25,000) may also be subject to an external audit.
- A local council is a data controller for the purposes of the UK GDPR and the Data Protection Act 2018.
- A council should have a procedure for handling complaints.
- The decisions of a local council risk legal challenge by judicial review.
- A local council must comply with the Human Rights Act 1998.

Minutes

The purpose of the minutes of a meeting of the whole council, a committee (including a joint committee), or a sub-committee (including a joint sub-committee) is to record in clear terms the formal decisions or resolutions that have been made at the meeting. A local council must keep formally approved minutes of any such meeting in a minute book.¹

Those interested in a local council's business may want to read the minutes of meetings. Gaining access to the minutes of a meeting of the whole council, its committees (including joint committees) and sub-committees (including joint sub-committees) is straightforward. Under the Local Government Act 1972, a local government elector in the local council's area has a statutory right to inspect and copy the minutes of a meeting of the whole council, its committees (including joint committees) and sub-committees (including joint sub-committees).² However, since the introduction of the Freedom of Information Act 2000, which gives anyone a right to access information held by a local council³ (subject to certain exemptions), the statutory right of local electors to inspect minutes under the 1972 Act is less significant. The minutes of a meeting of the whole council, its committees (including joint committees) and sub-committees (including joint sub-committees) should be available to the public via its publication scheme and published on its website. This is explained below.

The Freedom of Information Act 2000 (FOIA)

A local council has two important statutory obligations under the FOIA. A local council must publish certain information and must also respond to requests for information held by it. Both obligations are explained below.

Publication schemes

A local council's publication scheme includes information that the council is expected to make routinely and proactively available to the public. A local council must have a publication scheme, the purpose of which is to make certain information about the local council available at minimum cost and inconvenience. As authorised by the FOIA,⁴ the Information Commissioner has created a model publication scheme for all local councils (and other local authorities) to use. Local councils do not have to use the model publication scheme, but a bespoke publication scheme must be approved by the Information Commissioner.⁵

The model publication scheme requires seven classes of information to be made available to the public. These seven classes are detailed in the table below:

The seven classes of information to be made available to the public

1. Who makes up the council and their roles

Organisational information, structures, locations and contacts

For example:

- Names of councillors, roles – for example: chair of the council, chairs of committees of the council
- Council structure – that is, confirming existence and purpose of committees and sub-committees of the council
- Staffing structure
- Locations and accessibility details
- Staff contact details

2. What the council spends and how it spends it

Financial information relating to projected and actual income and expenditure, procurement, contracts and financial audit

For example:

- Annual return form
- Annual statutory report by auditor
- Precept request
- Councillors' allowances and/or expenses
- Loans sanctioned
- Financial Standing Orders and Regulations

The seven classes of information to be made available to the public

3. The council's priorities and its progress

Strategies and plans, performance indicators, audits, inspections and reviews

For example:

- Parish Plan
- Annual Report to parish or community meeting
- Best Value Performance Plan
- Best Value Inspection reports
- Policy statements issued by council
- Responses to consultation papers

4. How the council makes decisions

Decision-making processes and records of decisions

For example:

- Timetable of meetings
- Agendas
- Responses to planning applications
- Procedural Standing Orders
- Councillors' Register of Interests
- Minutes of council and council sub-committee meetings

5. The council's policies and procedures

Current written protocols, policies and procedures for delivering the council's services and responsibilities

For example:

- Policies and procedures for the conduct of council business
- Policies and procedures for the provision of services
- Policies and procedures about the employment of staff

6. Lists and registers

Any information that the council has to hold in publicly available registers.

For example:

- Any publicly available register or list
- List of assets

The seven classes of information to be made available to the public

7. The council's services

Information about the council's services, details of the council's charges and/or fees. Leaflets, newsletters and other information for the public and/or businesses

For example:

- Information about the services concerning, for example:
 - » Allotments
 - » Burial grounds and closed churchyards
 - » Community centres and village halls
 - » Parks and playing fields
 - » Highways
 - » Byelaws
 - » Seating, litter bins, clocks and lighting
 - » Bus shelters
 - » Markets
 - » Public conveniences which the council offers
- Leaflets, newsletters produced for the public and businesses
- Details of the services for which the council charges, together with details of its charges and/or fees

The seven classes of information in the table above do not include:

- information that the council is prevented from disclosing by law;
- information exempt under the Freedom of Information Act 2000;
- information in draft form.

The table above demonstrates the type of information that a local council may provide for each mandatory class of information. It does not reflect a minimum statutory requirement and is not a definitive list. If a local council does not hold the type of information in one of the classes, it will not be in breach of any statutory obligations under the FOIA.

Ensuring that the public can access the information available via the local council's publication scheme is vital. A local council's publication scheme must confirm which classes of information the local council intends to publish, the manner in which that information will be published, and whether there is a fee to access it.⁶ A local council is expected to keep any charges to a minimum. In addition to the publication scheme, a local council must provide a guide which provides the information below:

- whether some or all the information in its publication scheme is available online free of charge. This will usually be information published on the

local council's website and it is recommended that as much information as possible is published in this way;

- the means of access to information if it is impractical for the council to provide information on its website or if a person wants access to the information by another means or the council does not have a website;
- staff contact details for arrangements to access information to be viewed in person;
- the availability of information by other means or formats because of a person's disability;
- the availability of information in the language in which it is held or in such other language that is required by the Equality Act 2010;
- the council's charges for actual disbursements incurred in making information available other than free of charge via its website, for example:
 - » photocopying charges (e.g. 10p per sheet);
 - » postage and packaging; and
 - » the costs directly incurred as a result of viewing information;
 if payment is due before the information is provided.

The local council's guide to information is not subject to a prescribed model form. It is not necessary for it to refer to the local council's publication scheme or to "classes" of information.

A local council's publication scheme and the guide to information should be made available on its website. A local council should also make the publication scheme and the guide to information easily accessible to anyone without access to the website, for example, by keeping a copy at the council's main office or on the council's notice boards in the area.

Requests for information under the FOIA

Information that is not available via a local council's publication scheme can still be requested and should be made available unless there are statutory grounds to withhold it. Under the FOIA, anyone (including an individual, an incorporated body such as a newspaper company, or an unincorporated body such as a local campaign group) has a statutory right to submit a written request for information held by a public body, which includes a local council.⁷ A requester must provide a name and an address for correspondence (this can be an email address).⁸ There is no obligation on a requester to provide their real name and a local council cannot check a person's identity. A local council has no right to ask the requester to explain the reason for the request and the requester has no obligation to provide such explanation, although this might be implicit.

The FOIA covers all information held by a local council which is in a recorded form. This is not limited to official council documents such as agendas and minutes for meetings. It also includes, for example, emails, handwritten notes, recordings of telephone conversations, photos, plans, maps, audio, video or CCTV recordings, and correspondence and other documents received and held by the council. It includes information

held by a local council even if it is not held on its premises – for example, records in off-site storage or information processed by a contractor or agent of the council. Staff and individual councillors, as representatives of the council, may hold information about the local council at home or on their computer.⁹

Exemptions

A person's right of access to information held by a local council is subject to 23 exemptions. There are two general categories of exemptions. The first category of exemption is qualified, thus placing a duty on the local council to consider whether disclosure is required in the public interest. The second category of exemption is absolute, and a local council has no duty to consider the public interest. A list and explanation of all the exemptions in the FOIA are outside the scope of this guide, however the main exemptions that a local council might rely on are listed below.

Absolute exemptions

- information that is accessible to applicants by other means.¹⁰ For example, if the information requested is already available via the local council's publication scheme, a local council will not then be required to provide the information in response to an individual request;
- information which constitutes personal data of the requester themselves.¹¹ However, in this case, a local council would be expected to consider the request under the Data Protection Act 2018;¹² and
- information provided in confidence.¹³

Qualified exemptions

- information intended for future publication by the council or by another person;¹⁴
- information which may endanger the physical or mental health of an individual or endanger their safety;¹⁵
- information relating to another individual;¹⁶
- information which has the protection of legal professional privilege;¹⁷ and
- information which may prejudice the commercial interests of a person (including the local council).¹⁸

Vexatious requests and costs limits

A local council is not required to comply with a person's request for information if it is vexatious or if it is a request for information that repeats an identical or similar request for information made by the same person which the council has recently complied with.¹⁹

A local council has no duty to comply with a request for information if its estimated costs for complying would exceed the prescribed appropriate limit.²⁰ For local councils, this limit is £450 in staff time.²¹

The statutory limit of £450 is based on 18 hours of staff time (chargeable at a statutory rate of £25 per hour) in determining if the information is held, locating the information or document(s) which may contain the information, retrieving the information or document(s) which may contain the information, and editing or extracting the releasable information from a document. The estimated costs for staff time cannot include checking that a request for information is compliant, locating information due to poor record management practice or considering the application of exemptions or public interest tests. Cost estimates for staff time cannot include obtaining legal advice or authorisation to send out information, calculating any fee to be charged, or providing advice and assistance to the applicant – for example, in determining precisely what information they are seeking. Most requests for information made to local councils will not exceed the estimated costs limit.

The FOIA imposes a duty on local councils to provide advice and assistance to applicants.²² For example, this may apply where the local council does not hold the information requested but does know where it is held. Equally, this duty might be applicable where a request exceeds the cost limits, and the local council can help to refine the request to bring the costs within the limits.

Data Protection Act 2018 (DPA 2018)

The DPA 2018 covers all aspects of personal data and incorporates the requirements of the EU General Data Protection Regulations 2016, which are now called the UK General Data Protections Regulations (UK GDPR), into UK law.

A local council routinely holds and uses information about individuals in the performance of its statutory functions, powers and contractual obligations. For the purposes of the DPA 2018, a local council is considered to be a “data controller”²³ and has statutory obligations in this capacity. A council will hold and use “personal data” to carry out its business. Personal data is information from which a living individual can be identified, or which concerns a living individual.²⁴ For example, a local council holds or uses data about local government electors, its staff, councillors, contractors and suppliers. As a data controller, a council must register with the Information Commissioner’s Office (ICO) that it is a data controller. There is a fee for registration. There are three different tiers of fee and data controllers are expected to pay between £40 and £2,900.²⁵ Parliament sets the fees to reflect what it believes is appropriate based on the risks posed by the processing of personal data by controllers. Public authorities, including local councils, pay a fee in accordance with how many staff they employ. There is further information about the role of the data controller, registration and an online fee calculator on the ICO’s website. Registration is a statutory requirement.²⁶

The data controller

A local council, as a data controller, can designate a data protection officer (DPO) if it so wishes, although this is not mandatory. The same person may be designated as a DPO by several controllers, taking account of their organisational structure and size. The contact details of the DPO must be published and communicated to the ICO.²⁷ The clerk is often the

nominated DPO and may hold the position for a number of local councils. The position can also be outsourced to an external provider.

The data protection principles

As a data controller, a local council has a duty to process personal data fairly and lawfully and in accordance with the data protection principles. These principles are set out in the UK GDPR.²⁸ A full description and interpretation of the statutory data protection principles is outside the scope of this guide; however, a summary of those principles, as set out in the UK GDPR, is as follows:

- The six UK GDPR data protection principles require that personal data must be:
 - » processed lawfully, fairly and in a transparent manner (the principle of lawfulness, fairness and transparency);
 - » collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes (the purpose limitation principle);
 - » adequate, relevant and limited to what is necessary for the purposes for which the data is processed (the data minimisation principle);
 - » accurate and, where necessary, kept up to date (the accuracy principle);
 - » kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data is processed (the storage limitation principle); and
 - » processed in a manner that ensures appropriate security of the personal data (the integrity and confidentiality principle).

Subject access requests

Under the UK GDPR, an individual is entitled to make a written request to a data controller for confirmation of whether their personal data is being processed and, if so, has the right to be provided with the following information:²⁹

- the purposes of the processing;
- the categories of personal data concerned;
- the recipients of the personal data;
- the envisaged period the personal data will be stored;
- any available information as to the data source;³⁰ and
- the existence of automated decision making, including profiling, and meaningful information about the logic involved and the significance and envisaged consequences of such processing for the data subject.³¹

An individual making a subject access request also has the following rights: the right to request rectification, erasure or restriction of processing of personal data; and the right to lodge a complaint with the supervisory authority.

A local council is entitled to ask the person who has submitted a subject access request to provide evidence to confirm their identity if this is reasonably required.³² A local council cannot charge for replying to a subject access request.³³ If further copies of data are requested by the data subject, the local council may charge a reasonable fee for admin costs.³⁴ The local council may also charge a reasonable fee if they choose to act on manifestly unfounded or excessive subject access requests.³⁵

Application of the data protection principles to local council business

A local council must apply the statutory data protection principles to its everyday internal administration, external communications, and what is necessary for the performance of its statutory powers, functions and contracts. For example, agendas for and minutes of council meetings or a council's annual accounts are public documents and should avoid the inclusion of personal data where possible. A meeting can be held in private if confidential information is to be discussed, or for any other appropriate reason, if the meeting votes to move into private session. This would be appropriate if personal, financial or other confidential data were to be discussed.³⁶ **Chapter 11** considers the impact of the DPA 2018 in the preparation of agendas and minutes.

An individual councillor may, separately from their council, be considered to be a data controller³⁷ with obligations under the DPA 2018 as described above. A councillor will be a data controller if they hold personal data in electronic form and use personal data independently of their council, rather than as a representative of the council. For example, a local councillor may hold and use personal data during a campaign for election to the local council or when campaigning for a political party.

Council accounts and financial management, annual accounts, and external audit

The Local Audit and Accountability Act 2014³⁸ and The Accounts and Audit Regulations 2015³⁹ govern the accounting and auditing practices and financial management of a local council.

Further guidance is provided each year in an updated free publication, 'The Practitioners' Guide', issued by the Smaller Authorities Proper Practices Panel (SAPPP) and published jointly by NALC and SLCC.

Category 1 and Category 2 authorities

A local council's financial year begins on 1 April and ends on 31 March in the following year. Legislation requires a local council to prepare accounting statements for each financial year. Under The Accounts and Audit Regulations 2015, local councils are categorised into Category 1 or Category 2 authorities:⁴⁰

- **Category 1 authority** means a relevant authority that either is not a smaller authority, or is a smaller authority that has chosen to prepare its accounts for the purpose of a full audit in accordance with regulation 8 of the Smaller Authorities Regulations;
- **Category 2 authority** means a smaller authority which is not a Category 1 authority.

The definition of a smaller authority⁴¹

A relevant authority is a “smaller authority” for a financial year if:

- where that year is the year in which the authority was established, the qualifying condition is met for that year;
- where that year is the year following that in which the authority was established, the qualifying condition is met for that year or the previous year; and
- where that year is the second or any subsequent year following that in which the authority was established, the qualifying condition is met for that year or either of the two previous years.
- The qualifying condition is met for a relevant authority and a financial year if the higher of the authority’s gross income for the year and its gross expenditure for the year does not exceed £6.5 million.

Most local councils will be smaller authorities and, therefore, Category 2 authorities for accounting purposes.

Local councils must prepare a statement of accounts in respect of each financial year.⁴² The statement of accounts should be prepared in accordance with the form required by an Annual Governance and Accountability Return,⁴³ which includes an annual governance statement. The external audit of a local council’s annual return (unless exempt)⁴⁴ provides a professional audit of a local council’s annual income and expenditure, or receipts and payments, and a review of the annual governance statement by someone who is independent of the council. The statutory role of the external auditor is to provide an independent opinion on the council’s annual accounting statement.⁴⁵ The auditor will also review and, if necessary, report on aspects of a local council’s arrangements to ensure the proper conduct of its financial affairs.

A local council is responsible for ensuring that its financial management is adequate and effective. It must have a sound system of internal control that facilitates the performance of its statutory functions and powers and includes arrangements for internal audit and the management of risk.⁴⁶ A local council must conduct a review of the effectiveness of its system of internal control at least once a year and prepare an annual governance statement.⁴⁷ The findings of the review must be considered by full council, and the annual governance statement should be approved by resolution.⁴⁸

Statutory responsibility for the handling of all financial transactions rests with the local council as a whole. Even if a council delegates the role of safeguarding the use of public funds to individuals, for example to the clerk or the RFO, the legal responsibility always remains with the council and its councillors. Subject to instructions by the council, the RFO is responsible for:⁴⁹

- determining the form of the council’s accounting records;
- determining the council’s financial control systems;
- ensuring that the financial control systems are observed; and
- ensuring that accounting records are kept up to date.

A local council's financial control systems must identify the duties of officers dealing with financial transactions and the division of responsibilities of those officers.⁵⁰

Exemption – AGAR form 2

If a local council has, during the accounting period, had both income and expenditure (or receipts and payments) of less than £25,000, it can submit a certificate of exemption (part of AGAR form 2) instead of submitting (AGAR form 3) for an external review. All of the paperwork must still be prepared as, instead of the external review, the local council is required to publish this information plus additional information on its website. Their statement of accounts must be published along with a bank reconciliation and an explanation of any significant variances between the current and previous financial years, and an explanation of any differences between 'balance carried forward' and 'total cash' if relevant.

A local council with receipts and payments under £25,000 must also publish the following information on its website (to comply with the Transparency Code for Smaller Authorities):⁵¹

- a list of all expenditure items over £100;
- end of year accounts;
- Annual Governance Statement;
- internal audit report;
- all meeting agendas and minutes;
- a list of councillor responsibilities; and
- a copy of its fixed asset register.

There is an AGAR form 1, which is completed by local councils with no financial activity. There are also separate forms for parish meetings with a parish council.

Before 30 June of each year, it is the local council's duty to consider and formally approve its record of receipts and payments, or as the case may be, a statement of accounts, or its income and expenditure account and statement of balances.⁵² Before the council can do this, its RFO should sign to certify that the council's record of receipts and payments properly presents, or as the case may be, a statement of income and expenditure fairly presents the council's position as at the previous 31 March.⁵³

It is only after the local council has formally approved its annual accounting statements and annual governance statement that the Annual Governance and Accountability Return (AGAR) or exemption certificate can be submitted to the external auditor. This must be done by 30 June. The local council is responsible for the appointment of its external auditor, which must be done by 31 December in the preceding financial year.⁵⁴ It can choose to opt in to a national scheme for this purpose.⁵⁵ The Smaller Authorities Audit Appointments is the sector-led body set up by Government as the 'specified person' to procure and appoint external auditors to smaller authorities in England.

Exercise of public rights

Local government electors in the local council's area and the wider public have statutory rights in respect of a council's annual accounting statements and external audit under the Local Audit and Accountability Act 2014.⁵⁶ These rights are summarised below.

The rights conferred by the Local Audit and Accountability Act 2014 may only be exercised within a single period of 30 working days.⁵⁷ The local council must inform the public of the exact 30 working day period during which the above public rights may be exercised. This period must include the first 10 working days in June (Category 1 authority)⁵⁸ or the first 10 working days in July (Category 2 authority).⁵⁹

Local government electors' rights	Explanation
Inspect and make copies of the statement of accounts and auditors' reports	When the council prepares the accounts, it must advertise that they are available for inspection. Members of the public can obtain copies of the accounts, and inspect and make a copy of any report the auditor makes to the council.
Inspect the accounts and supporting documents	When the council has advertised the availability of its accounts for inspection, interested persons can inspect the accounts and all books, deeds, contracts, bills, vouchers and receipts relating to them. They may not inspect documents which include information about an individual or information that is not relevant to the accounts.
Ask questions at external audit	Once the external audit begins, interested persons can ask the auditor questions about the accounts for the year they are reviewing.
Object to the accounts or items within the accounts	Local government electors may object to the accounts or items within them. There are two grounds for an objection: <ul style="list-style-type: none"> • that an item of account is unlawful; or • that there is something in the accounts that the auditor should tell the public about in a public interest report.

Following the external audit (if not exempt), by 30 September in each year, a local council must publish on its website and noticeboard its annual

accounting statements and annual governance statement together with the external auditor's certificate that they have completed their audit and any opinion or report they have given in relation to the council's annual accounting statements.⁶⁰

Usually, the external auditors provide templates to assist with the setting of the dates for the exercise of public rights.

Accessibility

It is also worth noting that as well as maintaining its own website, a local council must comply with Web Content Accessibility Guidelines (WCAG 2.2 from September 2024) when publishing data on its website. These are an internationally recognised set of recommendations for improving web accessibility, and cover accessibility for people with impairments such as vision, hearing, mobility and thinking and understanding.

Complaints against a local council

Local councils levy a precept on the local government electors in their area and spend it in the performance of their statutory powers and functions. It is good practice for local councils to have a clear complaints policy and procedure for residents to raise complaints about a local council's decisions and activities. A clear and comprehensive complaints policy and procedure can resolve a complainant's concerns, restore confidence, and reduce the risk of legal action against the council.

The complaints procedure

A local council should consider the following requirements in how it handles complaints and what it should include in its policy and procedures. The process should:

- be accessible (for example: a complaints form, and details of who to submit the complaint to and an explanation of the complaints process should be available via the local council's publication scheme and published on the website);
- be unbiased and fair;
- state time limits for various stages;
- accommodate a complainant who wants their complaint to be dealt with in confidence;
- include an opportunity for the complainant to appeal against the local council's determination of the complaint;
- accommodate remedial action by the local council if it upholds the complaint.

Unless a complaint concerns the conduct of staff, there is no reason the local council cannot delegate responsibility for the handling of complaints to staff.

An individual may complain to the Local Government and Social Care Ombudsman (LGSCO) about a Principal Council if they have suffered an injustice because of the way in which a decision has been made, the

way a service has been delivered, or if a service has not been delivered at all. The LGSCO cannot challenge the merits of a decision taken by the Principal Council. The LGSCO cannot investigate complaints which give the complainant a right to take legal action through other legislation or to exercise a right of appeal to the Secretary of State unless there are circumstances that make it unreasonable for the complainant to do so. For example, if a resident is unhappy about the outcome of a planning decision, the appropriate route is through an application for judicial review. If an applicant for planning permission wishes to appeal a planning decision on their application, they must appeal to the Planning Inspectorate.

The LGSCO's powers re. local councils

Generally, the LGSCO does not have statutory responsibility for the handling of complaints made by a member of the public against a local council. Exceptions to this general rule might include (i) where a local council is working jointly with a Principal Council through a joint committee which includes representatives of the Principal Council⁶¹ and (ii) where a local council is exercising the functions of a Principal Council.⁶² Joint committees are explained in **Chapter 5**. If a member of the public complains to the LGSCO about a council, the LGSCO must be satisfied that the council has had a reasonable opportunity to investigate and respond to the complaint using any internal process specific to the subject complained about and/or the local council's formal complaints procedure.

If a complaint is investigated by the LGSCO, it will send a report of its findings to the complainant and the Principal Council or other person who is the subject of the complaint (for example, a local council working jointly with the Principal Council). Unless directed otherwise, the Principal Council must make the report available for inspection by the public at its offices free of charge for a period of three weeks. If the LGSCO finds that the complainant has suffered injustice due to the Principal Council's maladministration, the Principal Council must, within three months of the report, confirm to the LGSCO what remedial action it will take. The LGSCO has statutory powers to follow up the actions to be taken by a council.

Legal action against a local council

A local council may be at risk of legal action for breach of contract, negligence, unfair dismissal, or non-compliance with statutory duties in relation to employment, equalities, or health and safety, and so on. Additionally, a specific type of legal proceedings known as judicial review can be taken against local councils (and other local authorities) because they are public bodies. The administrative division of the High Court has responsibility for determining judicial review claims.

Judicial review

Judicial review is the procedure by which the courts examine the decisions of public bodies to ensure that they act lawfully and fairly. On the application of a party with sufficient interest in the case, the court conducts a review of the process by which a public body has reached a decision to assess whether it was validly made. The court's

authority to do this derives from statute, but the principles of judicial review are based on case law which is continually evolving.

Judicial review is a remedy of last resort. It can be difficult to bring a successful claim and a court may refuse permission to bring a claim if an alternative remedy has not been exhausted.

Judicial review proceedings examine the way in which a decision has been made rather than considering the merits of the decision itself. A judicial review claim may concern a local council's internal procedures or its consideration of an issue (for example, at a meeting) in the lead-up to the resolution or actions being challenged.

To reduce the risk of a judicial review claim, local councils should ensure that their decisions are informed, are justified with reasons, follow proper procedures, and are within their statutory powers.

Grounds for judicial review

The grounds for judicial review can be categorised under four headings:

Illegality

Illegality arises when a public body:

- misdirects itself in law;
- exercises a power wrongly; or
- acts outside its powers (*ultra vires*).

Irrationality

A public body's decision may be challenged as irrational, if:

- it is outside the range of reasonable responses of a public authority (this is sometimes phrased as being "so unreasonable that no reasonable authority could ever have come to it", using the standard of *Wednesbury* unreasonableness – see below). The courts are very reluctant to find that a decision was irrational, particularly where the decision maker is an expert; or
- the decision maker took into account irrelevant matters or failed to consider relevant matters.

CASE LAW

Associated Provincial Picture Houses Ltd v Wednesbury Corporation (1948) ⁶³

Under the Sunday trading laws at the time, the Wednesbury Corporation had authority to open cinemas subject to such conditions as they thought fit to impose. The claimant's cinema was licensed to operate on Sundays, subject to the condition that no children younger than 15 could enter (regardless of adult accompaniment). The claimant challenged the Corporation's condition through judicial review, arguing that the decision was unreasonable and beyond the Corporation's power.

It was held by the Court of Appeal that Parliament had given the Corporation discretion to set the conditions for the licence. That discretion might be exercised differently according to their honest and reasonably held opinion. It was not the court's job to substitute its own opinion.

The court could only interfere with the Corporation's decision where the decision was so unreasonable that no reasonable authority could ever have come to it. In this case, the Corporation's condition was within the reasonable decisions one could make.

This concept is now known as "Wednesbury Unreasonableness" and is the concept of whether a public body's decision is within the range of reasonable decisions. It is often cited within claims for judicial review.

Procedural unfairness

Procedural unfairness is where, in making a decision, the public body has not properly observed:

- the relevant statutory procedures, such as a failure to consult or to give reasons; or
- the principles of natural justice in the decision-making process (for example, if the decision maker has shown bias or has failed to hear an affected party). For example, a flawed consultation process is a common procedural ground under the issue of procedural unfairness.

Legitimate expectation

A public body may be found to have acted against legitimate expectation if, by its own statements or conduct, it showed that it would act in a certain way but did not do so.

Human rights

As public authorities, local councils (and other local authorities) are open to legal claims that they have breached a person's rights pursuant to the European Convention on Human Rights and Fundamental Freedoms, as ratified by the Human Rights Act 1998. All local authorities have an obligation to treat people in accordance with their Convention rights, which are enforceable in courts. The most relevant articles are:

- **article 8** – the right to respect for private and family life;

- **article 9** – the right to freedom of thought, conscience and religion;
- **article 10** – the right to freedom of expression; and
- **article 11** – the right to freedom of association.

Most decisions made by local councils are unlikely to conflict with human rights. Convention rights may be relevant to the range of activities undertaken by local councils (for example, the holding of meetings and provision of recreational facilities), and a claim for infringement of those rights can be included in a judicial review claim.

The insurance cover taken out by a local council should include cover for legal expenses to defend legal actions. If a local council receives notice of legal action, or a threat of it, it should notify its insurers without delay otherwise this may vitiate the policy. It is common for a local council's insurance cover to exclude legal expenses for defending a judicial review claim.

- 1 [Local Government Act 1972, schedule 12, paragraphs 41, 44](#)
- 2 [Local Government Act 1972, s.228\(1\) and schedule 12, paragraphs 41, 44](#)
- 3 [Freedom of Information Act 2000, s.1](#)
- 4 [Freedom of Information Act 2000, s.20](#)
- 5 [Freedom of Information Act 2000, s.19\(1\)\(a\)](#)
- 6 [Freedom of Information Act 2000, s.19\(2\)](#)
- 7 [Freedom of Information Act 2000, s.1](#)
- 8 [Freedom of Information Act 2000, s.8\(1\)\(b\)](#)
- 9 [Freedom of Information Act 2000, s.3\(2\)](#)
- 10 [Freedom of Information Act 2000, s.21](#)
- 11 [Freedom of Information Act 2000, s.40\(1\)](#)
- 12 [Data Protection Act 2018, s.45](#)
- 13 [Freedom of Information Act 2000, s.41](#)
- 14 [Freedom of Information Act 2000, s.22](#)
- 15 [Freedom of Information Act 2000, s.38](#)
- 16 [Freedom of Information Act 2000, s.40\(2\)](#)
- 17 [Freedom of Information Act 2000, s.42](#)
- 18 [Freedom of Information Act 2000, s.43](#)
- 19 [Freedom of Information Act 2000, s.14](#)
- 20 [Freedom of Information Act 2000, s.12\(1\)](#)
- 21 [The Freedom of Information and Data Protection \(Appropriate Limit and Fees\) Regulations 2004/3244, regulation 3\(3\)](#)
- 22 [Freedom of Information Act 2000, s.16](#)
- 23 [Data Protection Act 2018, ss.6\(1\), 7; United Kingdom General Data Protection Regulation 2016/679, article 4\(7\)](#)
- 24 [United Kingdom General Data Protection Regulation 2016/679, article 4\(1\)](#)
- 25 [The Data Protection \(Charges and Information\) Regulations 2018/480, regulation 3](#)
- 26 [The Data Protection \(Charges and Information\) Regulations 2018/480, regulation 2](#)
- 27 [Data Protection Act 2018, s.69](#)
- 28 [United Kingdom General Data Protection Regulation 2016/679, article 5\(1\)](#)
- 29 [United Kingdom General Data Protection Regulation 2016/679, article 15\(1\)](#)
- 30 [Data Protection Act 2018, s.45](#)

- 31 [Data Protection Act 2018, ss.49, 50](#)
- 32 [United Kingdom General Data Protection Regulation 2016/679, article 12\(6\)](#)
- 33 [United Kingdom General Data Protection Regulation 2016/679, article 12\(5\)](#)
- 34 [United Kingdom General Data Protection Regulation 2016/679, article 15\(3\)](#)
- 35 [United Kingdom General Data Protection Regulation 2016/679, article 12\(5\)](#)
- 36 [Public Bodies \(Admission to Meetings\) Act 1960, s.1\(2\)](#)
- 37 [United Kingdom General Data Protection Regulation 2016/679, article 4\(7\)](#)
- 38 [Local Audit and Accountability Act 2014](#)
- 39 [The Accounts and Audit Regulations 2015/234](#)
- 40 [The Accounts and Audit Regulations 2015/234, regulation 2](#)
- 41 [Local Audit and Accountability Act 2014, s.6](#)
- 42 [Local Audit and Accountability Act 2014, s.3\(3\)](#)
- 43 [The Accounts and Audit Regulations 2015/234, regulation 11](#)
- 44 [The Local Audit \(Smaller Authorities\) Regulations 2015/184, regulation 9](#)
- 45 [Local Audit and Accountability Act 2014, s.20](#)
- 46 [The Accounts and Audit Regulations 2015/234, regulation 3](#)
- 47 [The Accounts and Audit Regulations 2015/234, regulation 6\(1\)](#)
- 48 [The Accounts and Audit Regulations 2015/234, regulation 6\(3\)](#)
- 49 [The Accounts and Audit Regulations 2015/234, regulations 4\(1\), 4\(2\)](#)
- 50 [The Accounts and Audit Regulations 2015/234, regulation 4\(4\)\(b\)](#)
- 51 [Transparency Code for Smaller Authorities](#)
- 52 [The Accounts and Audit Regulations 2015/234, regulation 12\(2\)](#)
- 53 [The Accounts and Audit Regulations 2015/234, regulation 12\(1\)](#)
- 54 [Local Audit and Accountability Act 2014, s.7](#)
- 55 [The Local Audit \(Smaller Authorities\) Regulations 2015/184, regulation 18](#)
- 56 [Local Audit and Accountability Act 2014, ss.25–27](#)
- 57 [The Accounts and Audit Regulations 2015/234, regulation 14\(1\)](#)
- 58 [The Accounts and Audit Regulations 2015/234, regulation 15\(1\)\(a\)](#)
- 59 [The Accounts and Audit Regulations 2015/234, regulation 15\(1\)\(b\)](#)
- 60 [The Accounts and Audit Regulations 2015/234, regulation 15\(2\)](#)
- 61 [Local Government Act 1974, s.25\(4\)\(b\)](#)
- 62 [Local Government Act 1974, s.25\(7\)](#)
- 63 [Associated Provincial Picture Houses Ltd v Wednesbury Corporation \[1948\] 1 KB 223](#)

Key points

- Financial and legal due diligence and written agreements are vital for all partnership working.
- Local councils should be equipped to deal with media interest in their affairs.
- Councillors can have other roles such as the trustee of a charity, the employee or director of a company or managing other organisations, but these roles cannot overlap.
- Local councils have different methods of communicating with local residents, e.g. surgeries, surveys and public participation in meetings, and so on.
- Every local council has different priorities. Legislation permits local councils to work with others within a statutory framework.

Working with other local authorities

Legislation permits a local council to work with other local authorities in various ways. A summary of a local council's reason(s) for working with another local authority and a guide to the relevant statutory framework are below.

Financial support

A local council has specific powers to contribute to the expenditure incurred by another local authority in the exercise of concurrent statutory powers.¹ This could be, for example, to provide a community centre or a theatre. A local council may also:

- make a grant to another local authority to provide recreational or sports facilities in or outside the area of the other local authority;²
- contribute to the expenses of another local authority in providing or maintaining a cemetery that residents in the area of a local council can be buried in;³
- contribute to the expenses of another local authority in holding a summer fête;⁴
- contribute to the funds of another local authority in instructing lawyers or consultants on matters affecting the area.

There is less scope for a local council to contribute to the expenses of another local authority when the local authority is performing statutory powers and functions that are not conferred on a local council, e.g. in relation to maintenance of highways, provision of social services, housing and education or traffic regulation. A local council eligible to exercise the general power of competence⁵ enjoys more freedom to give financial assistance to another local authority unless a statutory prohibition,

restriction or limitation applies. A local council may use the general power of competence to make a loan to another local authority or to make a contribution to the expenses incurred by a local authority in exercising statutory powers that are not available to a local council (e.g. in relation to libraries) or in discharging functions that are not a statutory responsibility of a local council (e.g. in relation to the provision of housing, social services or education). A local council is free to impose conditions on the financial assistance (that is, grant or loan) that it wants to give to another local authority.

If a local council wants to make a grant or loan to another local authority, it should agree in writing the conditions of the grant or the terms of the loan. A local council will need a solicitor to help it draw up a loan agreement.

Delegation

A local council may, except when prohibited by legislation, delegate responsibility for the performance of a statutory power or statutory function of the council to another local authority,⁶ subject to the requirements for certain functions to be the sole responsibility of the local council itself. This kind of delegation is not common. It is, however, reasonably common for a Principal Council to delegate some of its duties to another Principal Council. This might be, for example, where services are provided through a shared service arrangement.

The effect of a delegation is that the receiving local authority undertakes the statutory responsibilities of a local council on its behalf. Legal responsibility for the performance of delegated statutory powers and functions of the local council remains with the delegating council. As such, a complaint about matters that have been delegated to another local authority is to be treated as a complaint against the local council, not the other authority. A delegation of its statutory responsibilities to another local authority will not prevent the local council from performing them itself, subject to the terms of the delegation agreement between the local council and the other local authority,⁷ also known as an agency agreement. The importance of an agency agreement should not be underestimated. An agency agreement may provide for the local authority that is acting as an agent to receive a payment for the services it is providing on behalf of the other local authority.

A delegation of the statutory responsibilities of a local council to another local authority must be decided by resolution. The other authority must also formally agree to take on the delegated responsibilities. Subject to any statutory prohibitions, restrictions and limitations and the terms of the agency agreement between the two authorities, the other authority is free to discharge the delegated statutory responsibilities as it pleases. The other local authority may delegate the responsibilities to a committee and the committee may delegate its responsibilities to a sub-committee or to staff, unless otherwise directed by the authority.⁸

Local councils are often keen for Principal Councils to delegate responsibilities for the performance of statutory functions or powers that are not otherwise conferred on them. For example, a local council has no statutory functions or powers relating to the provision of libraries, waste collection, planning, housing, highway or education services and

therefore cannot undertake these activities without a formal delegation. A local council has no statutory right to require another local authority to delegate its statutory responsibilities. Other local authorities are sometimes reluctant to delegate the performance of their statutory functions and powers to a local council because of concerns that the local council lacks the necessary capacity and resourcing, particularly as the other local authority would remain responsible in law for the performance of its delegated statutory responsibilities.

Joint working

Unless prohibited by legislation, a local council and another local authority may jointly exercise concurrent statutory powers. If local authorities are jointly discharging concurrent functions, they must work within the statutory framework that governs this. The local authorities may appoint a joint committee consisting of councillors (or as the case may be non-councillors) from each authority. One local authority may also delegate its statutory responsibilities to a staff member of the other local authority.⁹

Joint committees

In order to set up a joint committee, the local authorities must each formally agree how many councillors will be appointed to the committee and their term of office.¹⁰ They must also decide what responsibilities will be delegated to the joint committee and the terms of reference. A joint committee may delegate its responsibilities to a joint sub-committee and, unless the appointing bodies for the joint committee or the joint committee themselves direct otherwise, the joint sub-committee may delegate its responsibilities to a staff member of one of the authorities.¹¹ Both local authorities must agree how they will share the expenses incurred by the joint committee.¹² If the authorities cannot agree on how the expenses of their joint committee will be met between them, the proportion of the expenses incurred by the joint committee payable by each of the authorities will be decided by a third party.¹³

A joint committee represents two or more local authorities. It is not in itself a legal entity and therefore cannot own property. Property in its control or management may be owned either by one of the local authorities or, though uncommon, jointly owned by both of them.

The exercise of a statutory function by two or more local councils confers joint legal responsibility on the two councils. However, if the other local authority with whom a local council is jointly exercising a statutory power is a Principal Council operating executive arrangements within the meaning of Part II of the Local Government Act 2000 (that is, is a leader and cabinet model rather than a committee system), and the function being jointly shared is or becomes the legal responsibility of the executive of that Principal Council, then the joint working must cease.¹⁴

The LGSCO has powers to deal with complaints against a local council if it is jointly working with a Principal Council through a joint committee¹⁵ or where the local council is exercising the functions of a Principal Council.¹⁶

Working with voluntary organisations

Legislation provides different ways for a local council to work with or support voluntary organisations. Local bodies, e.g. a local history group, pressure or campaign group, sports club, residents' association, conservation group, amateur dramatics society or allotment holders' society, may seek financial assistance or other support from a local council. If a local council wants to work with a voluntary organisation in a particular way, it must always check it has statutory powers to do so and which activities are permitted. For example, a local council has a specific statutory power to grant or loan money to a voluntary organisation if it is providing sports or recreational facilities in or outside the council's area¹⁷. Using another example, a local council may want to lease¹⁸ or license its premises to a voluntary organisation. An eligible council with the general power of competence enjoys more freedom if it wants to work with or give financial assistance to a voluntary organisation where there is no statutory prohibition, restriction or limitation.

Sometimes the statutory powers that permit a local council to work with a voluntary organisation define a voluntary organisation as a body whose activities are carried on otherwise than for profit. In such context, there is no statutory definition of "otherwise than for profit". However, it is generally accepted that a not-for-profit organisation is a type of organisation that does not earn profits for its owners. All of the money earned by or donated to a not-for-profit organisation is used to pursue the organisation's objectives. Typically, not-for-profit organisations are charities or other types of public service organisations. Generally, not-for-profit organisations can apply for tax-exempt status so that the organisation is not subject to most forms of taxation. In this respect, the defining feature of a not-for-profit organisation is likely to be what the organisation does with any profits and not (i) how it raises money or (ii) whether it generates a profit. If a local council has any doubts as to the status of a voluntary organisation, it should ask it to confirm if it is exempt from corporation tax or from some or all of its business rates liability. If answers to these questions are irrelevant or inconclusive, a local council might want to ask the body in question why it considers itself to be "otherwise than for profit."

Most voluntary organisations are unincorporated. They may or may not have a constitution, or any other formal rules which govern its purpose, activities and management. They may not have a business bank account. If a local council is proposing to make a grant or loan to an unincorporated body or enter into other agreements or contracts including leases or licences, it should use a solicitor.

Working with charities

A local council has specific powers to hold property that has been gifted to the council on charitable trust for the benefit of some or all of the residents in the council's area. A will, conveyance, or other legal deed will appoint the local council as a trustee of the property and specify the charitable purposes that the property is to be used for. A local council cannot be the trustee of an ecclesiastical charity or a charity which is for the relief of poverty.¹⁹

Custodian trustee

Many small charities and/or historical charities are set up as unincorporated associations. The names of the trustees are listed on the trust and the trust itself cannot hold, buy or sell property. To avoid the need for the individual trustees to hold property, a local council may be appointed as the custodian trustee to a charity because the local council itself can hold property. Ownership of the property of a charity is vested in the local council, but the local council has no role in the management or administration of the charity. The charity property should be listed in the local council's assets register but with nil value. Responsibility for all matters relating to the management of the property, including insurance, remains with the trustees appointed to manage the charity. The charity will often have a management committee. A representative of the local council may sit on the management committee but the local council itself has no say in the management of the property.²⁰

Sole trustee

A local council may also be appointed as the sole trustee of a charity. This means ownership of the property of the charity is vested in the council and it is also responsible for the administration and management of the charity and is subject to charity law legislation.

When a local council is the custodian or sole trustee of a charity, it is the whole council that is the trustee. Individual councillors are not trustees of the charity in these situations.

Charity accounts

The accounts of the charity should be kept separate from the accounts of the council. A local council should have a separate bank account if it is the custodian or sole trustee of a charity. If the council's bank account is used to pay for any expenditure on behalf of a charity (prior to recovery from the charity account), then these transactions, including any VAT, are treated as the local council's own expenditure and income for the purposes of the annual accounts of the council. To simplify accounting, it is recommended that funds of the local council and the funds of a charity of which the local council is the custodian or sole trustee are never mixed. The reserves of the local council should not include those of any charity or vice versa.

Delegation of functions relating to the charity

It is recommended that matters relating to the charity are dealt with by meetings of a committee. Councillors should remember that they are making decisions as the trustee of the charity, not as councillors. The committee will be governed in accordance with charity law and decisions made in the best interests of the charity, not the council.

Councillor representation on the charity

The governing document of a charity may require its trustees, who collectively manage the charity, to include representatives from a local council. A local council may be asked by the charity to nominate or appoint councillor(s) or even staff as trustees. Councillors and council staff who are trustees of a charity must not confuse or allow their other

roles as a councillor or member of staff to conflict with their duty to act in the interests of the charity.

Declaring interests

A councillor who is a charity trustee must observe the local council's code of conduct when they attend a local council meeting relating to the charity. The councillor must also take into account their representation on the charity when registering and disclosing their disclosable pecuniary and any other interests under the local council's code of conduct. For example, if a councillor is also a charity trustee for profit or gain, or a director of a charitable company, and a local council meeting is making a decision about a contract for services to the charity, they will have a disclosable pecuniary interest in that matter.

If a local council wants to work with a charity in a particular way, it must always check if the relevant legislation defines the term "charity" or type of charity and specifically what activities it permits the local council to do in relation to working with or supporting the charity. A local council has a specific statutory power to give limited financial assistance to a charity which does not benefit the residents of its area.²¹

A local council eligible to use the general power of competence enjoys more freedom if it wants to work with or give financial assistance to a charity where there are no other statutory powers and no statutory prohibitions, restrictions or limitations. It would permit financial support being given to, for example, a local Scouts association or a citizens advice bureau which are charities.

Working with others

Specific statutory powers enable local councils to undertake activities jointly with others. For example, a local council may work jointly with anyone to encourage visitors to the area,²² or provide entertainment in the area²³ (that is, a local council may work with events companies that organise large-scale annual music festivals, fêtes etc).

A local council eligible to exercise the general power of competence enjoys more freedom to work with others (e.g. individuals or businesses) where statutory prohibitions, restrictions or limitations do not apply.

Working with volunteers

Sometimes local councils work with volunteers. For example, a council may use volunteers to help at a community event, for gritting local roads and paths in snow, or a communal gardening project. The essence of a true council-volunteer relationship is that the council cannot require a volunteer to undertake work for the local council and the local council cannot commit to providing work for the volunteer. A person who volunteers to work with a local council will not be paid, except perhaps expenses.

A local council will need to give a volunteer clear instruction as to what they are (and are not) authorised to do for and on behalf of the council. This information is best communicated in writing. The volunteers may also need to be informed if they are subject to certain policies of the local council. A local council has a statutory duty to ensure as far as reasonably

practicable the health, safety and welfare at work of not only employees but also other persons, which would include volunteers.²⁴ Volunteers who undertake activities for a local council act as agents of the council. A local council should notify its insurers if it uses services of volunteers in the exercise of its statutory powers.

Working with businesses

Businesses come in different forms such as a sole trader, partnership, company limited by guarantee (including a charitable company), company limited by shares or community interest company (CIC). A CIC, like any company, has articles of association which confirm the purpose of the company, and a board of directors, and usually has limited liability (which can be limited by shares). A CIC is different from other companies because its property is subject to a statutory asset lock to ensure that its assets and profits are retained for the CIC, or transferred to another asset-locked organisation, such as another CIC or charity. CICs are regulated by Companies House and the Office of the Regulator of Community Interest Companies.

If a councillor is connected to a business that their local council is working with – for example, they are a director of the company, employed by it, or have shares in the company – they must observe obligations in their local council's code of conduct which relate to the registration and disclosure of such interests. **Chapter 2** provides more information. For example, if a councillor is also a director of a CIC and a council meeting is considering a rent increase under a lease in which the council is the landlord and the CIC is the tenant, they will have obligations relating to the registration and disclosure of that interest arising from their disclosable pecuniary interest in the matter.

Legal agreements, contracts, and tender process

A contract is a legally binding agreement that grants rights and creates duties. It can be oral, written, partly written and partly oral, or inferred from the conduct of the parties.

Loan and grant agreements, agency agreements, and other contracts have already been mentioned in this Chapter. It is likely that a local council will enter into contracts on a regular basis. It may enter into contracts with individuals and a range of different legal entities (for example, companies, charities, local authorities, unincorporated bodies). Whilst oral contracts can be legally binding, it is not advisable to rely on contractual terms that have not been put into writing.

In any event, local councils are subject to certain statutory requirements before they enter into contracts.²⁵ A local council may make standing orders with respect to the making of contracts and must have standing orders with respect to contracts for the supply of goods or materials or for the execution of works. In relation to contracts for the supply of goods or materials or for the execution of works, a local council must have standing orders that include provisions for securing competition and for regulating the manner in which tenders are invited. The standing orders of a local council may exempt contracts for the supply of goods or materials or for the execution of works for a price below a

particular figure from its tendering process if special circumstances confirmed by standing orders permit this, e.g. the execution of emergency repair works not exceeding £5,000. A local council's non-compliance with its own standing orders for entering into contracts with a person will not invalidate the contract.²⁶

Public procurement – the legal framework

Public procurement is governed by the Procurement Act 2023 and The Procurement Regulations 2024. Schedule 1 of the 2023 Act contains the thresholds for contracts for the supply of goods, services and the provision of works.

Service level agreements

A local council may need to enter into a service level agreement (SLA), which is a type of contract, or a document which forms the appendix to a contract. An SLA may be used to confirm:

- the scope of the services to be provided;
- the service levels, response times and resolution times;
- escalation procedures to resolve problems;
- how the service levels will be objectively assessed;
- the remedy should the service levels not be achieved;
- the price for the services;
- ways to identify improvements to the service levels; and
- ways to terminate the agreement, e.g. expiration of the term of the agreement, breach, insolvency, convenience, changed circumstances, or force majeure.

This guide can only give a brief overview of contracts and procurement. If a local council is unsure, or if it is considering entering into a high value contract, it is advisable for the local council to obtain professional advice.

Working with non-councillors

A local council has statutory powers to appoint non-councillors to most committees (including joint committees) and sub-committees (including joint sub-committees),²⁷ with the exception of a committee that regulates and controls the local council's finance or a committee managing a charity where the local council is sole charity trustee.

A person cannot be appointed as a non-councillor member of a committee (including a joint committee) or a sub-committee (including a joint sub-committee) if they would be disqualified from being elected or being a councillor of a local council.²⁸ A person cannot be appointed as a non-councillor on a committee if they:²⁹

- hold any paid office or employment (other than the office of chair, vice-chair or deputy chair) to which they have been appointed by the council or by any joint committee on which the council is represented;
- are the subject of a bankruptcy restrictions order or interim bankruptcy order;
- have, within five years before the day of election, or since their election, been convicted in the UK, Channel Islands or Isle of Man of any offence and have had passed on them a sentence of imprisonment of at least three months (whether suspended or not) without the option of a fine; or
- have been found guilty of corrupt or illegal practices or were responsible for incurring unlawful expenditure and the court orders their disqualification.

Generally, non-councillor members of a committee (including a joint committee) or a sub-committee (including a joint sub-committee) do not have voting rights,³⁰ except in limited circumstances as follows:³¹

- the management of land owned or occupied by the council;
- the functions of the local council as a harbour authority;
- the functions of the local council relating to the promotion of tourism;
- the functions of the local council relating to the management of a festival.

In addition, non-councillor members who are part of an advisory committee appointed by the local council also have voting rights.³²

The term “management” does not include making decisions about the total amount of money which may be spent by the local council in a financial year in respect of land or a festival.³³

When a non-councillor has voting rights on a question that falls to be decided at any meeting of the committee (including a joint committee) or a sub-committee (including a joint sub-committee), they are also subject to the code of conduct adopted by the local council. A non-councillor with voting rights has statutory obligations about the registration and disclosure of disclosable pecuniary interests, whether or not these obligations have been incorporated into the local council’s code of conduct.³⁴ See **Chapter 2**.

Non-councillors have the same speaking and attendance rights at committees as councillors, even though mostly, they are not allowed to vote.

A local council may appoint non-councillors because, for example, they represent a particular section of the local community (e.g. local charities, businesses, voluntary organisations), or because they have an expertise in or enthusiasm for the work of the committee. For example, a local council committee that has delegated powers to organise festivals may involve representatives from local businesses because they are better placed to encourage sponsorship and financial contributions by other businesses and may contribute commercial ideas about how they are run.

It is important for a local council to explain the limited statutory rights that non-councillors have at the meetings of a committee (including a joint committee) or a sub-committee (including a joint sub-committee) to which they have been appointed. Similarly, a local council should explain

the requirement to register and disclose interests and the obligations under the code of conduct.

Working with the press and media

A meeting of a local council and its committees must be open to the public, which includes anyone from the press and other media (the Press).³⁵ However, the Press may be excluded – as are the public – if anything on the agenda should be dealt with in confidence or for other special reason(s) stated in the resolution to exclude.³⁶ If the public and Press are to be excluded from a part or whole of the meeting, the chair of the meeting is expected to explain the broad reason. They must ensure that in doing so, they do not disclose the confidential or sensitive information. The chair should also explain that resolutions made in the closed session will be minuted but the minutes will not include confidential or sensitive information. **Chapter 9** and **Chapter 11** provide further guidance.

The Press have a right to request a copy of the agenda with supporting papers for meetings of the local council and its committees. A local council does not have to provide confidential documents which are due to be considered in a private meeting. A local council must provide the Press with reasonable facilities for taking their report of a meeting of the council and its committees.³⁷

Local councils are subject to the requirements of The Openness in Local Government Regulations 2014,³⁸ which state that anyone present at a local council meeting which is open to the public may film or record the meeting.³⁹ This includes the Press. However, subject to this requirement for openness, the public and Press have no statutory right to take photographs, or to use any means which would enable a person not present at a meeting to see or hear the meeting, or to orally report on the meeting while the meeting is in progress. There are no statutory restrictions about tweeting, blogging or other social media reporting of a meeting. At the start of a meeting, it is good practice for the chair to remind all those present about the right to record or film the meeting, but also about any restrictions set out in the local council's standing orders which prevent real-time reporting.

Agendas and minutes must be published on the local council's website in accordance with the Transparency requirements.⁴⁰ Local council business may be reported with or without a local council's prior knowledge or involvement. It is sensible for a local council to have a policy to regulate its proactive or reactive communications with the Press which meets the statutory obligations of openness under the Public Bodies (Admission to Meetings) Act 1960, the Local Government Act 1972, the Local Government Act 1986, the Freedom of Information Act 2000, and the Data Protection Act 2018. The Local Government Act 1986 prohibits any local council from publishing or assisting others to publish party political material.⁴¹ Such a policy could impose obligations on the council, its councillors and staff not to disclose information which is confidential or where disclosure is prohibited by law, and to direct all press enquiries to the clerk.

Code of recommended practice on local authority publicity 2011

A local council is subject to the 2011 code of recommended practice on local authority publicity⁴² issued under the Local Government Act 1986. The code of recommended practice provides guidance on the content, style, distribution and cost of local authority publicity. The code provides that the publicity by a local council should be lawful, cost-effective, objective, even-handed, appropriate, have regard to equality and diversity and be issued with care during periods of heightened sensitivity.

The code confirms that it is acceptable for local councils to publicise the work done by individual councillors and to present the views of those individuals on local issues. This might be appropriate, for example, when one councillor has been the “face” of a particular campaign. If views expressed by or attributed to individual councillors do not reflect the views of the local authority itself, such publicity should make this fact clear. The code also confirms that, during the period between the notice of an election and the election itself (the pre-election period), local councils should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual councillor or groups of councillors. Publicity relating to individuals involved directly in the election should not be published by local councils during this period unless legislation permits. Local councils are allowed to publish information which identifies the names, wards and parties of candidates at elections. Local councils and councillors should familiarise themselves with the 2011 code of recommended practice on local authority publicity.

Working with the public

Most information about a local council that is of interest to the public should be available via the local council’s publication scheme. Information not available can still be requested under the FOIA. **Chapter 4** explains this in more detail.

At meetings

Members of the public have no statutory right to speak at a meeting of a local council, its committees or sub-committees. A local council might want to give those who are in attendance an opportunity to speak. A local council may, in its standing orders, set aside a short part of its meetings (e.g. 15 minutes) for the public (and Press) to ask questions or give views on the business on the agenda for the meeting. The part of the meeting where the public can speak is known as the public participation session. It enables members of the public and the Press to raise issues and to seek answers to questions about the local council’s activities and decisions. If the public has had an opportunity to “have its say” at meetings or has used the public participation session to gain a better understanding of the role and limitations of the local council or the meeting in certain matters (for example, commenting on planning applications or the limited role of a local council in neighbourhood planning or the right to bid for the purchase of an asset of community value), this will often benefit a local council. The standing orders of a local council will confirm if public participation is permitted at any meeting or only at some meetings. It may be that a local council only allows public participation

at the meetings of the full council and at its planning committee, which are the types of meeting that usually most interest the public. Standing orders should be used to regulate the purpose or nature of the permitted public participation. This may range from only allowing the public to ask questions, to allowing the public to make statements and representations.

Councillors may provide answers to questions and points raised in the public participation session. Members of the public and councillors are expected to treat people with courtesy and respect, not interrupt another speaker, nor use improper language or behaviour, and so on.

The questions and representations of the public should ideally be confined by the use of standing orders to the matters that are on the agenda for the meeting. However, it can be difficult to police this and there is some merit in permitting questions about matters that are not on the agenda. Limiting members of the public to speak at a meeting only about the items on the agenda may be perceived as pedantic and obstructive. The chair of the meeting must keep control of the public participation session, otherwise it may be in danger of becoming unfocused and unhelpful. **Chapter 9** explains the role of the chair further.

It is very important that councillors listen to the public and carefully consider the views and their own discussions in order to make decisions. The councillors must make sure that they rigorously consider all relevant facts and representations made at the meeting before voting. Chapters **2, 7** and **8** explain this further. The fact that a meeting includes a public participation session must be minuted. See **Chapter 11** on this point.

Communicating in other ways

Legislation may require a local council to give certain information about its proposals. For example, a local council is subject to statutory requirements to advertise its intention to sell open space land (meaning land laid out as a public garden, used for public recreation, or land which is a disused burial ground) in a local paper for two weeks and to formally consider any objections before it decides to sell the land.⁴³ If no specific statutory requirements apply, a local council is free to determine the different methods, if any, that it uses to provide information about decisions it has made or future proposals not already available in its minutes or otherwise via its publication scheme.

A local council may publish a magazine or newsletter. The form or frequency of this method of communication by a local council may depend upon the amount of information it wants to publicise and the cost. Many local councils choose to publish all their information on their website, which should be clear, user-friendly and regularly updated. Links to minutes, agendas, supporting papers, and so on, should be clearly accessible on the face of the website.

As discussed above, a local council cannot publish or assist others to publish material which affects public support for a political party,⁴⁴ and is subject to the 2011 code of recommended practice on local authority publicity⁴⁵ issued under the Local Government Act 1986. The recommended code confirms that local councils should not publish on their website, newsletters, or magazines matters which emulate commercial newspapers in content and style. For example, a local council is not expected to include horoscopes, national or international news

stories, or TV listings or commercial advertising in its publications. The recommended code also specifically provides that local councils should not publish newsletters or similar communications more frequently than monthly and the publication should clearly identify on the front page that it is published by the council.

Parish meetings

A parish meeting is made up of the local government electors in a particular administrative parish, even if it is divided into wards for elections.⁴⁶ These meetings should not be confused with the Statutory Annual Meeting, held in May each year. The purpose of the meeting is to discuss “parish affairs”, which has no statutory definition.⁴⁷ Parish affairs can be any issue or topic that specifically affects that particular parish, and it is not exclusive to the business of the local council for the area. Matters which do not specifically affect the parish are not parish affairs.

A parish meeting is an effective forum for the local council for that area to engage with local residents. Even if local residents do not support certain decisions or actions of the local council, the attendance and involvement of councillors at a parish meeting may demonstrate that the local council is prepared to listen to the views of local residents.

The public and media have a statutory right to attend a parish meeting.⁴⁸ Only the local government electors at a parish meeting have a right to vote at the meeting.⁴⁹ If the local council has convened the meeting, it can use its register of the electoral roll for the area when people arrive to identify the local government electors who may later vote at the meeting.⁵⁰ If local government electors are seated separately from the others who attend, this may make the counting of votes more straightforward. Such measures may be helpful if there is a dispute as to the eligibility of those who voted at the meeting.

A vote at a parish meeting or subsequent poll is not binding on the local council, except in exceptional circumstances. For example, the result may trigger a local council’s statutory duty to consider if its provision of allotment gardens is sufficient to meet demand.⁵¹

A local council may test initial ideas for the establishment of a Neighbourhood Development Plan (NDP)⁵² or Neighbourhood Development Order (NDO) for the area. There is, however, an intricate statutory framework that governs the establishment of an NDP or NDO for the area of a local council. This requires an external examination and support of the proposed NDP or NDO via a referendum. See also **Chapter 1** which explains neighbourhood planning further.

The statutory requirements for convening a parish meeting are explained below:

- The assembly or meeting of a parish meeting is usually called by the chair of the local council but can also be called by any two councillors of the local council or any six local government electors of the parish.
- Where there is no local council, the parish meeting may be convened by the chair of the parish meeting, any district councillor representing the parish, or any six local government electors of the parish.⁵³
- The meeting must be held between 1 March and 1 June each year.⁵⁴
In a parish without a separate local council, there must be at least one

other meeting each year.⁵⁵ Other meetings must be held on days and times fixed by the local council or, if there is no local council, by the chair of the parish meeting.⁵⁶

- Public notice of the meeting must be given at least seven clear days beforehand (rather than the usual three days), except where the meeting is convened to discuss the establishment or dissolution of a local council, or the grouping of the parish area with another parish or parishes under a common local council, in which case the public notice must be given at least 14 clear days beforehand.⁵⁷ The public notice must specify the time and place of the intended meeting, and the business to be transacted at the meeting, and be signed by the person or persons convening the meeting. It must be posted in conspicuous place(s) in the parish, and in such other manner, if any, as appears to the person or persons convening the meeting to be desirable for giving publicity to the meeting.⁵⁸

The chair of the local council can attend the meeting whether or not they are a local government elector for the parish, but if they are not an elector for the parish, they cannot vote at the meeting other than any casting vote which they may have⁵⁹ (see below).

Where there is a separate local council, the chair of the council, if present, must preside at a parish meeting and if they are absent, the vice-chair (if any) must, if present, preside. In a parish without a separate local council, the chair of the parish meeting, if present, shall preside. If none of the above are present, the parish meeting must appoint a person to chair that meeting.⁶⁰

Only local government electors for the parish can vote at a parish meeting or in any subsequent poll. Each elector has one vote on any question, and it is decided by a simple majority of those present and voting. The decision of the person chairing the meeting on the result of the voting is final unless a poll is demanded. In the case of a tied vote, the chair of the meeting has a casting vote, in addition to any other vote they may have.⁶¹

A poll may be demanded before the conclusion of a parish meeting on any question arising at the meeting, but no poll shall be taken unless either the person presiding at the meeting consents, or the poll is demanded by not less than ten, or one-third, of the local government electors present at the meeting, whichever is the fewer.⁶² If a poll is validly demanded, the chair of the parish meeting must notify the relevant district or unitary authority, which will appoint a returning officer.

All local government electors for the parish can vote in any poll following a parish meeting whether or not they attended the meeting. The procedure is similar to that of electing a local councillor.

In a parish with a local council, the expenses of the parish meeting (including the expenses of a poll) must be paid by the local council.⁶³

Councillors' surgeries

A local council may hold surgeries involving several councillors. The purpose of these surgeries is to explain decisions or promote the proposals of the local council and to obtain the views of and information from residents. In practice, however, most local councils do not hold formal surgeries but might engage in a more informal way with local

residents through coffee mornings and other local events. In cases of important matters affecting the whole of a local council's area – for example, proposals for a neighbourhood plan – it is usual for a local council to hold a public meeting and to invite residents.

If a formal surgery is held, the local council will decide who is required to attend. Where councillors are members of different political parties, ideally councillors representing the different parties on the local council should be present so that a resident may discuss a matter with a councillor from a particular party if they wish. If a particular political party has a very small number of councillors, it may not be possible for that party to be represented at every surgery. Advance public notice of the names of the councillors who will be present at each surgery will mean that residents can attend (or not attend) in full knowledge of which councillors they will be able to speak to. The meeting could be held at the local council's premises, or at any other suitable and convenient location. The information gained from this type of surgery will be classed as information held by the local council and subject to the council's obligations under the Data Protection Act 2018, the UK GDPR and the Freedom of Information Act 2000, and so on.

Individual councillors may hold their own surgeries, independently of the local council. For this category of surgery, the local council has no formal role. The local council may decide, at the request of the councillor, to publicise the date and venue for their surgery. Information obtained by the councillor is not information held by the council and statutory responsibility for holding and using any personal data rests with the individual councillor.

All surgeries and public meetings should only be concerned with discussions which are relevant to the parish and would be appropriate to discuss in a parish meeting. Councillors should not use surgeries to discuss national or international matters unless they are of direct relevance to the parish and the local council. The venue for holding surgeries should ideally have facilities for a discussion to take place in private in case residents request such a discussion and also to ensure the safety and security of those present. Councillors should be prepared to identify and disclose a conflict of interest in any matter raised by a resident. It is then for the resident to decide whether they wish to continue to discuss the matter with the councillor in question or with another councillor.

Surveys

A local council may engage with the community by issuing surveys to gather the views of the residents and businesses in its area. A local council may commission an organisation independent of the council to collect the information on the council's behalf. This sort of survey might be appropriate if, for example, a local council is trying to gauge demand for affordable housing, or other amenities such as schools, nurseries, shops, post offices, doctors' surgeries and allotments, or on the issue of merging two councils into one. The advantage of this method is that the survey is perceived to be professional and independent of the council. The disadvantage of this type of survey can be the cost. As an alternative, the local council may conduct surveys itself, which has the advantage of being low cost.

Surveys may be completed online, by post or face to face. Door-to-door surveys provide an opportunity for councillors or staff to have face-to-face contact and potentially to learn more about the views of local residents and businesses, but online surveys are popular and easily accessible by most people.

- 1 [Local Government Act 1972, s.136](#)
- 2 [Local Government \(Miscellaneous Provisions\) Act 1976, s.19\(3\)](#)
- 3 [Local Government Act 1972, s.214\(6\)](#)
- 4 [Local Government Act 1972, s.145\(1\)\(a\)](#)
- 5 [Localism Act 2011, s.1](#)
- 6 [Local Government Act 1972, s.101\(1\)\(b\)](#)
- 7 [Local Government Act 1972, s.101\(4\)](#)
- 8 [Local Government Act 1972, s.101\(3\)](#)
- 9 [Local Government Act 1972, s.101\(5\)\(a\)](#)
- 10 [Local Government Act 1972, s.102\(2\)](#)
- 11 [Local Government Act 1972, ss.101\(5\)\(a\), 101\(2\)](#)
- 12 [Local Government Act 1972, s.103](#)
- 13 [Local Government Act 1972, s.103](#)
- 14 [Local Government Act 1972, s.101\(5A\)](#)
- 15 [Local Government Act 1974, s.25\(4\)\(b\)](#)
- 16 [Local Government Act 1974, s.25\(7\)](#)
- 17 [Local Government \(Miscellaneous Provisions\) Act 1976, s.19\(3\)](#)
- 18 [Local Government Act 1972, s.127\(1\)](#)
- 19 [Local Government Act 1972, s.139\(3\)](#)
- 20 [Public Trustee Act 1906, s.4](#)
- 21 [Local Government Act 1972, s.137\(3\)\(a\)](#)
- 22 [Local Government Act 1972, s.144](#)
- 23 [Local Government Act 1972, s.145](#)
- 24 [Health and Safety at Work etc. Act 1974, s.3](#)
- 25 [Local Government Act 1972, s.135](#)
- 26 [Local Government Act 1972, s.135\(4\)](#)
- 27 [Local Government Act 1972, s.102\(3\)](#)
- 28 [Local Government Act 1972, s.104](#)
- 29 [Local Government Act 1972, s.80](#)
- 30 [Local Government and Housing Act 1989, ss.13\(1\), 13\(7\)](#)
- 31 [The Parish and Community Councils \(Committees\) Regulations 1990/2476](#)
- 32 [Local Government and Housing Act 1989, ss.13\(3\), 13\(4\)\(e\)](#)

- 33 [The Parish and Community Councils \(Committees\) Regulations 1990/2476, regulation 3\(2\)](#)
- 34 [Localism Act 2011, s.30](#)
- 35 [Public Bodies \(Admission to Meetings\) Act 1960, s.1\(1\); Local Government Act 1972, s.100](#)
- 36 [Public Bodies \(Admission to Meetings\) Act 1960, s.1\(2\)](#)
- 37 [Public Bodies \(Admission to Meetings\) Act 1960, s.1\(4\)](#)
- 38 [The Openness of Local Government Bodies Regulations 2014](#)
- 39 [Public Bodies \(Admission to Meetings\) Act 1960, s.1\(4\)\(d\)](#)
- 40 [Transparency Code for Smaller Authorities](#)
- 41 [Local Government Act 1986, s.2](#)
- 42 [Transparency code for smaller authorities](#)
- 43 [Local Government Act 1972, s.123\(2A\), applied by s.127](#)
- 44 [Local Government Act 1986, s.2](#)
- 45 [DCLG Circular 01/2011](#)
- 46 [Local Government Act 1972, s.13\(1\)](#)
- 47 [Local Government Act 1972, s.9\(1\)](#)
- 48 [Public Bodies \(Admission to Meetings\) Act 1960, s.1](#)
- 49 [Local Government Act 1972, schedule 12, paragraph 18\(1\)](#)
- 50 [The Representation of the People \(England and Wales\) Regulations 2001/341, regulation 107\(8\)](#)
- 51 [Small Holdings and Allotments Act 1908, s.23](#)
- 52 [Localism Act 2011, schedule 9; The Neighbourhood Planning \(General\) Regulations 2012/637](#)
- 53 [Local Government Act 1972, schedule 12, paragraph 15](#)
- 54 [Local Government Act 1972, schedule 12, paragraph 14\(1\)](#)
- 55 [Local Government Act 1972, schedule 12, paragraph 14\(3\)](#)
- 56 [Local Government Act 1972, schedule 12, paragraph 14\(2\)](#)
- 57 [Local Government Act 1972, schedule 12, paragraph 15\(2\)](#)
- 58 [Local Government Act 1972, schedule 12, paragraph 15\(4\)](#)
- 59 [Local Government Act 1972, schedule 12, paragraph 16](#)
- 60 [Local Government Act 1972, schedule 12, paragraph 17](#)
- 61 [Local Government Act 1972, schedule 12, paragraph 18](#)
- 62 [Local Government Act 1972, schedule 12, paragraph 18\(4\)](#)
- 63 [Local Government Act 1972, s.150\(2\)](#)

Key points

- A local council may appoint committees.
- A committee of a local council undertakes work for and on behalf of a local council.
- The specific responsibilities of a committee are confirmed by its terms of reference.
- A local council is responsible for the appointment of committees and their members.
- Non-councillors may be appointed to most committees.
- The voting rights of non-councillor members of committees are limited.
- A non-councillor with voting rights is subject to the council's code of conduct and is required to register and disclose disclosable pecuniary interests and other interests.
- A committee either has functions of the local council that have been formally delegated to it or it simply advises the local council on matters which relate to the performance of its statutory powers and functions.
- A sub-committee is a committee appointed by a committee. The sub-committee comprises members of the committee and cannot exceed the responsibilities conferred on it by the parent committee.

Unless a statutory prohibition applies, the performance of the statutory powers, functions and related work of a local council can be delegated to a committee or a sub-committee. A sub-committee is a committee appointed by a committee. A local council can appoint committees but is not bound to do so.¹

A local council is responsible for the appointment and dissolution of a committee, its terms of reference, and whether it can delegate further to a sub-committee or a member of staff.² The local council also decides on the number of members appointed to the committee and their term of office.³ A local council may elect the chair to the committee, or it can allow the members of the committee to elect its chair when the committee first meets.

A committee may appoint a sub-committee, unless otherwise directed by the local council.⁴ The committee is responsible for deciding its sub-committee's terms of reference, members, and their term of office in the same way that the local council appoints its committees. A committee may elect the chair to the sub-committee, or it can allow the members of the sub-committee to elect its chair when the sub-committee first meets. A sub-committee may delegate its responsibilities to a staff member, unless otherwise directed by its parent (or appointing)

committee or the local council.⁵ A local council can set eligibility conditions in its committee terms of reference (e.g. for members to have undertaken appropriate training as determined by the council).

What do committees do?

A committee may perform the statutory functions, powers and other legal responsibilities of a local council on the local council's behalf.⁶ This is subject to the requirements for certain functions to be the sole responsibility of the local council itself.

If a local council delegates the performance of certain statutory functions, powers and responsibilities to a committee, the local council is not prevented from carrying out this work itself.⁷ In doing so, the local council is subject to the previous decisions made by the committee (or sub-committee), particularly where they affected others or created legal obligations and rights.

Legal responsibility for the matters that are delegated to a committee remains with the local council. A complaint which relates to the performance of a statutory function or power of the council that has been delegated to a committee (with or without delegation to a sub-committee or staff member) is to be treated as a complaint against the local council, not against the committee (or as the case may be, a sub-committee or staff member).

A committee may be appointed to simply advise the local council on matters relating to the performance of its statutory functions, powers and related responsibilities.⁸ An advisory committee does not make decisions. Its role is to research or investigate, consider and report to the local council. NALC's view is that such advisory committees/working parties are, in fact, committees or sub-committees within the meaning of the 1972 Act and are, accordingly, subject to the same legal provisions in the 1972 Act as other committees.

A committee may appoint a sub-committee to advise it.⁹

How many committees?

A local council may appoint however many committees it requires (with or without sub-committees) to administer the business of the local council that cannot be handled by staff and would otherwise demand the time of the whole council. Staff resources, the number of councillors, and how active a local council is are factors that influence the number of committees (with or without sub-committees) appointed by a local council.

A standing committee of a local council is a committee with ongoing responsibilities concerning the performance of the statutory powers and functions of the council and related work. Examples of standing committees are the planning committee, the staffing committee, the finance committee and the complaints committee.

A special (or ad hoc) committee of a local council is usually a committee appointed with short-term responsibilities or a committee whose work does not fall within the terms of reference of an existing committee. A committee responsible for negotiating the terms of a new lease for the council, or for overseeing the completion of major refurbishment works in

a community hall, or for the organisation of a local event are examples of special committees.

Figure 2 is an example of a committee structure for a local council.

Figure 2. Example committee structure for a local council

Full council	Standing committees	Sub-committees
	Allotments, sports and recreation facilities	
	Events	
	Finance	
	Neighbourhood planning	Neighbourhood planning
	Planning	
	Staffing	Staffing

In the example, there are six standing committees. Two of the standing committees have sub-committees. There are no special committees in the example.

Terms of reference

When a local council appoints a committee, it must be clear why it is appointing it and what its responsibilities are. A local council achieves this by deciding the terms of reference for the committee. If a committee is permitted to appoint a sub-committee, it is the committee that decides the terms of reference for the sub-committee. The terms of reference for a sub-committee cannot confer responsibilities that are not within the responsibilities set out in the terms of reference for the parent committee.

The terms of reference also inform the members of the committee (or the sub-committee) of the matters for which they are collectively responsible. It is important to give careful thought to the wording of the terms of reference. If the terms of reference are too brief or oversimplistic, then the members of the committee (or sub-committee) will not know what is expected of them. Consequently, the committee (or sub-committee) may inadvertently exceed their responsibilities. If a committee (or sub-committee) decides matters which are outside its terms of reference, those decisions risk challenge and are likely to be invalid. The terms of reference and membership of a committee (or a sub-committee) should be available to the public via the local council's publication scheme.

When does a council appoint a committee?

A local council can appoint a committee at any time, but an appropriate occasion is the annual meeting in May. The local council can review existing committees and establish new committees and sub-committees.

Members of a committee and sub-committee

Unlike a Principal Council, there is no statutory requirement for the composition of a committee (or a sub-committee) to represent the proportions that the local council is divided by in terms of political affiliations.¹⁰ A local council decides the number of councillors (and non-councillors) and their terms of office. For a sub-committee, the appointing committee decides the number of persons and their term of office.¹¹

A councillor may be nominated and appointed to a committee because they have a special interest or expertise to offer in respect of the work of the committee. A local council may want the chair or the vice-chair of the local council to be members of every committee by virtue of their office (that is, *ex officio*) rather than by nomination. A local council should use standing orders¹² to regulate the rights and restrictions, if any, that apply to *ex officio* members of a committee. For example, standing orders should confirm whether the chair or the vice-chair of the local council are full voting members of every committee. Alternatively, standing orders may limit the *ex officio* members' rights to being summoned to attend committee meetings, receiving agendas and background papers to meetings, and speaking but not voting.

Non-councillors

A committee, other than one that regulates and controls the finances of the council,¹³ can include non-councillors. Although it rarely happens, an advisory committee or sub-committee of a council can be composed entirely of non-councillors.¹⁴

Substitute members

Substitute members may be nominated and appointed to a committee (or to a sub-committee). The role of a substitute member is to take the place of an ordinary member if the ordinary member cannot attend a meeting of the committee (or sub-committee), and without the attendance of a substitute member, the meeting would be inquorate. A local council must decide the number and term of office of substitute members at the same time that it determines the number and term of office of the ordinary members of a committee.

The standing orders of a local council must confirm whether substitute members may be appointed to certain committees or sub-committees. Staffing, planning, and complaints committees (and their sub-committees) may benefit from the availability of substitute members. Standing orders must also:

- regulate the circumstances in which a substitute member may attend a meeting in the place of an ordinary member of a committee (or sub-committee); and
- confirm that if a substitute member is legitimately summoned to and attends a meeting of a committee or sub-committee, the ordinary member cannot participate in that meeting if they also attend.

A councillor who is not a member of a committee (or sub-committee) only has the same rights to attend a meeting of the committee (or

sub-committee) as a member of the public. They can participate in the meeting if the public can, subject to standing orders about public participation. **Chapter 7** explains public participation sessions.

The number of members in a committee or sub-committee

There should be no fewer than three members appointed to a committee or sub-committee. The quorum of a committee or sub-committee of three should also be three.¹⁵ The standing orders of a council should confirm this. A meeting cannot proceed if it is inquorate.

Control of meetings of committees and sub-committees using standing orders

A local council's standing orders should control the number, date, place, quorum, notices and other procedures to regulate a meeting of a committee and sub-committee.¹⁶ The number of meetings of a committee or a sub-committee should be commensurate with the responsibilities that have been delegated to them. Standing committees (e.g. planning, staffing or finance committees) require the dates of their regular (or ordinary) meetings to be fixed. Additional (or extraordinary) meetings of a committee or sub-committee can be held as necessary. Special committees may meet as and when the need arises.

The timetable of the meetings of a committee and sub-committee should be aligned to the timetable of the meetings of their appointing body. This allows for the minutes of a meeting of a committee or a sub-committee to be brought to the attention of the next meeting of their appointing body. See also the section below on reporting structures.

Aligning the timetable of the meetings of a committee and sub-committee with the timetable of the meetings of their appointing body becomes particularly significant when a meeting of the appointing body needs confirmation of the recommendations made by a committee or sub-committee so it can make a decision about them.

Many statutory provisions apply to a meeting of the full council, committee and sub-committee, irrespective of their incorporation into the standing orders of the local council. **Chapter 7** explains the relevant statutory provisions. However, there are some statutory requirements that apply to a meeting of full council but not to a meeting of a committee or sub-committee. In these circumstances, the standing orders of a local council should regulate the proceedings of such a meeting.¹⁷

Unlike the statutory requirements for advance public notice for a meeting of the local council,¹⁸ the statutory requirements for notice of a meeting of a committee are more flexible. There must be at least three clear days' public notice of the time and place of a committee meeting – or if it is convened at shorter notice, then public notice must be given at the same time.¹⁹ It is recommended that standing orders reflect the statutory requirement. Standing orders can require the members of a committee to be formally summoned to attend a committee meeting at least three clear days before the meeting and that the summons is signed by the proper officer and includes an agenda.²⁰

Unlike a meeting of the whole council or a meeting of a committee, there are no statutory requirements concerning the advance notice of

a meeting of a sub-committee. It is recommended that standing orders require the members of a sub-committee to be summoned to attend a sub-committee meeting at least three clear days before the meeting and that the summons is signed by the proper officer and includes an agenda.²¹

Unlike a meeting of the whole council and a committee,²² the public has no statutory right to attend a meeting of a sub-committee. If the work of a sub-committee is confidential (e.g. a staffing sub-committee) or considers information about individuals, disclosure of which would breach the obligations of a local council under the Data Protection Act 2018 (e.g. a complaint sub-committee) or information that is commercially sensitive, it is appropriate for the meeting to be held in private. For sub-committees not dealing with confidential matters, the standing orders of a local council may permit the public to attend their meetings subject to their being excluded if the matters being considered are confidential or there is another special reason. This being the case, it is recommended that standing orders stipulate a minimum of three clear days' public notice of the sub-committee meeting.²³

Additional standing orders may be necessary for regulating the role of particular members of the committee when acting on behalf of a committee or sub-committee.²⁴ Standing orders can be used to confirm which members of a committee or sub-committee will be the main point of contact with staff or third parties such as solicitors, surveyors, architects or planning consultants. In the absence of such standing orders, a meeting will need to decide this by resolution. **Chapter 7** explains procedural issues relevant to all meetings, not limited to a meeting of a committee or a sub-committee.

Minutes

The minutes of a meeting of a committee and a sub-committee record all resolutions. This requirement includes resolutions which concern confidential matters or matters which, for some other special reason, are not in the public interest. Such resolutions must also be recorded in a way which does not undermine or disclose the confidential or sensitive information. **Chapter 10** and **Chapter 11** explain this further.

Chapter 11 explains the drafting and approval of minutes of a meeting. The appointing body for a committee or sub-committee has no role in approving their draft minutes. The approved minutes of a committee and sub-committee must be kept in the local council's minute book²⁵ and made available to the public via the local council's publication scheme.

Reporting structures

It is standard practice for the minutes of a meeting of a committee and sub-committee to be formally received or acknowledged by the next meeting of its appointing body. Service of the minutes in this way is an effective means of reporting the work undertaken by the committee or sub-committee. This is the case, even if the resolutions in the minutes of the committee or sub-committee refer to the minutes of previous meetings or other documents (sometimes confidential) considered by the committee or sub-committee. If the minutes of a committee or the sub-committee meeting do not provide sufficient information for

the appointing body, it may request a report from a committee or sub-committee. This should be the exception rather than normal practice. A report is more likely to be requested of an advisory committee or sub-committee or a committee or sub-committee tasked with making recommendations. Unlike minutes, a report may better explain the reasons or factors for recommending a course of action and may confirm alternative courses of action that have been considered but rejected.

Apart from its minutes or the production of a report from time to time, a committee or sub-committee may be subject to additional reporting arrangements in their terms of reference.

Rights of access to information

It is a common misconception that being a local councillor gives an automatic right to access all information held by the local council. In fact, if a councillor is not a member of a particular committee or sub-committee, they do not have the automatic right of access to information or documents relating to the business of that committee or sub-committee as would apply to a member of the committee or sub-committee. They would need to demonstrate why information or the papers available to a committee or sub-committee (not limited to confidential or other sensitive information) are necessary to enable them to perform their duties as a councillor. A local council should not allow unjustified or improper access to information or documents available to a committee or sub-committee.

Advantages of a committee structure

- Committees and sub-committees can be appointed long-term or short-term, as dictated by the organisational needs, activities and resources of a local council.
- Committees and sub-committees work for and on behalf of the local council.
- Advisory committees and sub-committees can save a local council valuable time. The local council can use them to focus on the consideration of one topic or issue in relation to the performance of a local council's statutory functions and powers (e.g. the management of allotments or neighbourhood planning), and to make recommendations.
- Committees or sub-committees, with fully delegated powers, can make the local council's decision-making process more efficient. Without them, the whole council must meet whenever it needs to make any decision about council business, responsibility for which has not been formally delegated to staff. The need for several meetings of the full local council throughout the year may be a burden both on councillors and staff.
- Committees and sub-committees can include non-councillors, giving a wider perspective on matters. Committees and sub-committees that harness the special interests, skills and knowledge of their members can be especially worthwhile.
- Committees and sub-committees can be dissolved when there is no longer a use for them.

Disadvantages of a committee structure

- If a local council or committee assumes the responsibilities that it has delegated to a committee or sub-committee, which it is free to do, this duplicates efforts and undermines the appointment of the committee or sub-committee.
- If a local council or committee routinely challenges the decisions of a committee or sub-committee with delegated responsibilities, confidence in the local council is likely to suffer.
- There may be an insufficient number of councillors or non-councillors available to appoint to committees.
- Members of a committee or a sub-committee may not possess the requisite knowledge or skills.
- A council may not have adequate staff resources to support the meetings of committees and sub-committees.

- 1 [Local Government Act 1972, s.101\(1\)\(a\)](#)
- 2 [Local Government Act 1972, s.101\(2\)](#)
- 3 [Local Government Act 1972, s.102\(2\)](#)
- 4 [Local Government Act 1972, s.101\(2\)](#)
- 5 [Local Government Act 1972, s.101\(2\)](#)
- 6 [Local Government Act 1972, s.101\(2\)](#)
- 7 [Local Government Act 1972, s.101\(4\)](#)
- 8 [Local Government Act 1972, s.102\(4\)](#)
- 9 [Local Government Act 1972, s.102\(4\)\(b\)](#)
- 10 [The Local Government \(Committees and Political Groups\) Regulations 1990/1553](#)
- 11 [Local Government Act 1972, s.102\(2\)](#)
- 12 [Local Government Act 1972, s.106](#)
- 13 [Local Government Act 1972, s.102\(3\)](#)
- 14 [Local Government Act 1972, s.102\(4\)\(a\)](#)
- 15 [Local Government Act 1972, schedule 12, paragraph 12](#)
- 16 [Local Government Act 1972, s.106 and schedule 12, paragraph 42](#)
- 17 [Local Government Act 1972, s.106 and schedule 12, paragraph 42](#)
- 18 [Local Government Act 1972, schedule 12, paragraph 10\(2\)](#)
- 19 [Public Bodies \(Admission to Meetings\) Act 1960, s.1\(4\)\(a\) applied by Local Government Act 1972, s.100\(2\)](#)
- 20 [Local Government Act 1972, s.106 and schedule 12, paragraph 42](#)
- 21 [Local Government Act 1972, s.106 and schedule 12, paragraph 42](#)
- 22 [Public Bodies \(Admission to Meetings\) Act 1960, s.1\(1\); Local Government Act 1972, s.100\(2\)](#)
- 23 [Local Government Act 1972, s.106 and schedule 12, paragraph 42](#)
- 24 [Local Government Act 1972, s.106 and schedule 12, paragraph 42](#)
- 25 [Local Government Act 1972, schedule 12, paragraphs 41 and 44](#)

Key points

- Councillors and the public must be given sufficient notice of a meeting.
- Meetings cannot proceed unless they are quorate.
- Most meetings are open to the public unless there is a particular reason for excluding them.
- Meetings can only deal with business on the agenda.
- Decisions at meetings are made by the majority of the councillors present and voting.
- The second or casting vote of the chair of the meeting may be used to break a tied vote.
- Standing orders are necessary to regulate the order and conduct of meetings.
- A local council cannot hold virtual meetings.

References to “meetings” in this Chapter include a meeting of full council, a committee and a sub-committee unless otherwise stated.

Important decisions about local council business are made at the meetings. Meetings are often held in the evenings because councillors who work cannot attend meetings during the day. Meetings can be held at weekends, but this is not common.

Meetings are subject to numerous statutory requirements as to how they are convened and how they are conducted. Most of the statutory requirements (excluding those that relate to the conduct and interests of councillors) are in the Public Bodies (Admission to Meetings) Act 1960, the Local Government Act 1972 and the Localism Act 2011. Not all of the statutory requirements that are mandatory for a meeting of the full council are mandatory for a meeting of a committee or a sub-committee. However, a meeting of a committee or a sub-committee also requires proper procedures and therefore a local council is advised to use standing orders to achieve this.¹

Statutory requirements for meetings

- There must be at least three clear days’ public notice of the time and place of a meeting of the full council and its agenda.² The meaning of “clear days” excludes the day on which notice was issued and the day of the meeting. A Sunday, a day of the Christmas break, a day of the

Easter break, a bank holiday or a day appointed for public thanksgiving or mourning do not count when calculating three clear days.³

- A councillor must be summoned to attend a meeting of the full council at least three clear days (as defined above) before the meeting. The summons, signed by the proper officer, must include an agenda for the meeting and be served at the usual residence of the councillor.⁴ It is accepted practice for standing orders to permit electronic service of the summons and agenda at least three clear days before a meeting provided the email to councillors includes the electronic signature and title of the proper officer.
- The annual meeting of the full council is held in May.⁵
- In addition to its annual meeting, there must be a minimum of three other (or ordinary) meetings of the full council in every year.
- There must be at least three clear days' public notice of the time and place of a meeting of a committee or if the meeting is convened at shorter notice, public notice must be given at the time the meeting is convened.⁶ The meaning of "clear days" excludes the day on which notice was issued and the day of the meeting. Despite the statutory requirements, it is recommended that standing orders always provide a minimum of three clear days' public notice of the time and place of a meeting of a committee and a sub-committee.
- A meeting of the full council cannot be held in premises licensed for the supply of alcohol unless no other suitable premises are available free of charge or at a reasonable cost.⁷ Standing orders may extend this rule to a meeting of a committee or a sub-committee.⁸
- The public (and Press) have a statutory right to attend a meeting of the full council and a committee.⁹ Standing orders may exclude or permit the attendance of the public at a meeting of a sub-committee.
- The public can be excluded from all or part of a meeting of the full council and a meeting of a committee if the consideration of certain matters is prejudicial to the public interest because of its confidential nature or other special reason.¹⁰ It is recommended that standing orders extend this requirement to a meeting of a sub-committee which the public are permitted to attend.
- If present, the chair must preside at meetings of the full council. If the chair is absent, the vice-chair must preside. If the vice-chair is also absent, the meeting should choose a person to chair the particular meeting.¹¹ Standing orders dictate the arrangements for chairing a meeting of a committee or sub-committee.
- The quorum for a meeting of the full council is at least one-third of the councillors (this is a third of the total number of seats, including vacant ones) but no less than three.¹² Separate statutory provisions apply if more than one-third of the councillors are disqualified at the same time.¹³ Standing orders dictate the quorum for a meeting of a committee or a sub-committee. It is advised that the standing orders require a quorum of at least three for both committees and sub-committees.

- The existence and nature of any interest that a councillor is required to disclose in a matter being considered at a meeting in accordance with the code of conduct must be recorded in the minutes of the meeting.¹⁴
- The minutes of a meeting must also record if a councillor leaves and returns to a meeting room (because they are required to do so by standing orders which should reflect the requirements in the code of conduct).¹⁵
- Voting at a meeting of the full council is by show of hands, unless an alternative method of voting is provided for in standing orders.¹⁶ Standing orders commonly extend voting by a show of hands to a meeting of a committee and sub-committee.
- Individual votes for and against a question being decided at a meeting of the full council must be recorded in minutes if requested by a councillor.¹⁷ Standing orders may extend this requirement to a meeting of a committee or a sub-committee.
- Decisions at meetings are made by the majority of those councillors present and voting.¹⁸
- In the event of a tie in voting, the person presiding at the meeting has a second or casting vote.¹⁹
- The minutes must record the councillors present²⁰ and absent at meetings.
- Minutes of all meetings must be approved and retained in a minute book.²¹

Time limits of meetings

A local council can use standing orders to confirm the duration of meetings of the whole council, committees and sub-committees, but should aim to keep meetings to a reasonable time limit so as not to discourage full participation by councillors and the public. Standing orders may state that extensions to the time limit of a meeting can be decided on by the committee in certain circumstances.

Why have standing orders for meetings?

As described above and in previous chapters, meetings, councillors and the proper officer are subject to several statutory requirements. A local council is recommended to have, as a minimum, standing orders that incorporate the requirements for meetings, which avoids the need to check or clarify the statutory or other requirements which different meetings are subject to. In addition, standing orders can cover issues which are not covered by legislation, such as the rules for committee and sub-committee meetings. A local council may adopt or amend other standing orders for the regulation of its proceedings and business. Examples of the subjects that are usually covered by standing orders:

- the order of business at the annual meeting of a local council;
- submitting motions for debate at meetings;

- discussion and debate of motions;
- public participation at meetings (see **Chapter 5**);
- dealing with disorderly conduct (see **Chapter 9**);
- awarding or entering into contracts for goods and services (see **Chapter 5**);
- consideration of confidential or sensitive information that is prejudicial to the public interest;
- review and management of delegation arrangements (see **Chapters 3, 5 and 6**);
- frequency and duration of meetings; and
- amendment, suspension or revocation of standing orders²² that do not incorporate statutory requirements.

The annual meeting of a local council

In a year of elections to a local council, the annual meeting must take place on or within 14 days after the day on which the newly elected councillors take office. In a year when there are no elections to the local council, a local council's annual meeting must take place in May.²³

Election of chair and vice-chair

The first business of the annual meeting of a local council is the election of the new chair of the council.²⁴ The present chair of the council must preside at the meeting until their successor is elected.²⁵ Their obligations at the meeting include formally opening the meeting, receiving nominations for and declaring the result of the election of the new chair.

In a year of elections to a local council, if the current chair of the council has been re-elected as a councillor, then they may vote in the election of the new chair. If there is a tied vote, they have a casting vote which they must use to break any deadlock.²⁶ They are not required to use either their original or casting vote in any particular way; there is no prohibition against them using either their original or casting vote for themselves.

In a year of elections to a local council, if the current chair of the council has not been re-elected as a councillor, then, if present, they must preside at the meeting until the new chair of the council is elected as described above. In a year of elections to a local council, they do not have an original vote in the election of the new chair, but if there is a tied vote, then they have a casting vote which they must use to break any deadlock.²⁷

Once they are elected, the new chair of the council must sign and deliver a form (a statutory prescribed form that all newly elected councillors use to accept office as a councillor)²⁸ that confirms their acceptance of the office of chair. The chair must do this at the meeting at which they are elected or by a later date if the local council agrees this at that meeting.²⁹ Newly elected councillors are expected to deliver their acceptance of office form before or at the first meeting of the council after election unless the council decides at that meeting this can be done later.³⁰ See **Chapter 2**.

Legislation does not require a local council to have a vice-chair, but most local councils do elect a vice-chair who, subject to any standing orders to the contrary, is able to step into the role of the chair when they are absent.

Other business to be dealt with at the annual council meeting

Apart from the election of a chair and any vice-chair to the council and deciding if any acceptance of office forms can be submitted at a later date, the annual meeting is not subject to any other statutory requirements. The agenda for the meeting is likely to have other business for the annual meeting to deal with. This would include approving the accuracy of the minutes of the last meeting of the council or receiving the minutes of the last meeting of a particular committee. Other items of business on the agenda for the annual meeting may be regulated by the local council's standing orders.

The annual meeting of the local council or, failing that, the next meeting of the full council after the annual meeting, presents an ideal opportunity for the full council to address internal organisational structures (e.g. the existence of committees and sub-committees), procedures, policies and other administrative arrangements. Examples are:

- a review of delegation arrangements to committees, sub-committees, staff and other local authorities;
- a review of the terms of reference and standing orders specific to committees and sub-committees;
- the appointment of new members of standing committees;
- the appointment of new committees if this is necessary;
- identification of other standing orders that need amending;³¹
- setting the dates, times and venue of ordinary (see below) meetings of full council and standing committees;
- an assessment of the meetings which merit a public participation session;
- a review of the local council's representation on or work with outside bodies (for example, charities and voluntary organisations) and the arrangements for reporting back;
- a review of the local council's asset register which records its ownership of land, buildings, office equipment and other property;
- a check of the local council's arrangements for holding and accessing title deeds, leases, contracts and other legal documents;
- a review of arrangements for insurance cover for insurable risks;
- making changes to the local council's complaints handling procedure or procedures for handling requests made under the Freedom of Information Act 2000 and the Data Protection Act 2018 if this is necessary;
- revising the local council's policy for dealing with the press and media if this is necessary.

The difference between ordinary and extraordinary meetings of a council

An ordinary meeting is a meeting of the full council that is required by legislation. The section above on statutory requirements confirms the number of ordinary meetings that are required in a year. An ordinary meeting is also one convened by the local council's proper officer to fill the office of chair of the council if a casual vacancy arises.³²

A local council should use standing orders to diarise the date and time of the ordinary meetings of the full council. Many local councils hold an ordinary meeting every month or every two months. A local council with appropriate internal delegation arrangements may require fewer ordinary meetings of the full council because responsibilities of the local council that have been delegated to committees or staff are merely reported back.

An extraordinary meeting is one which may be called at any time by the chair of the council.³³ Extraordinary meetings are usually occasioned by urgent business that needs to be resolved before the next ordinary meeting of the local council. The chair of a local council should not hesitate to call extraordinary meetings when necessary. If a local council has appointed a vice-chair, its standing orders may permit the vice-chair to convene an extraordinary meeting in the chair's absence.³⁴

If the chair of a local council (or, subject to standing orders, a vice-chair of a local council) fails or refuses to call an extraordinary meeting of the council within seven days of having been requested to do so by two councillors, any two councillors may convene a meeting of the council.³⁵ The public notice giving the time, place and agenda for such a meeting must be signed by the two councillors who called the meeting.³⁶

What happens at a meeting?

There are accepted conventions and practices as to what happens at a meeting and the order in which they happen. Below is a guide to the basic sequence of events at a meeting:

- The names of councillors present and absent are noted for inclusion in the minutes of the meeting.
- The chair formally opens the meeting and may make short announcements about the meeting that are appropriate or merely procedural. Procedural issues may include, e.g., a reminder that recording of the meeting is permitted but that anyone recording should not disrupt the meeting, or that there will be a part of the meeting from which the public will be excluded, because of confidentiality or other reasons. See **Chapter 5** and **Chapter 9**.
- If a councillor is unable to attend a meeting and they have formally sought approval for their absence, their request will be considered. If granted, a resolution approving their absence and the reason for it will be included in the minutes of the meeting.
- Certain interests of councillors in agenda items are disclosed and minuted as appropriate. See **Chapter 2**.
- Subject to standing orders, dispensation requests made by councillors may be considered and granted. See **Chapter 2**.

- The accuracy of the minutes of the last meeting is formally approved. See **Chapter 9**.
- Subject to standing orders, the public are permitted to speak about items of business on the agenda. Public participation is explained in **Chapter 5**. Updates to resolutions from the last meeting are received.
- Motions or other items of business on the agenda are considered and resolved. See **Chapter 8** for guidance on the formal procedure for the debate of a motion.
- Standing items of business (e.g. authorisation of payments, the formal acknowledgement of the minutes of a committee and/or as the case may be sub-committee) are dealt with. See **Chapter 10**.
- The chair formally closes the meeting.

Voting

Chapter 2 explains that (i) the interests of councillors in matters being considered at a meeting may prevent them from voting and (ii) councillors must avoid predetermination and bias when considering a matter at a meeting. **Chapter 5** confirms that the same rules apply to non-councillors with voting rights. Assuming a meeting is quorate, any question or motion that needs to be decided at a meeting must be decided by the majority of the councillors present and voting.³⁷

A councillor has one vote only, for or against the question being decided. Voting at a meeting of the full council is by show of hands, unless an alternative method of voting is provided for in standing orders.³⁸ There are no other accepted practices for voting. A councillor cannot vote by remote means, by post or proxy or in advance of a meeting. Voting by “secret” ballot, if permitted by standing orders, is unlikely to withstand scrutiny as to its legitimate purpose and validity. A secret ballot will not eliminate the risk of legal challenge to a resolution based on predetermination or bias by councillor(s).

A councillor has no statutory obligation to vote, and they may abstain. In addition, the person presiding at the meeting (other than for the election of a new chair of the council at the annual meeting)³⁹ may, but does not have to, exercise a second or a casting vote in the event of an equality of votes.

If any councillor so requires, the way in which each councillor voted on a matter at a meeting of the full council must be recorded in the minutes.⁴⁰

Voting on a procedural motion will result in a decision but decisions resulting from procedural motions concerning the progress of a debate about an original motion do not need to be recorded in the minutes.

Voting on an original motion will result in a resolution. Resolutions must be recorded in the minutes for the meeting. The wording of a resolution must leave no room for ambiguity or uncertainty in its meaning, even if it refers to another document (which may be confidential).

Excluding the public

The public may be excluded from all or part of a meeting where discussion in public of the business being considered would be prejudicial to the

public interest because of its confidential nature or other special reason. See **Chapter 5** for further explanation of this.

The public cannot be excluded from a meeting without a resolution by the meeting to do so. If it is known in advance that an item on the agenda is confidential, the agenda will usually state the item and the proposed resolution to exclude the public will be set out. If, in the meeting, it becomes necessary for the public to be excluded from the meeting for a particular item, a councillor must move a procedural motion to exclude the public. **Chapter 8** explains the process of moving a procedural motion such as this. Before the public can be excluded, a meeting must pass a resolution to confirm that the public were excluded from the meeting and the broad reason for this. The resolution does not need to document the precise legal or other reason as to why the public were excluded.

The resolutions that are made at a meeting when the public are not present must be recorded in the minutes for the meeting. However, the wording of such resolutions must not disclose or otherwise undermine confidential information or other sensitive information that is not in the public interest.

Virtual meetings

During the COVID-19 pandemic, statutory provision was made to allow local authorities to hold meetings remotely. The Lawyers in Local Government and the Association of Democratic Services Officers, supported by NALC, sought continuing provision to be made for local authorities to conduct meetings virtually beyond 7 May 2021. This was not extended and the provision expired, with all meetings returning to in-person.

The role of the clerk

The clerk will generally take minutes of the meeting. The local council may record meetings both to publish the recording on its website and to assist the clerk to prepare the draft minutes for approval of their accuracy at the next meeting.⁴¹ **Chapter 11** explains the preparation of draft minutes.

During a meeting, the clerk is often called upon by the chair of the meeting to give guidance on a range of matters including procedural matters about the conduct of the meeting, clarifying background information on agenda items, and internal procedures and policies. Although the chair of the meeting is responsible for determining the correct application of the standing orders that regulate the meeting, they may request assistance from the clerk. The clerk may also be asked to assist in the interpretation of a statutory power and if any prohibitions, restrictions or limitations exist. The clerk can only give guidance or assistance if they have sufficient knowledge or experience.

- 1 [Local Government Act 1972, s.106 and schedule 12, paragraph 42](#)
- 2 [Local Government Act 1972, schedule 12, paragraph 10\(2\)\(a\)](#)
- 3 [Local Government Act 1972, s.243](#)
- 4 [Local Government Act 1972, schedule 12, paragraph 10\(2\)\(b\)](#)
- 5 [Local Government Act 1972, schedule 12, paragraph 7\(2\)](#)
- 6 [Local Government Act 1972, s.100\(2\)](#)
- 7 [Local Government Act 1972, schedule 12, paragraph 10\(1\)](#)
- 8 [Local Government Act 1972, s.106 and schedule 12, paragraph 42](#)
- 9 [Public Bodies \(Admission to Meetings\) Act 1960, s.1; Local Government Act 1972, s.100\(2\)](#)
- 10 [Local Government Act 1972, s.100\(2\); Public Bodies \(Admission to Meetings\) Act 1960, s.1\(2\)](#)
- 11 [Local Government Act 1972, schedule 12, paragraph 11](#)
- 12 [Local Government Act 1972, schedule 12, paragraph 12](#)
- 13 [Local Government Act 1972, schedule 12, paragraph 45](#)
- 14 [Localism Act 2011, s.31\(2\)](#)
- 15 [Localism Act 2011, s.31\(10\)](#)
- 16 [Local Government Act 1972, schedule 12, paragraph 13\(1\)](#)
- 17 [Local Government Act 1972, schedule 12, paragraph 13\(2\)](#)
- 18 [Local Government Act 1972, schedule 12, paragraph 39\(1\)](#)
- 19 [Local Government Act 1972, schedule 12, paragraph 39\(2\)](#)
- 20 [Local Government Act 1972, schedule 12, paragraph 40](#)
- 21 [Local Government Act 1972, schedule 12, paragraphs 41 and 44](#)
- 22 [Local Government Act 1972, schedule 12, paragraph 42](#)
- 23 [Local Government Act 1972, schedule 12, paragraph 7\(2\)](#)
- 24 [Local Government Act 1972, s.15\(2\)](#)
- 25 [Local Government Act 1972, s.15\(4\)](#)
- 26 [Local Government Act 1972, s.15\(3\)](#)
- 27 [Local Government Act 1972, s.15\(3\)](#)
- 28 [Local Elections \(Declaration of Acceptance of Office\) Order 2012/1465, schedule 1](#)
- 29 [Local Government Act 1972, s.83\(4\)](#)
- 30 [Local Government Act 1972, s.83\(4\)](#)
- 31 [Local Government Act 1972, schedule 12, paragraph 42](#)

- 32 [Local Government Act 1972, s.88\(2\)](#)
- 33 [Local Government Act 1972, schedule 12, paragraph 9\(1\)](#)
- 34 [Local Government Act 1972, s.15\(9\)](#)
- 35 [Local Government Act 1972, schedule 12, paragraph 9\(2\)](#)
- 36 [Local Government Act 1972, schedule 12, paragraph 10\(2\)\(a\)](#)
- 37 [Local Government Act 1972, schedule 12, paragraph 39\(1\)](#)
- 38 [Local Government Act 1972, schedule 12, paragraph 13\(1\)](#)
- 39 [Local Government Act 1972, s.15\(3\)](#)
- 40 [Local Government Act 1972, schedule 12, paragraph 13\(2\)](#)
- 41 [Local Government Act 1972, schedule 12, paragraphs 41\(1\) and 44](#)

Key points

- A decision or resolution at a meeting must be preceded by a motion.
- A motion proposes that a meeting decides upon a course of action.
- A motion can be procedural or original.

References to “meetings” in this Chapter include a meeting of full council, a committee and a sub-committee unless otherwise stated.

Rules of debate and standing orders

There are conventions and common practices for the rules of debate at a meeting, modelled on the rules of debate in Parliament. The rules of debate are designed to ensure that councillors have an opportunity to speak while respecting the speaking rights of others and their views. The usual rules of debate practised by local councils and other local authorities are described below. As with other local authorities, a local council should have standing orders that generally conform to these rules. Councillors should ensure that they are familiar with them. It is the responsibility of the chair of the meeting to control the debate at a meeting. See **Chapter 9** for guidance about this.

Motions

The purpose of a motion is to propose that a meeting decides a particular course of action. A motion can be original or procedural. The differences are explained below. The practice of seconding a motion is customary in meetings of all local authorities and is included in their standing orders. The seconding of a motion by a councillor is a formal gesture to get a debate started or to move a point on.

Original motions

Original motions appear on the agenda only if a councillor gives advance written notice of them to the proper officer. **Chapter 10** explains the procedure for the submission of a motion to the agenda. The councillor who tabled the original motion to go on the agenda should formally move it as the “proposer” or “mover”. The seconder may speak in support of the motion either at the point of seconding or may reserve their speech to later in the debate.

After the original motion has been seconded, the mover of the original motion should explain their reasons for tabling the motion and why it should be supported when the meeting comes to vote on it. The time that they are allowed to speak for will be restricted by standing orders. After the mover has spoken, the chair of the meeting should direct

the order of the other speakers before there is a vote on the motion. The mover of an original motion is entitled to a right of reply to the debate on their motion before there is a vote on it. Contributions to the debate by other councillors should usually be shorter than that of the mover of the motion.

A meeting is under no obligation to consider an original motion in the form it appears on the agenda. In accordance with the standing orders of the local council, a meeting may:

- pass the motion with or without amendments;
- reject the motion;
- postpone consideration of the motion to a later meeting;
- delegate consideration of the motion to a relevant committee or sub-committee or to a staff member.

Alternatively, the mover may withdraw it.

Amendments to original motions

An amendment is a motion to remove or add words to a motion in its original form. Verbal notice of proposed amendments must be given to the chair at the meeting at the earliest opportunity. It is recommended that they are presented in writing if, for example, they are complicated or there are several of them. If there is more than one amendment, the chair is responsible for determining the order in which proposed amendments are put to the meeting. The amendment which is the most controversial or significant is usually dealt with first. For example, if a motion is “to approve a draft budget of £350,000 for building works for the new sports centre” and there are three amendments which propose to substitute “£350,000” with “£100,000” or “£150,000” or “£250,000”, the amendment proposing to substitute “£350,000” with “£100,000” should be considered first.

Every amendment must be debated and voted on separately. If an amendment fails, the original motion stands. If an amendment is carried, the amended motion becomes the substantive (main) motion. The standing orders of a local council usually limit the number of amendments which may be moved by a councillor. If due consideration of a motion and amendments to it is likely to cause a meeting to overrun, the motion can be deferred to a later meeting.

An amendment may be moved by any councillor and must be seconded. In exceptional circumstances, the mover of the original motion may wish to move a minor amendment on their own motion if they think it would make it more acceptable to the meeting. This is acceptable if the meeting consents.

After being seconded, an amendment will need to be debated. Before it is put to the vote, the mover of the original motion has a right of reply to the debate on the amendment. In a series of amendments, the mover of the original motion has a right of reply which they may exercise only once during the whole debate. They may do this at the end of the debate on the first amendment or at the end of the debate on the final substantive motion. The proposer of the amendment does not normally have a right of reply.

An amendment to a motion can add words to or delete words from the original motion but cannot negate or defeat the original motion. For example, a councillor cannot propose an amendment to insert the word “not” before the word “to” in a motion “to purchase two benches for the village green”. This is because the means of negating the original motion would simply be through a vote for or against it in the normal way.

The rules seem complex, but the clerk will advise on the processes of dealing with each amendment.

Procedural motions

Procedural motions, usually listed in the standing orders of a local council, do not require notice to be given to the proper officer before the meeting. They are used to progress or close debate at a meeting and to respond to matters of procedure in the meeting itself. A procedural motion may be made by any councillor present at the meeting. It must be seconded but it is put to the vote immediately without debate. A procedural motion may propose:

- to withdraw a motion;
- to move to a vote (subject to exercise of a right of reply);
- to defer consideration of a motion;
- to refer a motion to a particular committee or sub-committee;
- to appoint a person to preside at a meeting;
- to change the order of business on the agenda;
- to proceed to the next business on the agenda;
- to require a written report;
- to appoint a committee or sub-committee and members;
- to extend the time limits for speaking;
- to exclude the press and public from a meeting in respect of confidential information or other special reasons which are prejudicial to the public interest;
- to not hear further from a councillor;
- to exclude a councillor or member of the public for disorderly conduct;
- to temporarily suspend the meeting;
- to suspend a particular standing order (unless it contains statutory requirements);
- to adjourn the meeting; or
- to close a meeting.

Points of order

During a meeting, a councillor may raise a point of order. A point of order is an objection addressed to the chair of the meeting about a procedural irregularity in the debate or in the conduct of the meeting itself due

to non-compliance with a statutory provision or standing orders. If a councillor wishes to raise a point of order, they should express this to the chair of the meeting when the reason for it becomes apparent and give their reason(s). The councillor who was speaking before the point of order was raised should stop speaking. The chair of the meeting must rule on the point of order and their decision is final. A point of order may, for example, be raised because:

- standing orders are not being complied with;
- inappropriate or offensive language is being used;
- a meeting is inquorate;
- the meeting has no authority to consider or decide the original or substantive motion;
- the effect of a proposed amendment is to defeat (or negate) an original or substantive motion; or
- the contribution is not relevant to the motion under discussion.

Points of order cannot be used to challenge the views expressed by a councillor during debate, unless this relates to the use of inappropriate language.

A councillor who is interrupted by comments that do not constitute a point of order is free to respond to the comments when they resume speaking, or to ignore them, as they think appropriate.

Personal explanations

When a motion is debated, a councillor may realise that they have been misquoted or otherwise misunderstood by a councillor speaking after them. In this situation, standing orders may permit that councillor to interrupt the current speaker in order to make a personal explanation to clarify matters. The chair of a meeting should ensure that points of personal explanation are not abused. Personal explanations are not another opportunity for a councillor to speak for or against a motion.

When does a councillor speak?

To summarise, normally a councillor who has spoken once on a motion may not speak again while it is being debated except:

- to speak once on an amendment moved by another councillor;
- to move another amendment if the motion has been amended since they last spoke;
- to speak on the main issue if the first time they spoke was on an amendment moved by another councillor;
- in exercise of a right of reply;
- on a point of order;
- by way of personal explanation; or
- where the chair, in their discretion, permits them to speak again.

Key points

- The role of the chair of a meeting is to keep order and control the meeting in accordance with standing orders.
- A chair may exercise a second or casting vote in the event of a tie in votes on any question to be decided at a meeting.
- For other matters, their status is the same as any other councillor.

References to “meetings” in this Chapter include a meeting of full council, a committee and a sub-committee unless otherwise stated. The term “chair” in this Chapter refers to the person presiding at a meeting of the local council, a committee or a sub-committee except where otherwise stated.

Chapter 7 explains (i) the role of a chair of the local council at the beginning of the annual meeting of a local council, which is not dealt with in this chapter and (ii) the usual sequence of events at meetings.

General responsibilities

The role of the chair of a meeting is to:

- formally preside at the meeting;
- ensure that the meeting considers the business before it;
- keep control of the meeting;
- maintain order; and
- apply standing orders that the meeting is subject to.

As such they will intervene in a meeting for these purposes. The councillors and the public present at a meeting are expected to respect and obey the chair in this respect. They must be fair yet firm. They have a power to exercise a second or casting vote¹ if the votes on a question to be decided at the meeting are tied.

Specific responsibilities for the chair of a meeting include:

- to formally open a meeting;
- to consider if there is a procedural obstacle to the meeting going ahead;
- to ensure that the draft minutes of a previous meeting are duly approved by the meeting;
- to order debate on motions;
- to decide points of order and other incidental questions;

- to control disorderly or disruptive behaviour of anyone in attendance at the meeting;
- to ensure that the meeting deals with the business on the agenda;
- to exercise their casting vote when votes are tied for the election of the chair of the local council at the annual meeting. See also **Chapter 7**;
- to choose to exercise their casting vote when votes are tied in other situations;
- to declare the result of a vote;
- to temporarily suspend or adjourn a meeting if necessary; and
- to close a meeting after its business has been concluded.

Before the meeting

The chair should be aware of the items on the agenda in advance of the formal summons to attend. The standing orders of a local council usually require the proper officer to consult with the chair of the meeting about the agenda before finalising it. In any event, it is good practice for the chair to give advance thought to motions on the agenda to anticipate what they might need to deal with at a meeting. Examples of the issues include:

- Does the meeting have sufficient information provided by the background documents supplied with the agenda or otherwise from staff, councillors or others invited to the meeting (e.g. a solicitor, district councillor)?
- Are there councillors who hold certain interests in items on the agenda that will prevent them from participating in the meeting without a dispensation?
- Is there a risk that the meeting will be inquorate for the above reason or because councillors are absent from the meeting?
- Does the risk of disorderly conduct or disruption to the proceedings of the meeting merit the presence of the police?

At the start of a meeting

Procedural considerations

Some procedural irregularities mean that a meeting cannot continue. For example, if complaints are made about the advance public notice for a meeting or the service of a summons, the chair will need to decide if these procedural complaints invalidate the meeting itself. If the period for advance public notice for a meeting does not satisfy the statutory requirements that apply, the meeting cannot proceed. If there is non-compliance with standing orders which confirm the period of advance public notice for a meeting, it cannot proceed. In addition, if the meeting is not quorate, it cannot proceed.

Formal announcements

The chair formally opens a meeting. If the meeting is open to the public, members of the public and the Press are allowed to record the meeting. It is good practice for the chair to remind those present that the meeting may be recorded. If the public are expected to raise their hand or to stand up when speaking in the public participation session, the chair should remind them of these formalities. Although these requirements are confirmed in standing orders available via the publication scheme, the chair cannot assume that the public is aware of them.

If the public and Press are likely to be excluded from a part or all of the meeting, the chair should remind them of this, whether or not this has already been highlighted in the agenda.

Approving minutes

When approving the minutes of a previous meeting, the only issue for the meeting is whether the minutes accurately record the proceedings of the meeting and the resolutions made at them. It is irrelevant if the chair or other councillors were not present at the meeting to which the draft minutes relate.

If the draft minutes of the previous meeting must be corrected because of an inaccuracy, the amendments to the draft minutes must be approved by resolution.

Public participation

Chapter 5 explains how public participation sessions at meetings work. The chair must ensure that any public participation session is in accordance with standing orders. The chair should be mindful that members of the public may be less experienced at speaking in public and may not be familiar with the formal proceedings of a meeting.

The Openness of Local Government Bodies Regulations 2014 require local councils and other local government bodies to allow any member of the public to take photographs, film and audio-record the proceedings, and report on all public meetings. While no prior permission is required to carry out this activity, it is advisable that any person wishing to film or audio-record a public meeting let the council know so that all necessary arrangements can be made for the public meeting. This is important because the rules require local government bodies to provide reasonable facilities for any member of the public to report on meetings.

The substantive items of the meeting

The chair must be familiar with the standing orders about the formalities, order and duration of contributions from councillors during the debate of a motion. Even during a heated debate, it is the responsibility of the chair to ensure that order is kept and that the meeting gets through the business on the agenda. The chair will be guided by the clerk.

The chair usually introduces the (original) motions in the order they appear on the agenda. Where a contribution during a meeting is obviously irrelevant to the motion under consideration, the chair should explain this to the speaker and invite them to return to the point or to stop speaking.

If it is evident that nothing new can be added to the consideration of a motion, the chair or other councillors may move it to the vote.

If there is insufficient information presented or exchanged at a meeting to fully consider and then vote on a motion, the meeting may resolve to consider the motion at a later meeting. In this situation, it is desirable to resolve what additional information is required and the date by which it is required.

Healthy debate and expressions of opposing views are positive features of debate at a meeting. The chair is more likely to appear non-partisan if, where possible, they avoid speaking on a motion first or last. Comments should be made through the chair and the chair is therefore encouraged to intervene when comments are not addressed through the chair or if they are irrelevant, repetitious, or use inappropriate language. The chair of the meeting must rule on points of order and their decision is final.

Chapter 8 explains the rules of debate at a meeting.

Disorderly or disruptive behaviour

The public have the right to attend local council meetings.² However, that right is without prejudice to the right of the meeting to exclude a member of the public for disorderly conduct or other misbehaviour at meetings.

The standing orders of a local council govern the actions that can be taken when disorderly conduct or behaviour disrupts the debate at a meeting or obstructs the proceedings in a meeting. This includes a situation where someone is behaving offensively or using inappropriate language. A person can only be banned from a specific meeting.

The chair can adjourn a meeting because of disorder among the public or Press. As a matter of good practice, the chair should first ask an individual or group to be quiet and warn them that if they continue, the chair will adjourn the meeting. If an individual disregards the chair's request to modify their conduct, aimed at restoring order to the debate or to the meeting itself, any councillor (including the chair) may move a procedural motion that the offending person(s) are "not heard further" (that is, silenced) or excluded from the meeting. If the meeting then passes a resolution that requires a person to be silent or to leave the meeting, but this is ignored, further steps can be taken. If permitted by standing orders, the meeting may be temporarily suspended to give the offending person(s) an opportunity to improve their behaviour or to persuade them to be silent or to leave the meeting. If disruptive behaviour continues after a suspension of the meeting, the meeting may need to be closed and consideration of the outstanding business for the meeting postponed to a later date.

If force is required to remove a disorderly individual or group, it must be reasonable and necessary for the purpose of removing the offender.³

CASE LAW

Laporte and another v Commissioner of Police of the Metropolis [2014] EWHC 3574

The court considered the principles of a local authority's power to exclude the public from a council meeting where the purpose was to suppress or prevent disorderly conduct or other misbehaviour at a meeting. Although the court was considering powers relating only to Principal Councils (e.g. borough and district councils) within the meaning of the Local Government Act 1972 s.100A, the principles can be considered in relation to meetings of local councils.

The court found that two protesters had been lawfully removed by the police on the basis that they had become trespassers once a protest had got out of hand. The London Borough of Haringey planned to hold a full council meeting at its civic centre to debate proposed cuts to the council's budget and services, which members of the public could attend in the public gallery. A planned public protest took place inside the building (including accessing the council chamber) causing disruptive action, and the police had to use force to remove the protestors. The High Court rejected the claimants' assertion that they were entitled to remain in the public area of the council building, irrespective of their disorderly and disruptive conduct. It was satisfied that the council was entitled to exercise its powers as the lawful occupier of the property to exclude members of the public for the proper purpose of maintaining order at public meetings.

The concept of trespass formed the common law basis for the legitimacy of acts of exclusion. Allowing the public to enter the building had not conferred on the protesters an irrevocable right to remain within the building thereafter regardless of disorderly conduct threatening to disrupt the meeting. The council had been entitled to conclude that only physical exclusion would be adequate to ensure that the meeting would not be disrupted. Implicit in the invitation to the police was the authority to exercise such common law or statutory powers as were necessary and proportionate. The officers had been entitled to use such force as was reasonably required to end the continued threat to the proper transaction of business at the council meeting by treating the protesters as trespassers.

Excluding the public

If the public and Press must be excluded from a part or the whole of a meeting because their attendance would be prejudicial to the public interest because of its confidential nature or other special reason, the chair should ensure that the public broadly understand the reasons for exclusion. In explaining the reason, they must take care that they do not disclose any confidential or other sensitive information that is not in the public interest. They may also want to explain that the resolutions made in closed session will be minuted, although they will not disclose confidential information or other sensitive information that is not in the public interest. See also Chapters 5, 7, 10, and 11 for more explanation of handling

confidential or sensitive information before, during and after a meeting. **Chapter 6** explains this from the perspective of committees.

Confirming decisions

It is the job of the chair to declare the outcome of the vote on any question at a meeting. This would include the result of a vote on a procedural or original motion.

Any other business

This item often appears as the last item on an agenda. Its use should be discouraged as it can become an opportunity for members to raise all sorts of matters not tabled on the agenda. No decisions can be made under this item.

End of the meeting

The chair formally closes the meeting.

Training

Training will improve the skill set that is required to chair a meeting. A range of training and development opportunities are available via NALC, SLCC and other national stakeholders.

- 1 [Local Government Act 1972, schedule 12, paragraph 39\(2\)](#)
- 2 [Public Bodies \(Admissions to Meetings\) Act 1960, s.1](#)
- 3 [Collins v Renison \(1754\)](#)

10 PREPARING FOR MEETINGS

Key points

- Advance notification of absences by councillors is good practice.
- Motions from councillors must be submitted in time.
- The proper officer is responsible for the preparation of the agenda.
- Advance notice of a meeting and its agenda must be given to councillors and the public.
- Dispensations need to be organised in time.

References to “meetings” in this Chapter includes a meeting of full council, a committee and a sub-committee unless otherwise stated.

Councillor absences

- If a councillor is unable to attend a meeting, it is good practice to give notice of this to the proper officer. If a councillor is not present at a meeting that they have been summoned to attend, their absence will be confirmed in the minutes of the meeting.

A councillor does not have to seek the formal approval of the meeting for their absence. A meeting can approve the absence of a councillor from a meeting if they have requested this in writing and given the reason for their absence. As mentioned in **Chapter 2**, a councillor cannot continue in office if they fail to attend a meeting of the whole council or other relevant meeting for a period of six consecutive months and the reason for their absence has not been formally approved before the expiry of the six-month period.¹

Submission of motions

The agenda of a meeting may include motions from councillors. A motion should be capable of being understood and of being accepted or rejected when put to the vote.

The standing orders of a local council dictate the timetable for the submission of a motion by a councillor before a meeting. A motion must be written and submitted to the proper officer in accordance with the standing orders. They may reasonably require motions to be submitted five to seven days before the date of a meeting but in any event before the service of the summonses on councillors and before advance public notice of the meeting is given.

Reviewing motions

The proper officer is expected to review motions received from councillors and decide if they can be included in the agenda. They are expected to include the motions that have been submitted to them in the agenda, but this is not always possible.

If the motion contains simple grammatical or typographical errors, the proper officer should correct the error and include the corrected version of the motion in the agenda. If the proper officer considers a more extensive change in the wording is required, it is recommended that they obtain the councillor's consent. If a motion is unclear in meaning, the proper officer is expected to explain this to the councillor, who is then free to resubmit it. Once a motion is accepted, it will be included as an item of business on the agenda.

The standing orders of a local council may require the proper officer to consult with the chair of the forthcoming meeting (or, if other councillors have called a meeting, with those councillors) as to whether a motion should be included in an agenda. Consultation can be very helpful but decisions about the content of an agenda cannot be taken by a councillor.

Rejecting motions

Reasons for rejecting a motion are given below:

- A motion is submitted outside the timetable confirmed in standing orders.
- The wording of a motion is ambiguous and will not lead to a clear outcome, for example "to relocate the local council's offices to 4 Station Road or 15 Draper Street".
- A motion is not relevant to the responsibilities of the relevant meeting. A motion of this nature is sometimes described as irregular or improper. For example, a motion "to lobby for an increase in the national minimum wage" is unrelated to the statutory powers and functions of a local council and cannot be considered by a meeting of the local council. A motion "to review disabled access to the community centre" may only be tabled for a meeting that has responsibility for the management of the community centre.
- A motion is defamatory or otherwise offensive. A motion of this nature is sometimes described as improper. For example, a motion "to evict the travellers" will need to be resubmitted. A more suitable wording of a motion may be "to take legal action for possession of Broughton playing field, south of Station Road, Sutton".
- A motion proposes to rescind a previous resolution that is not within the period of time that is permitted by standing orders. It is common for the standing orders of a local council to prohibit motions to rescind an earlier resolution for a period of six months from the date of that resolution. Such standing orders may exclude motions to rescind the resolution of an advisory committee or sub-committee that merely recommends a course of action. This is because the final decision on the substantive main issue or question to which the recommendation relates has not been made. A motion to rescind a previous resolution should arise in exceptional circumstances because there is an assumption that the

previous resolution was made upon consideration of all the relevant facts and issues. If a previous resolution created legal rights or affected a third party, a motion to rescind the previous resolution needs careful thought.

If a motion is irregular, improper or otherwise inappropriate but appears in the agenda, it must be duly considered at the meeting and may be disposed of by a procedural motion. **Chapter 8** explains this and other rules of debate at a meeting.

If a motion is rejected, the proper officer should notify the councillor who proposed it. The proper officer should keep a written record of all motions received, those rejected and the reasons for rejection.

The agenda

The main purpose of an agenda is to provide advance notification of the items of business to be decided at a meeting and to ensure that the meeting itself has purpose and structure. The proper officer is responsible for preparing the agenda.

Aside from the motions accepted from councillors, there will be other motions which the proper officer will need to include on the agenda. These may relate to the consideration of particular recommendations of a committee or sub-committee, with or without a separate report, about which only a meeting of the full council or parent committee can make the final decision. **Chapter 6** gives more guidance about this.

The agenda will also include certain standard items of business for the meeting that usually appear at the beginning of an agenda. These include, for example:

- to approve councillor absences;
- to note certain interests held by councillors in motions on the agenda;
- to elect the chair of a committee or sub-committee if it is its first meeting and the chair has not already been appointed;
- to approve the draft minutes of the previous meeting;
- to receive an update about the progress of resolutions from the last meeting. This is sometimes referred to on the agenda as “matters arising”. This heading is not recommended because it is ambiguous in meaning; and
- the public participation session of the meeting.

Other standard items of business for a meeting that usually appear at the end of the agenda include, for example:

- to receive or formally acknowledge the minutes of a committee and or sub-committee; and
- to authorise payments.

It is recommended (but not mandatory) that the agenda highlights the motions or items of business that are likely to be considered without the public being present at the meeting. The wording of a motion that is due to be considered without the public present must not undermine

or disclose confidential or other sensitive information that is not in the public interest.

Papers or information to support the agenda

The items of business on an agenda may refer to other documents. When sending out the agenda, the proper officer is expected to furnish councillors with documentation that provides relevant background or information about the items of business on the agenda. This may include reports prepared by staff.

If an item on the agenda is to receive or formally acknowledge the approved minutes of a committee or sub-committee, the proper officer must send councillors the minutes of the committee or sub-committee.

If the agenda includes a motion to consider recommendations of a committee or sub-committee, sending councillors the relevant minutes of the committee or sub-committee may not be adequate. It might be necessary to provide a written report from the committee or sub-committee that documents the reasons or factors for recommending a course of action and confirming whether alternative courses of action have been considered but rejected. As an alternative, the chair of the committee or sub-committee whose recommendations are being considered may be invited to give an oral report at the meeting. The agenda will need to reflect this.

Confidential supporting papers

Care must be taken over documents that are confidential, or not for disclosure for another reason. Confidential information or information not in the public interest (whether or not considered and acted on by a previous meeting) must be protected. Sensitive or commercial information may also need to be protected from wider disclosure. Examples of sensitive or commercial information include contractual negotiations, legal advice, or a matter of which disclosure or wider use would breach the local council's obligations under the Data Protection Act 2018. See **Chapter 4** for further explanation.

Dispensation requests

A councillor is responsible for deciding if they have an interest in an agenda item which requires them to apply for a dispensation from the requirements under the code of conduct and Localism Act 2011 in order to participate at a meeting. They may only be able to submit a dispensation request after they have seen the agenda for a meeting. However, it is possible for a councillor to seek a dispensation at meetings for a period of up to four years in relation to certain interests.

The standing orders of a local council² should dictate the procedure for the submission of a dispensation request. **Chapter 2** explains applications for and grants of dispensations.

1 [Local Government Act 1972, s.85](#)

2 [Local Government Act 1972, schedule 12, paragraph 42](#)

Key points

- Prepare an action sheet.
- Write up draft minutes as soon as possible.
- Make minutes available to the public.

References to a “meeting” in this Chapter include a meeting of full council, a committee and a sub-committee.

The resolutions made at a meeting have immediate effect. They are not subject to the preparation of draft minutes or the approval of minutes at a later meeting. The main tasks required after a meeting are summarised below.

Matters that need action

It is helpful for the clerk or the other member of staff who took the minutes of the meeting to prepare an action sheet that confirms all the actions or tasks (including urgent ones) to be undertaken by staff or councillors. Actions or tasks might include, for example, sending correspondence, arranging internal or external meetings, writing reports, obtaining quotes or preparing draft budgets.

The action sheet should identify the relevant resolution, actions and deadlines. The clerk or the appropriate member of staff should follow up actions and tasks prior to the next meeting. Follow-ups should also be diarised.

Minutes

Minutes are important as they record the resolutions made. Minutes should be written up as soon as possible so that the minute taker’s memory is fresh, and they can interpret the information available from handwritten notes or an audio recording of the meeting. Once the draft minutes have been prepared, they are often submitted to the chair of the relevant meeting to check. Once the chair has commented on the minutes and changes, if any are made, the draft minutes may be circulated for information only to all councillors, or where the minutes relate to a meeting of a committee or sub-committee, to the members of the committee or sub-committee.

Draft minutes

The draft minutes of a meeting should be formally approved (with any necessary amendments) at the next meeting.¹ **Chapter 9** explains this further.

If a request for information under the Freedom of Information Act 2000 asks for copies of the minutes and they are still in draft form, a relevant exemption may be s.22 of the FOIA (information intended for future publication).² This is because the draft minutes are not final until approved at the next meeting, at which point they will be published. However, it is a qualified exemption, which means the local council must consider the public interest test in withholding the draft minutes and relying on the exemption. If, for example, a person wants to know whether their planning application was supported or opposed by a local council and needs this information urgently, and the final approved minutes are unlikely to change, then the public interest in releasing the draft minutes may outweigh the local council's interests in retaining the information until the minutes are approved.

In practice, this situation is unlikely to arise as local councils routinely publish draft minutes on their website within one month of the relevant meeting. This is required under The Smaller Authorities (Transparency Requirements) (England) Regulations 2015.³ Local councils replace draft minutes with the approved minutes as soon as they are available.

There are other qualified exemptions in the FOIA that enable a local council to refuse to provide information in handwritten notes or draft minutes if disclosure is not in the public interest. If, for example, disclosure would breach one of the statutory data protection principles, the request can be refused.⁴

If the information requested carries an absolute exemption in the FOIA, then there is no duty to consider the public interest. For example, if the information requested concerns information that was provided in confidence, a local council can refuse disclosure.⁵ More information about the handling of requests for information under the FOIA is in **Chapter 4**.

Matters referred to full council or a committee or sub-committee

Where a matter has been referred by a sub-committee or committee to another committee or to full council, the appropriate part of the draft minutes should be passed to the chair of the relevant committee by way of notification. If the next meeting of that body is to be clerked by a different person, then they should also receive the draft minutes as notification of the referral. When the draft minutes are approved, the approved minutes should also be passed on for confirmation.

Form of minutes

The style, form and amount of detail in the minutes for a meeting is a matter for individual local councils. The main purpose of the minutes is to record the resolutions made at the meeting, which should be clear to anyone reading the minutes afterwards. Minutes of a meeting are not a verbatim record of the meeting. Neither are they a story of what happened at the meeting and should not document opinions or views that were expressed at the meeting. There is no need to include matters of opinion such as "heated debate" or "valuable comment" or "Cllr X disagreed".

Well-written minutes are:

- brief yet informative;
- factual, accurate, relevant;

- logically presented; and
- a clear record of resolutions (including recommendations).

There is a duty to observe the data protection principles in the Data Protection Act 2018 and UK GDPR. This means that the minutes cannot routinely record the name or other personal data of an individual unless this is for the performance of contractual obligations, statutory powers or functions of the local council or if the individual consents. The minutes of a meeting should not therefore include personal data relating to members of the public who attended and spoke at the meeting. See **Chapter 4** for further guidance.

Resolutions that are confidential or for some other special reason are not in the public interest to disclose must be recorded in the minutes, without undermining or disclosing the confidential or other sensitive information. For example, the resolution “option 2 in confidential report dated XXX approved” provides clarity as to the resolution that was made but does not reveal confidential information.

Minute book

When the minutes of a meeting are formally approved, they serve as a true and accurate record of the events and resolutions made at the meeting. All minutes, including minutes of resolutions made at a meeting without the public present, must be kept in the local council’s minute book in whatever form this is held and must be published on its website.⁶

Chapter 4 explains publication schemes in more detail.

Payments

Payments authorised by a meeting should be made as soon as practicable once they have been approved at the meeting. All payments must be made in accordance with the local council’s financial regulations and internal controls on payments.

- 1 [Local Government Act 1972, schedule 12, paragraphs 41\(1\), 44](#)
- 2 [Freedom of Information Act 2000, ss.2\(2\)\(b\), 22](#)
- 3 [The Smaller Authorities \(Transparency Requirements\) \(England\) Regulations 2015](#)
- 4 [Freedom of Information Act 2000, ss.2\(2\)\(b\), 40\(2\)](#)
- 5 [Freedom of Information Act 2000, ss.2\(2\)\(a\), 41](#)
- 6 [Transparency code for smaller authorities](#)

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