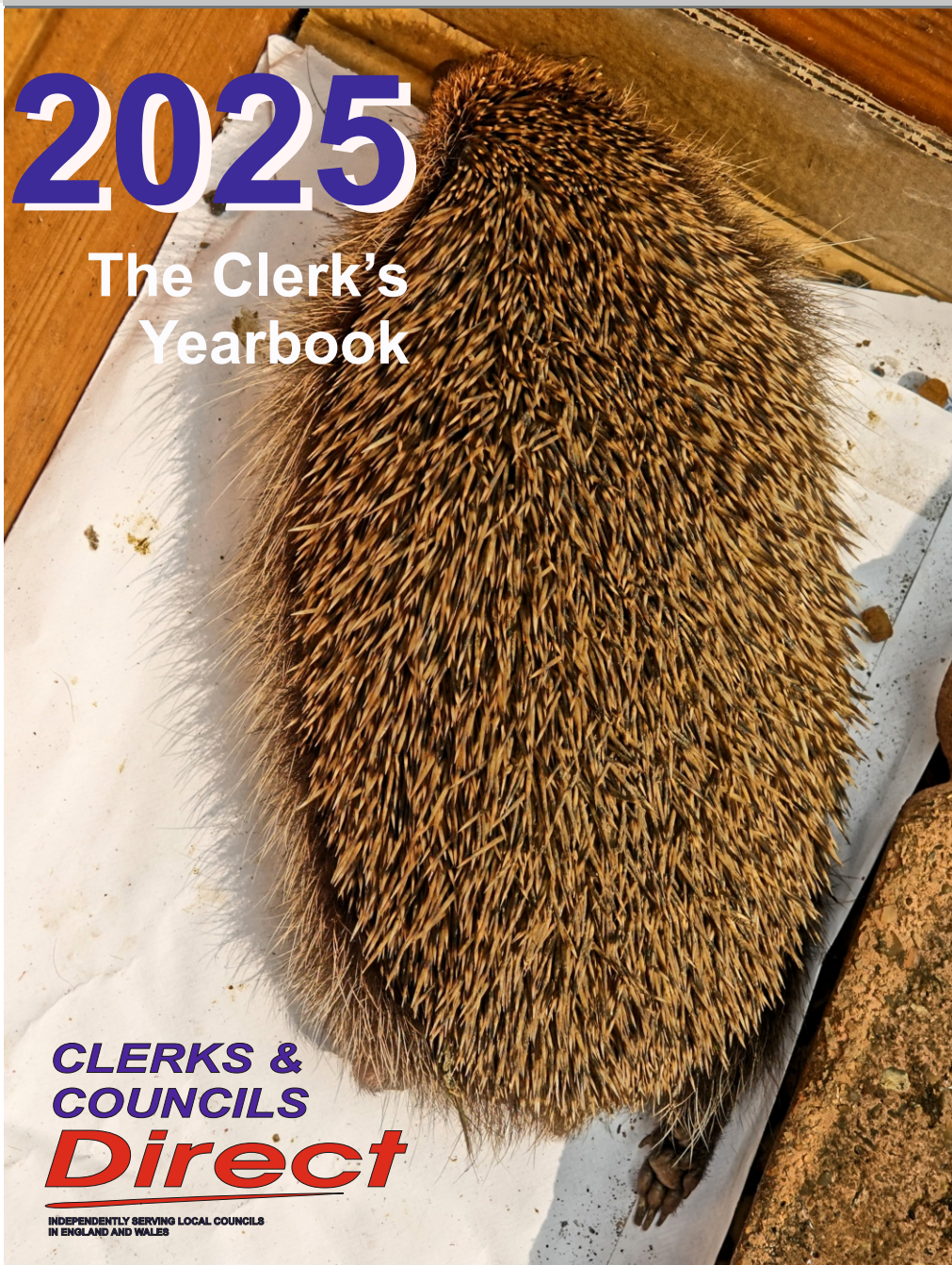


# 2025

## The Clerk's Yearbook

**CLERKS & COUNCILS**  
**Direct**

INDEPENDENTLY SERVING LOCAL COUNCILS  
IN ENGLAND AND WALES



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## The Clerk's Year

**THE LOCAL** government year runs from 1 April until the following 31 March. It is convenient, and sensible, at this time to preview the regular events for the year which begins on 1 April 2025 so that adequate preparation for them can be made and nothing important is overlooked.

### PERIODS

The period of office of the Chairman of the Council starts at the annual meeting of the council. This must be held on a day in May, except in the year of the ordinary council elections (every fourth year), when it must be held on or after the fourth day after the election, or on or before the eighteenth day after it. The next ordinary elections in England for most local councils will be in 2027.

In Wales, the next ordinary elections will be on 5 May 2027. The 2021 Local Government and Elections (Wales) Act made a number of changes to local elections in Wales. Previously, only British, Irish, Commonwealth and European citizens aged over 18 could vote, whereas under the new law all legal residents of Wales who are aged 16 or over on polling day are eligible to vote in the local elections. Councils can choose whether to conduct elections under first-past-the-post voting or the single transferable vote.

On election, a councillor must make a declaration of acceptance of office in statutory form at or before the first meeting he or she attends unless the council permits the declaration to be made at some other time. Failure to do so means the councillor automatically loses office and a casual vacancy arises.

The chairman remains in office until his or her successor is elected unless he or she resigns in writing to the council, dies or becomes disqualified. If none of these events occur, the chairman's

successor is elected at the next annual council meeting. There is nothing to prevent the chairman from standing for re-election.

There is no power for the council to elect a chairman for a period longer than one year; although in some councils an understanding or convention is followed whereby a chairman normally serves for perhaps three years before stepping down. If, after an ordinary election, the chairman is no longer a councillor, he or she nevertheless remains in the chair until a successor is elected. Once elected, the chairman must sign a declaration of acceptance of office as chairman. The vice-chairman (if any) is also elected at the annual council meeting and holds office for one year. Again, some councils have a convention whereby the vice-chairman is elected chairman in the following year, but this is not a matter of law and the council need not follow the convention. The vice-chairman does not sign a declaration of acceptance of office as vice-chairman. The term of office of councillors runs for four years from the fourth day after the date of the ordinary election until the fourth day after the next ordinary election. A councillor elected, co-opted or appointed between ordinary elections serves out the term. The Local Government and Elections (Wales) Act 2021 extends the term of office of councillors in Wales to five years.

The term of office of a councillor may be ended by written resignation to the chairman, failure to attend meetings for six consecutive months without a reason approved by the council, disqualification for a prison sentence, bankruptcy, an election offence or conviction for failing to abide by the law relating to disclosable pecuniary interests (in England) or for a serious breach of the council's code of conduct (in Wales).

The clerk of the council serves from the date of appointment until his or her service is ended by death, resignation or dismissal within the terms of employment. If the council wishes to adopt the power of general competence (England only), the clerk must hold either the Certificate in Local

Council Administration or the Certificate in Higher Education in Local Policy or Local Council Administration or the first level of the foundation degree in Community Engagement and Governance awarded by the University of Gloucestershire or its successor De Montfort University (Leicester). (The Local Government and Elections (Wales) Bill provides for the power of general competence to be conferred on eligible community councils).

### ANNUAL EVENTS

**Annual Parish Meeting:** This is obligatory in England and must be held between 1 March and 1 June. The local government electors for the parish are entitled to attend, speak and vote. If present, the chairman of the Council must preside. The meeting may discuss any matter of relevance to the parish. The annual parish meeting is sometimes held on the same day as the annual council meeting, but is entirely separate from it. In Wales, there is no requirement to hold an annual, or any, community meeting, except in connection with the establishment, dissolution or grouping of communities and community councils.

**Other parish and community meetings:** A parish or community meeting can be called at any time in accordance with the statutory procedures for so doing.

**Annual Parish or Community Council meeting:** The council must hold an annual meeting in May or, in an ordinary election year, between the fourth and the eighteenth day after the election. This will, too, usually be in May because the normal election day is the first Thursday in May. At that meeting, the chairman of the council must be elected. It is normal to elect the vice chairman (if any), committees and sub-committees at the same meeting and to arrange a programme of meetings for the year.

**Other meetings of the Council:** In England, at least three meetings other than the annual meeting must be held. In Wales, only the annual meeting is obligatory. In practice, of course, councils meet more frequently than the statutory minimum

number of times.

**Audit:** The accounts of the council are audited annually, with the audit for the preceding year normally being held in the summer or autumn.

**Register of Electors:** This is prepared by the electoral registration officer. A person on the register may vote at council elections, may speak and vote at parish/community meetings and is qualified to be elected as a councillor (there are other qualifications as well). The clerk usually holds a copy of the register but has no duties in respect of its compilation or use. The number of electors determines the expenditure limit under section 137 of the Local Government Act 1972, which is £11.10 per elector per year in both England and Wales for 2025/2026.

### PROCEDURES

**Accounts:** the accounts year ends on 31 March and begins on 1 April. In England, the clerk must keep proper accounting records in order to comply with the Accounts and Audit Regulations 2015 and the Local Audit (Smaller Authorities) Regulations 2015 (in Wales, the Accounts and Audit (Wales) Regulations 2014), and must ensure that the accounts balance at the end of the year. The clerk is responsible for dealing with VAT returns, income tax and national insurance deductions from employees' remuneration, submitting accounts for payment to the council for approval in accordance with the council's financial regulations. (NALC publishes a model set of financial regulations.)

**Meetings:** the clerk is responsible for ensuring that the correct statutory procedures are followed for the calling and holding of council meetings, committee and sub-committee meetings and, usually, parish/community meetings (occasionally, such meetings are called by electors without reference to the council). After meetings, the clerk must prepare minutes for approval by the council, etc.

**Elections:** the clerk has no duties in relation to ordinary elections. When a casual vacancy occurs, the clerk must put up a notice advertising the

vacancy and should then inform the electoral registration officer. If there is no by-election, the clerk should ensure that the co-option of a new councillor is put on the council's agenda as soon as possible.

**Precept:** the precept for the money the council requires to be raised from the council tax payers must be sent to the billing authority by the beginning of March (and is usually sent in earlier). This means that the council's budget must be settled before the amount of the precept can be determined. The budgeting process usually takes place between about September and January.

**Insurance:** the council's insurance policies will need to be renewed annually. The opportunity should be taken to review the levels of cover and the terms of the policies to ensure that the council is fully insured.

**Fees and charges:** the level of fees, rents and charges should be reviewed regularly and raised where necessary. This is best done at budget time.

**LOCAL COUNCIL AWARD SCHEME (ENGLAND ONLY)**

The Local Council Award Scheme (LCAS) is tailored to celebrate the achievements of the finest parish and town councils while offering a structured framework to empower all councils to enhance and realise their full potential. This scheme allows councils to demonstrate adherence to sector standards, be evaluated by their peers, and establish conditions conducive to ongoing improvement.

The scheme is carefully crafted to equip parish and town councils with the tools and encouragement needed at the initial stages of their improvement journeys. Simultaneously, it seeks to spotlight and commend councils at the forefront of the sector. Only through collaborative efforts within the sector, sharing best practices, elevating standards, and supporting those dedicated to enhancing their community offerings can individual councils and

the sector as a whole reach their maximum potential.

The scheme was created in 2014 and is managed by the Improvement and Development Board. It is reviewed on an annual basis. Accreditation under the Scheme is carried out by a panel set up by a county association of local councils or a regional group of associations. New criteria and other changes were made in October 2024

- *Scheme award level names* - The scheme award levels have been renamed Bronze, Silver and Gold. These replace Foundation, Quality and Quality Gold levels, respectively.
- *Civility and respect* - The civility and respect work programme is a key area of our work, and new criteria have been introduced for Bronze level upwards. These include signing up for the Civility and Respect Pledge, adopting a Dignity at Work Policy, and, for Gold level, evidencing how the council supports a culture of civility and respect.
- *Democratic mandate* - The existing criteria have been strengthened with the requirement to show active promotion of elections and democratic engagement at all levels of the scheme. Additions include promoting elections and vacancies at the Bronze level, having a co-option policy at Silver, and requiring at least two-thirds of councillors to have stood for election at Gold.

The scheme sets out criteria to meet at each level covering selected aspects of the council's work. Councils can seek to progress through the tiers over time thereby raising standards. Councils of any size can aspire to an award appropriate for their budget and level of activity. Full details of the LCAS are available on the NALC website: : [www.nalc.gov.uk](http://www.nalc.gov.uk)

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# Codes of Conduct

## ENGLAND Code of Conduct

Chapter 7 of Part 1 of the Localism Act 2011 requires a "relevant authority" (which comprises all types of local authority including parish and town councils) to promote and maintain high standards of conduct by members and co-opted members. Every relevant authority must adopt a code which is consistent with these principles: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. There is no mandatory code, but local government representative bodies like NALC have published suggested codes. The Ministry of Housing, Communities and Local Government has issued guidance entitled *Openness and transparency on personal interests* which can be viewed on [www.gov.uk/government/publications/openness-and-transparency-on-personal-interests-guidance-for-councillors](http://www.gov.uk/government/publications/openness-and-transparency-on-personal-interests-guidance-for-councillors).

The main points of a typical code (Oxfordshire County Council) are as follows:

### Selflessness

You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself.

### Honesty and integrity

You must not place yourself in situations where your honesty and integrity may be questioned, must not behave improperly and must on all occasions avoid the appearance of such

behaviour. Holders of public office should be truthful.

### Objectivity

In carrying out public business you must make decisions on merit, and without discrimination or bias. This includes when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

### Accountability

You are accountable for your decisions and actions to the public and must submit yourself to scrutiny that is appropriate to your office.

### Openness

You must be as open as possible about your actions and those of your council, and must be prepared to give reasons for those actions.

### Leadership

You should exhibit these principles in your own behaviour. You should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

A relevant authority may revise its existing code or adopt another one. NALC has issued a model code which is available to member councils.

A principal authority must make arrangements for dealing with allegations of breaches of its code so that they can be investigated and decisions can be made about what action to take if a member is found to have broken the code. A local council does not have to make any such arrangements. There is no statutory sanction for breaking the code and no power for a relevant authority to suspend or disqualify a member.

### Disclosable pecuniary interests

Every member of a relevant authority must declare any relevant pecuniary interests, called in the legislation "disclosable pecuniary interests", he or she may have. The monitoring officer of the district or unitary authority in

which a parish or town lies holds the register of such interests of the members of parish or town councils. The list of interests must be available for public inspection at all reasonable hours and be published on the authority's website. If a local council has a website, details of those interests must be published there as well.

Details of sensitive interests (see below) do not have to be disclosed but the register may state that a member has such an interest. Disclosable pecuniary interests are prescribed by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464) and are as follows:

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority - (a) under which goods or services are to be provided or works executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge): (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in the securities of a body where: (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either: i. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or ii. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

An interest is disclosable if it is that of a member, his or her spouse or civil partner, or a person living with a member as a spouse or civil partner.

A member who has an unregistered disclosable pecuniary interest in any matter must normally declare at a meeting of the council or of a committee or sub-committee or a joint committee that he or she has such an interest. The unregistered interest must be registered within 28 days of the disclosure. However, if the interest is sensitive, only the fact that the member has an interest – and not its nature – has to be declared. A sensitive interest is one where the member and the monitoring officer consider that disclosure of details of the interest could lead to the member, or a person connected to the member, being subject to violence or intimidation.

When a member has a registered disclosable interest and/or has declared an unregistered interest, the member must not take any part in discussion or voting on the matter in question. A standing order may provide for the exclusion of a member from a meeting while a matter in which he or she has declared an interest is being discussed or voted upon.

A relevant authority may, on receipt of a written request, grant a dispensation from either or both of the restrictions on participation and voting in relation to a disclosed interest. Before granting a dispensation, the authority must have regard to all relevant circumstances, including:

- i. whether or not the business of the authority would be impeded because of the number of members who have disclosed interests. For example, if all those members with disclosed

interests could neither speak nor vote the council or committee etc. might be inquired;

- ii. whether the party political balance of the authority would be affected (not normally relevant at local council level);
- iii. whether or not granting the dispensation would be in the interests of people living in the area;
- iv. whether or not it would otherwise be appropriate to grant a dispensation.

It is an offence, without reasonable excuse, to break any of the foregoing rules and to give false or misleading information regarding a disclosable interest. The maximum penalty on summary conviction (i.e., by a magistrates' court) is a fine not exceeding level 5 on the standard scale (£5,000). In addition, the court may disqualify the convicted person from being a member of the relevant authority or any other authority for up to five years. A prosecution can only be instituted by or on behalf of the Director of Public Prosecutions and must be begun within 12 months from the date on which the prosecutor acquired sufficient evidence to warrant proceedings being taken against the member in question, but no more than three years after the commission of the alleged offence.

### WALES

**PART III** of the Local Government Act 2000 gives the Welsh Assembly power to issue a model code of conduct for councillors and co-opted members. The current Code is the Local Authorities (Model Code of Conduct) (Wales) Order 2008 (SI 2008/788) as amended by the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016 (SI 2016/84).

### General obligations: paragraphs 4 to 9 of the code

4. You must:
  - (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
  - (b) show respect and consideration for others;
  - (c) not use bullying behaviour or harass anyone; and
  - (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.
5. You must not:
  - (a) disclose confidential information, or information which should reasonably be regarded as of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
6. You must:
  - (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
  - (b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely
7. You must not:
  - (a) in your official capacity or otherwise use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
  - (b) use, or authorise others to use, the resources of your authority:
    - i. imprudently;
    - ii. in breach of your authority's requirements;
    - iii. unlawfully;
    - iv. other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or

to involve criminal behaviour (which for the purposes of this paragraph does not include offences of behaviour capable of punishment by way of a fixed penalty);

- (c) report to the Public Service Ombudsman for Wales and to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;
- (d) not to make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority;
- (e) comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

7. You must not:
  - (a) in your official capacity or otherwise use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
  - (b) use, or authorise others to use, the resources of your authority:
    - i. imprudently;
    - ii. in breach of your authority's requirements;
    - iii. unlawfully;
    - iv. other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or

- appointed;
- v. improperly for political purposes;
- vi. improperly for private purposes.

8. You must:

- (a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by:
  - i. the authority's head of paid service;
  - ii. the authority's chief finance officer;
  - iii. the authority's monitoring officer;
  - iv. the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9. You must:

- (a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;

- (b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

### Interests

The interests which must be registered are set out Part 2 of the Code. They are as follows:

#### Personal interests

10.

- (1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.
- (2) You must regard yourself as having a personal interest in any business of your authority if
  - (a) it relates to, or is likely to affect:
    - i. any employment or business carried on by you;
    - ii. any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
    - iii. any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;
    - iv. any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class

of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;

- v. any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
  - vi. any land in which you have a beneficial interest and which is in the area of your authority;
  - vii. any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
  - viii. any body to which you have been elected, appointed or nominated by your authority;
  - ix. any:
    - aa) public authority or body exercising functions of a public nature;
    - ba) company, industrial and provident society, charity, or body directed to charitable purposes;
  - ca) body whose principal purposes include the influence of public opinion or policy;
  - da) trade union or professional association; or
  - ea) private club, society or association operating within your authority's area, in which you have membership or hold a position of general control or management;
  - x. any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;
- (b) a member of the public might reasonably perceive a conflict between your role in taking a decision, upon that business, on behalf of your authority as a whole and your role in representing the interests of constituents in your ward or electoral division; or
- (c) a decision upon it might reasonably be regarded as affecting:
- i. your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;
  - ii. any employment or business carried on by persons as described in 10(2)(c)(i);
  - iii. any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a

- partner, or any company of which they are directors;
- iv. any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- v. any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management, to a greater extent than the majority of:
  - (aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
  - (bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

#### Disclosure of personal interests

11. (1) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority and you make:
- (a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or

- officer of your authority regarding that business, you should include details of that interest in the written communication; or
  - (b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.
- (3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.
- (4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer from time to time but, as a minimum containing:
- (a) details of the personal interest;
  - (b) details of the business to which the personal interest relates; and
  - (c) your signature.
- (5) Where you have agreement from your

- monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.
- (6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.
- (7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

#### Prejudicial interests

12. (1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business:

- (a) relates to:
  - i. another relevant authority of which you are also a member;
  - ii. another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
  - iii. a body to which you have been elected, appointed or nominated by your authority;
  - iv. your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
  - v. your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;
- (b) relates to:
  - i. the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
  - ii. the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which

- that child attends;
- iii. the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
- iv. the functions of your authority in respect of an allowance or payment made under the provisions of Part 8 of the Local Government (Wales) Measure 2011 or an allowance or pension under section 18 of the Local Government and Housing Act 1989;
- (c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.
- (3) The exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

[13. Does not apply to community councils.]

#### Participation in relation to disclosed interests

14. (1) Subject to sub-paragraphs (2), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee:

- (a) withdraw from the room, chamber or place where a meeting considering the business is being held:
- i. where sub-paragraph (2) applies, immediately after the period for

making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or

- ii. in any other case, whenever it becomes apparent that that business is being considered at that meeting;
- (b) not exercise executive or board functions in relation to that business;
- (c) not seek to influence a decision about that business;
- (d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and
- (e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.
- (2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(2A) Where you have a prejudicial interest in any business of your authority you may submit written representations to a meeting relating to that business provided that the public are allowed to attend the meeting for the purpose of making representations relating to the business, whether under a statutory right or otherwise.

(2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that your authority may adopt for the admission of such representations.

- (3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if:
- (a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or
- (b) you have the benefit of a dispensation provided that you:
- i. state at the meeting that you are relying on the dispensation; and
- ii. before or immediately after the close of the meeting give written notification to your authority containing:
- (aa) details of the prejudicial interest;
- (bb) details of the business to which the prejudicial interest relates;
- (cc) details of, and the date on which, the dispensation was granted; and
- (dd) your signature.

(4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

#### Part 4 - the register of members' interests

#### Registration of financial and other interests and memberships and management positions

15. (1) Subject to sub-paragraph (4), you must, within 28 days of:
- (a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or
- (b) your election or appointment to office (if that is later), register your financial interests and other interests, where they fall within a category mentioned in paragraph 10(2)(a) in your authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to your authority's monitoring officer.
- (2) Subject to paragraph (4) you must, within 28 days of becoming aware of any new personal interest or change to any personal interest falling within a category mentioned in paragraph 10(2)(a), register that new personal interest or change by providing written notification to your authority's monitoring officer or in the case of a community council to your authority's proper officer.
- (3) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any change of registered personal interest falling within a category mentioned in paragraph 10(2)(a), register that change in your authority's register of members' interests by providing written notification to your authority's monitoring officer or in the case of a community council to your authority's proper officer.
- (4) Sub-paragraphs (1), (2) and (3) do not apply to sensitive information determined in accordance with paragraph 16(1).
- (5) Sub-paragraphs (1) and (2) will not apply if



you are a member of a relevant authority which is a community council when you act in your capacity as a member of such an authority.

- (6) You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in your authority's register of interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage.

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**Sensitive information**

16. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.

- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (1) is no longer sensitive information, notify your authority's monitoring officer, or in the case of a community council to your authority's proper officer asking that the information be included in your authority's register of members' interests.
- (3) In this code, "sensitive information" ("gwybodaeth sensitif") means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

**Registration of gifts and hospitality**

17. You must, within 28 days of receiving any gift, hospitality, material benefit or

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## Council Accounts and Audits

by Roger Taylor, Wellers Hedleys

Many local councillors do not fully appreciate the requirements and the complexity of the accounting and audit responsibilities of a local council. It is important that these are understood by councillors because the local council, as a corporate body, is responsible for ensuring that its financial management is adequate and effective and that it has a sound and robust system of internal control and record keeping. That includes arrangements for the management of risk to the council and an effective system of internal audit.

This article outlines the principles involved, which can be shared with councillors to assist them with their understanding.

Every local council is required by the provisions of the Local Audit and Accountability Act 2014, (the 2014 Act) and the Accounts and Audit Regulations 2015 to make arrangements for the proper administration of its financial affairs. The officer appointed by the council to undertake this responsibility is known as the Responsible Financial Officer (RFO) and, in most cases of small and medium-sized councils, is also employed as the clerk to the council.

The RFO, while acting under the policy direction of the council, administers the

financial affairs of the council in accordance with all statutory requirements and proper practices. They also determine, on behalf of the council, its accounting records and control systems and ensure that all accounting control systems are observed and up to date. They also have to produce adequate financial management information to the council and seek economy, efficiency and effectiveness in the use of council resources.

### Approving accounting statements

Responsibility for setting out the final budget of the council or setting the amount of the precept cannot be delegated by the council to the RFO. The council must also deal with approving accounting statements and the annual governance statement.

In England the *Practitioners' Guide* (the Guide) published by the Joint Panel on Accountability and Governance sets out in some detail "proper practice" for the purpose of local council accounting. In Wales the Guide refers to the publication entitled the *Governance and Accountability for Local Councils in Wales*. In 2024 the National Association of Local Councils (NALC) published Model Financial Regulations based on the requirements of the Guide.

The council must conduct a review of its system of internal control at least once a year. The results of the review must be considered by the full council, which must approve an Annual Governance statement in accordance with proper practice.

It is the responsibility of the RFO to maintain the accounts and supporting documentation in accordance with the principles of proper

practice. The records maintained by the RFO must be sufficient to explain the transactions undertaken by the council and be able to disclose the financial position of the council. Payments should only be made after prior authorisation by the council. The amount of any power of payment delegated to the RFO should be commensurate with the income and budget of the council.

### Record of receipts and payments

An annual return, including an income and expenditure account and a statement of balances held by the council, has to be made in the form specified in the Guide. Accounts are made up to 31 March in each year.

Where the local council's gross income or expenditure (whichever is the higher) was not more than £200,000 for the financial year, or either of the previous two years, the local council may instead prepare a record of receipts and payments, again in the form specified in the Guide.

There are special, and more complicated, requirements for local councils whose income and expenditure exceeds £6.5 million for three consecutive years. Such councils are outside the Smaller Authority finances set out in the Guide.

Following completion of the accounting statements in the Annual Return, the RFO must sign and date them to certify that the income and expenditure statements, and if applicable, the statement of balances, fairly represent the council's financial position and that the receipts and payments are properly presented.

The Annual Governance Statement requires the council to confirm that the nine

assertions set out in the draft form have been complied with and that there is sufficient evidence available to support the confirmation. The assertions relate to effective financial management, adequate internal control, compliance with all laws and regulations. They also require the council to effect proper practices and that electors have been able to exercise their rights by the publication of the Annual Governance and Accountability Return and the Auditors Report.

Councils must have carried out a risk assessment, have an adequate system of internal audit, and have taken action on any matters revealed by the internal or external audit. It is also necessary to consider whether there are any events that have happened that could impact on the current financial position. These assertions are set out in detail in the Guide.

### In accordance with charity law

Assertion number 9 also reminds local councils that where they act as Managing or Custodian Trustee of a Charity, they are acting as a Trust Corporation and not as a local authority and financial matters have to be dealt with in accordance with charity law. This will involve the Trustee having a bank account which is separate from that of the local authority.

The Annual Governance Statement and the Annual Accounting Statements must be approved at a meeting of the full council by 30 June following the end of the financial year. The Annual Governance Statement must be approved before the approval of the Annual Accounting Statements and both statements should also be signed and dated

by the person chairing the meeting at which they are approved.

The RFO must publish the unaudited Annual Return on a freely accessible website no later than 2 July following the end of the financial year

Unless either the gross receipts or the gross payments of the council are less than £25,000, the Accounts are subject to external audit.

If a council does not qualify for an external audit, it must certify itself as being exempt from external audit. The council must still complete, approve and sign the Annual Return and publish it on a freely accessible website. The council must advise the external auditor who will take no further action unless there is an objection from an elector during the inspection period, and even then, their only power is to investigate the objection.

The external audit of Local Council Accounts in England is governed by the 2014 Act. External auditors are appointed after a Government tender process for every local council.

In Wales, audit is based on the Public Audit (Wales) Act 2004 (the 2004 Act) and audits are carried out through the Auditor General for Wales. Audits in Wales are carried out on a three-year cycle of two limited procedure audits and a transaction-based audit. These are carried out in accordance with a Code of Practice promulgated by the Auditor General for Wales.

Under section 26 of the 2014 Act, relating to England, the accounts are subject to an inspection period appointed by the RFO. This period must be a period of 30 consecutive

working days (ie excluding Saturday, Sunday and bank holidays) and must include the first 10 working days in July. The notice of the inspection period and how rights of inspection may be exercised must be publicised on a freely accessible website. In Wales the period is 14 days.

During the inspection period any person interested and any journalist may inspect the accounting records for the financial year and all books, deeds, contracts, vouchers, receipts and other documents relating to those records. These rights do not extend to personal information relating to a member of staff or to information protected on the grounds of commercial confidentiality. Local Government electors also have the right to question the external auditor about the accounting records (section 26 of the 2014 Act).

As soon as is reasonably possible after the conclusion of the audit the local council should publish a notice on a freely accessible website stating that the audit has been completed and that the relevant accounting statements have been published.

A local government elector may make objections to the accounts as to any matter on which the external auditor may make a report or apply to the Court. Such objection must be in writing and a copy must be sent to the local council (section 27 of the 2014 Act). The external auditor has power to charge the local council with the cost of dealing with objections to the accounts.

If an item of account appears to the auditor to be unlawful, they may issue an advisory notice under section 29 of the 2014 Act. The auditor may, under section 31 of the 2014

Act, apply for judicial review of any decision of the council, or any failure to act which would have an effect on the accounts.

An auditor in Wales may apply to the court for a declaration that an item of expenditure is unlawful.

An item of expenditure may be unlawful if the local council cannot rely on an express statutory power to incur the expenditure. This is known as the 'ultra vires' doctrine. Councillors have the ultimate responsibility for ensuring that the expenditure of the council is lawful. The responsibility of the clerk and the RFO is only to advise the council.

#### **Prohibition against an action**

If the council, in England under the provisions of the Localism Act 2011, or in Wales under the Local Government and Elections Act 2021, satisfies the criteria laid down in respect of the adoption of the General Power of Competence, it has the power to do anything which generally individuals of full age can do acting rationally and within the law. If there is a prohibition against an action within the existing law, the General Power does not override the prohibition. Therefore, the council does not have power to specifically mortgage or charge a property belonging to it and the Power does not permit the council to undertake general commercial or trading activities as a local authority, but may do so by the formation of a separate company to undertake such activities. This company would normally be controlled by the council. If the General Power does not apply, under section 111 of the Local Government Act

1972 councils have ancillary powers to anything which is calculated to facilitate or be conducive or incidental to any discharge of their functions. Expenditure under this power must be ancillary to the function of the local council as conferred by a statutory provision.

A local council that does not have the General Power of Competence has discretion under s137 of the Local Government Act 1972 to spend up to an amount based on the number of registered electors and an amount that is prescribed annually by the Government (currently £10.81 per registered elector), for the benefit of the inhabitants of its area or a part of it. This is the main power used to make grants to local and community organisations, which the council considers are of benefit to the community, or a section of the community.

*Roger Taylor* is a consultant solicitor with the firm of Wellers Hedleys, based in Surrey. The firm has considerable experience, gained over many years, in acting for local councils throughout England and Wales.

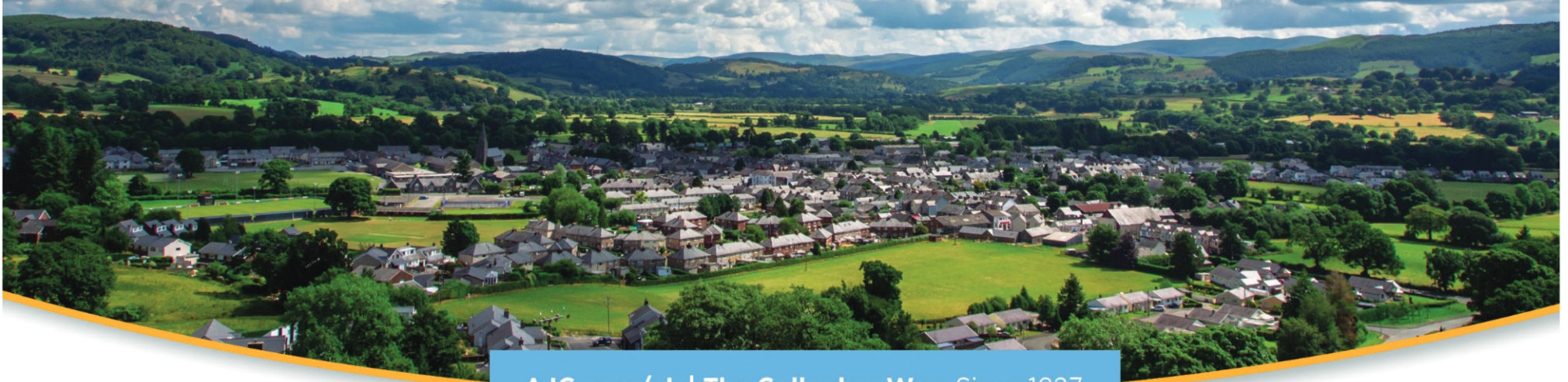
The firm has a team of lawyers experienced in acting for local councils and provides a legal advice service for SLCC and a number of County Associations.

Roger is the editor of *Arnold Baker on Local Council Administration* and *The Clerks' Manual*. [www.wellerslawgroup.com](http://www.wellerslawgroup.com)

*Written by Roger Taylor, consultant solicitor, Wellers Hedleys.*

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# Clerks' Remuneration

In 2005 NALC and the SLCC jointly created a comprehensive terms and conditions agreement for the local government sector which gave councils and clerks some certainty on fair salaries and provided a means of evaluating roles. The scheme that was established then is still more or less in operation today being only varied by annual up ratings of the pay scale and a spinal column point rationalisation in April 2019. The scheme provides a clear guide for councils and is widely adopted, although it remains advisory and not mandatory.

The National Joint Council (NJC) for Local Government Services reached agreement in October 2024 on the pay scales for 2024-2025 (shown below) to be backdated to 1 April 2024.

For all spinal points to 43 the agreed award was a flat rate payment of £1,290. For scale points above that the award was 2.5%

The new spinal column points and their previous equivalents are also shown.

For more detailed information on clerks' salaries search for *Salaries of Local Council Clerks* on

[www.clerksandcouncilsdirect.co.uk](http://www.clerksandcouncilsdirect.co.uk)

The main provisions of the agreement are as follows.

### SALARIES

- The salary ranges are based on evaluated benchmark posts.
- The salary bands are established in four main overlapping scales starting at SCP 5/15 as set out in the National Agreement.

Scale	Points below substantive range	Substantive benchmark range	Points above substantive range
LC1	5-6/15-17	7-12/18-22	13-17/23-25
LC2	18-23/26-29	24-28/30-34	29-32/35-38
LC3	33-36/39-42	37-41/43-47	42-45/48-51
LC4	46-49/52-55	50-54/56-60	55-62/61-68

Councils will identify the appropriate salary range for a particular post by reference to the benchmark profiles of posts, which are published with the agreement. These benchmark profiles describe a range of typical posts within the sector. If the post exactly matches the profile, the substantive salary range above should be applied. If there is not a direct match, the applicable salary range will be from the 'points below' and 'points above' columns in the above chart.

Salaries will be either an incremental scale or a 'spot salary', within the appropriate salary range.

There are also provisions for dealing with exceptional positions, which have responsibilities substantially greater than the LC4 benchmark range.

### SALARY SCALES (FULL TIME) FROM 1 APRIL 2024

Scale	Points below substantive range (c)	Substantive benchmark range (b)	Points above substantive range (a)
LC1	(5-6)	(7-12)	(13-17)
5	£24,790	7 £25,584	13 £28,183
6	£25,183	8 £25,992	14 £28,624
		9 £26,409	15 £29,093
		10 £26,835	16 £28,282
		11 £27,269	17 £30,060
		12 £27,711	

LC2		(18-23)	(24-28)	(29-32)	
18	£30,599	24	£34,314	29	£38,626
19	£31,067	25	£33,235	30	£39,513
20	£31,586	26	£36,124	31	£40,476
21	£32,115	27	£37,035	32	£41,511
22	£32,654	28	£37,938		
23	£33,366				

LC3		(33-36)	(37-41)	(42-45)	
33	£42,708	37	£46,731	42	£51,802
34	£43,693	38	£47,754	43	£52,805
35	£44,711	39	£48,710	44	£54,071
36	£45,718	40	£49,764	45	£55,367
		41	£50,788		

LC4		(46-49)	(50-54)	(55-62)	
46	£56,708	50	£62,377	55	£72,145
47	£58,064	51	£63,881	56	£74,198
48	£59,300	52	£65,943	57	£76,277
49	£60,903	53	£68,000	58	£78,315
		54	£70,069	59	£80,247
				60	£82,221
				61	£84,243
				62	£86,319

### SALARY SCALES (PART-TIME) from 1 April 2024

Salary scales and hourly pay rates for ALL part-time clerks are calculated by pro-rata reference to the standard NJC working week for all local government staff of 37 hours. To calculate the hourly pay rate for part-time clerks paid between LC1 and LC4, divide the full-time annual salary by 52 weeks and then by 37 hours rounded to the third decimal place.

For part-time clerks in LC1 and part LC2, for example, the hourly rates, payable from 1 April 2024 are:

Scale LC1 and LC2	
SCP 5	£12.85
SCP 6	£13.05
SCP 7	£13.26
SCP 8	£13.47
SCP 9	£13.69
SCP 10	£13.91
SCP 11	£14.13
SCP 12	£14.36
SCP 13	£14.60

SCP 14	£14.84
SCP 15	£15.08
SCP 16	£15.33
SCP 17	£15.58
SCP 18	£15.84
SCP 19	£16.10
SCP 20	£16.37
SCP 21	£16.65
SCP 22	£16.93
SCP 23	£17.29

### CAR ALLOWANCES FOR LOCAL COUNCIL CLERKS

The increase on all allowances payable from 1 April 2024 is 2.5%.

The National Joint Council for Local Government Services recommends the following rates of car allowances payable from 1 April 2009. No increase appears to have been agreed since. The figures below also show the amounts of petrol element and VAT applicable to each group (VAT is 20%).

	451-999cc	1000-1199cc	1200-1450cc
<b>Essential Users</b>			
Lump sum per annum	£867.15	£987.08	£1,239.00
per mile first 8,500	37.8p	41.9p	51.8p
per mile after 8,500	14.7p	14.8p	16.8p
Petrol element	9.411p	10.625p	11.57p
Amount of VAT per mile in petrol element at 20%	1.928p	2.124p	2.313p
<b>Note:</b> The rates applicable to engine sizes 1200-1450cc are also the maximum rates payable.			

	451-999cc	1000-1199cc	1200-1450cc
<b>Casual Users</b>			
per mile first 8,500	46.9p	55.58p	66.22p
per mile after 8,500	13.7p	14.76p	16.8p
Petrol element	9.406p	10.625p	11.57p
VAT per mile	1.881p	2.125p	2.313p

HMRC'S tax-free mileage rates:		
	First 10,000 miles	Above 10,000 miles
Cars and vans	45p	25p
Motorcycles	24p	24p
Bicycles	20p	20p

## Looking after Employees - MOTIVATION

by James Corrigan, CHRGs

### Motivating your council employees

After more than 30 years of working in the sector, it continues to amaze me the failure by some councils to consider the methods of motivating their employees that are available to the council.

Poorly led and low-functioning councils focus more on the stick approach and avoid the carrot. This often leads to bullying allegations and a discordant dissolution of the employment relationship.

However, if managed properly, this leads to greater productivity and all-round better outcomes for the local taxpayer.

Increasingly as a result, Council HR & Governance Support (CHRGs) is involved in providing support services to negotiate and put in place settlement agreements. This is not an ideal solution for either party, it results in cost for the council and often significant reputational damage, making it difficult to recruit a competent replacement. Increasingly experienced clerks are staying put once they have good relationships and are valued by councillors. So, what can councils do to ensure they attract the best candidates and retain them?

### Extrinsic and intrinsic motivation

Motivation takes two forms: intrinsic motivation and extrinsic motivation.

**Extrinsic motivation** is what gets candidates to apply for a position in the first place – this includes factors such as salary, pension, status, work conditions and, once in-situ, relationships.

Local Government Pensions (LGPS) are valued by local government employees and those wanting to move into the sector.

Some councils attempt to save money by removing or not offering these. This is often a false economy as it can result in the appointment of a less able candidate who may not manage council affairs so well, costing the council more money in the long run and often resulting in a high turnover of clerks as poor appointments are made.

As a regular recruiter in the sector, we often note that candidates pull out when they realise a council is not offering a LGPS. The status of a post can be motivating to encourage applicants. This can be as simple as the job title, or it can be more to do with the position the job holder has within a community. The work conditions are also important, a cramped unwelcoming office can put someone off working for you. Making the working environment as comfortable as possible is important. This can include appealing decor, natural light, good IT provision and even plants in the office, or allowing employees to bring their pet dog to work. These extrinsic factors are what

encourages an employee to work for the council but these alone will not keep them coming to work for you with a motivated attitude. The council must ensure there are intrinsic motivators available for this to happen. If only extrinsic motivators are in place, employees will come to work, do the basics, not really engage and probably have a high sickness record as well as low productivity.

**Intrinsic motivation** is much more of an internal emotion and is what keeps your employees working for you in a productive and effective way. Examples of intrinsic motivation include recognition within the workplace, job satisfaction, gaining promotion, personal development, empowerment, and personal achievement. Recognition can be as simple as a councillor saying "well done", it could equally be awarding an increment rise, a bonus, or extra holiday.

Job satisfaction is achieved when an employee delivers something that may be as simple as completing the monthly accounts on time or it could be overseeing a £4 million theatre refurbishment. Being promoted in recognition of high level of work performance is an obvious motivation.

Personal development of individuals is something to be encouraged through the council's performance management systems to ensure that employees are supported to develop to better deliver the objectives of the council. This not only motivates the employee but also directly leads to an improvement in council

performance.

The training can take the form of on-the-job training, an online training session, attendance at conference or even to pay for the employee to undertake a relevant degree.

Empowerment is often limited within the sector, usually for the wrong reasons. Giving autonomy to employees to deliver in accordance with the objectives of the council is extremely motivating and will lead to positive results for the council. This applies to all levels within the organisation but in particular to the clerk. Delegation should be treated as a performance improvement and motivational tool whenever possible.

This leads on to personal achievement, which gives great job satisfaction to employees and releases endorphins on a large scale. Achievements by the council should be celebrated.

These intrinsic motivators are what causes an employee to want to come to work as they enjoy it; when they are not present the council will have an issue.

### Demotivation and a downward spiral

This is quite simple, which is why we are seeing this increasingly in the sector. Removing the intrinsic motivational elements of the role will demotivate the employee.

Typically, this includes councils that micromanage their employees and get too involved in operations, not allowing the skilled professionals they have employed to get on and do what they are good at.

This lack of empowerment and lack of trust to get on and deliver the council's objectives is not only demotivating but it does mean that skilled employees paid a commensurate salary are not able to live up to their abilities and the salary levels the council pay them.

The reasons for this are multi-faceted but include lack of trust in an employee's ability, desire for some councillors to undertake operations themselves, political egos, and a lack of understanding of the roles of officers and those of councillors. Training of councillors is an essential tool in this area.

If employees are not empowered and entrusted to get on with the council's work, they will not get much personal achievement.

Another common demotivator is to publicly admonish employees in council meetings when a mistake is made, in some cases, even when there is no fault. Conversely rarely publicly praising employees for their performance at work. Any criticism of employees should not be undertaken in public, this should take place behind closed doors and should be dealt with in a collaborative and restorative way. The council has a duty of care towards its employees and opens itself up to successful constructive dismissal claims if it does not maintain this duty.

Publicly criticising employees in council meetings is often perceived as bullying and there should be policies in place to deal with performance issues in a professional manner, such as a bespoke performance

management system.

Promotion is also an intrinsic motivator. The employee the councillors come into contact the most, the clerk, is the head of paid service, so cannot be promoted as they are already at the top of the tree. Similarly, in a small organisation, like a local council, there is little opportunity for any employee to be promoted. This is therefore a motivational tool that can be rarely used, making the others even more important.

Some tweaks can be made, such as increases in salary as responsibilities increase or a change in job title to something more prestigious.

### **The errant minority councillors**

Increasingly councils have a minority of councillors who make life difficult for employees, particularly the clerk. The council as a corporate body should ensure this behaviour is challenged by the remaining councillors and that systems are put in place to protect employees, in exercise of the council's duty of care to its employees.

### **Performance management via employee support systems**

One fundamental way to motivate employees is to ensure that the council puts in place systems to motivate all employees.

One simple system is to adopt and follow a performance management system. This should have the primary objective of motivating staff; ensure they are equipped to carry out their tasks and to support

them in delivering council objectives.

The system should include regular one-to-one meetings between managers and the members of their teams, a positive experience looking at performance against objectives. Of course, where an employee is falling short, they can look at areas where there are shortcomings, to address these either via training, support or on-the-job training, for example.

Any agreed objectives from the meeting should be recorded and shared, ideally via email so they are date stamped. Alongside these there should be an annual appraisal and a six-month review. This prevents the annual appraisal becoming a quasi-disciplinary meeting.

These appraisals will have as outcomes a set of SMART (Specific, Measurable, Achievable, Realistic, and Time constrained) objectives that are aligned to the council's strategic plan/objectives. It will also have as an outcome any training needs, there should be some for every employee, simply to fulfil their Continuous Professional Development at the very least.

For the clerk, the one-to-ones should be with two councillors, often the chair of the HR committee and the mayor/council chair or vice chair of the HR committee. These councillors should be trained in how to conduct one-to-ones (CHRGs provide such training online).

### **Conclusion**

Arguably the most important asset at a local council is its employees. The council should therefore ensure that it puts in

place measures to support and motivate its employees.

Part of this process is for at least the key councillors to undertake HR training and to put in place a supportive performance management system. The work environment should be as welcoming as possible, and relationships should be professional, courteous, and supportive between all parties within the council.

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*Written by James Corrigan, Director of Council HR and Governance Support  
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## Our community matters

by Steve Milton, LGRC

Down in Little Tinkleton, the parish councillors find themselves at the coal face of our beleaguered local democracy – collared in the post office, harangued at the bus stop, chided in the hairdressers and besieged over a well-earned tipple in the Speckled Wig. It just never stops. Phone pinging at all hours with the latest stinging posts on the village Facebook site and the councillors' WhatsApp group incessantly trumpeting the latest village disaster (or overflowing litter bin at the skatepark). Through this never-ending democratic whirl, the redoubtable councillors go about their weary duty – sorting things out and keeping everyone happy. It's as it has always been, and what, you may ask, is wrong with that? Well, absolutely nothing: nothing wrong with dealing with complaints promptly and effectively. However, complaints are usually personal and a council deals with the needs of all residents not just the few. Chopping down a tree because it shades part of Mr Gavel's veggie patch, might alienate 60 members of the local wildlife group. Things are not always straightforward. Then, when the clerk suggests the need for a strategic plan, well, eyes roll and yawns are stifled. Not easy this parish clerking malarkey. Let's stop and think about that. Councillors pride themselves on resolving grumbles and fixing problems, right? So, why not find out what the locals are really bothered about? Not just the noisy few bellowing their self-righteous views across social media or firing off charmingly poisonous emails to our heroically downtrodden clerk, but everyone. If there are things that a whole bunch of people

are chaffed-off with, councillors can get stuck into resolving those that most people want to see sorted. That's the logic and the start of your strategy.

So how does this play out in the real world? Somewhere like, say, Haydon Wick near Swindon? Glad you asked!

Haydon Wick is a progressive council with some well-motivated councillors – but were they really in-tune with the views of the whole community? The clerk asked this question and the leader of the council liked the idea and the members agreed to appoint someone to help. Yep, that was me.

It's important to understand that you can't just dream up and impose a community strategy, it's got to be a fully inclusive and consensual thing. No matter how 'in tune' you think you are, you need to know what others think too. Your world view and your lived experiences are different to everyone else's.

At Haydon Wick the first step was to gauge the views of the councillors – it was critical to have them on board. A short member and officer survey was undertaken, and the results revealed the usual areas of agreement and disagreement but just enough common ground to provide a foothold.

What had emerged was a commitment to give residents far more say about the council's direction – a genuine desire to put local people in the driving seat. Community leadership is often a slogan and rarely a reality. So, finding a practical way to empower the community became the main aim of the project, under the banner 'Our Community Matters' – a brand, a process and a genuine commitment to facilitate community leadership.

It was agreed to focus on the things that the council could influence – in the main its own services and responsibilities but also the council wanted to better understand the wider concerns that the council might address working with

## SOME USEFUL TIPS

- **TELL EVERYONE** – Make sure everyone knows about the survey. People can only take part if they know about it. Stage a PR event to grab a headline, maybe a photo-op of the mayor delivering the first leaflet. Set up a stand at the village shop. Do something quirky and unexpected and follow this up with leaflets, posters, banners, email, social media, traditional print media, parish mag, the church news and other local networks – 'scattergun' is the word. Throw everything at it and get a buzz going.
- **REACH OUT FURTHER** – Follow up your media campaign with a household leaflet to every property and business in your patch. Including a prize draw can help drive up response rates but check the rules carefully before you dive in. Include clear links to the online survey – QR code and web address. Set up a dedicated page on the website with more information. Make sure people know how to get hold of a paper or multi-lingual copy and where they can be collected or dropped off. Make sure you include cut-off dates.
- **INCLUSION** – There are many reasons why people do not or cannot engage with traditional consultations. Target something specifically at youngsters and other harder to reach groups.
- **USE SIMPLE WORDS** – Keep the survey language simple, in terms people will understand.
- **GET PERSONAL** – The survey needs to gather some basic demographic information – respondent age range, gender, postcode, how long they have lived in the village. The essentials only. Include an option to provide an email contact so you can keep in touch – along with your GDPR policy statement.
- **BE CONSISTENT** – Make sure questions provide comparable results, if every question you include has a different scoring scale or ranking system then you will have no idea of the relative value of anything.
- **KEEP IT SHORT** – Try and keep the survey as brief as possible. There are lots more secrets but too little space here, email me if you want to know more: [steve.milton@lgrc.uk](mailto:steve.milton@lgrc.uk)

partners and others. A household and business survey was developed. Getting this bit spot-on is half the battle.

The survey was launched and things started to happen. Within six weeks the results were in, and the council waited with bated breath to see what the community had said. The survey results were published, and clear priorities were obvious – but not simple. For example, locals were upset about litter in the village, but what should the council do about this? What actions

would best address the concerns? Where would money be best spent? This is where the next step in the process was crucial.

A community conference was convened (Our Community Matters) to discuss the priorities and agree actions. Again, residents were ushered into the driver's seat. Four themed discussion groups (with eight residents at each) looked at the priorities and the ideas submitted by respondents. About 100 ideas were examined, each written on an 'idea card'. Each



card was placed on a priority sheet, and given a low, medium, or high action-ranking. By the end of the session the community had agreed the actions they felt would best address the priorities identified by the survey.

The four groups then flipped over their sheets and placed the top priorities on to a scoring grid. Each priority action was given a score according to cost, time and ease of implementation. By totting up the three numbers a final score was achieved indicating those actions most likely to be delivered in the shortest possible time at least cost.

Yours truly, wrote up the outcome and presented a very simple community action plan to the council (never a fan of the long glossy report me), which was adopted unanimously. Work turned to implementation, and, in the spirit of the process, the community came together as co-producers of their own wellbeing, by stepping up to help deliver the agreed actions. Some of the juiciest low-hanging fruit were picked first and celebrated as evidence that the delivery plan was rumbling into life. Volunteers came forward, discussions were started with partners and budgets for future years were recast to reflect the new priorities, and so the process began to deliver on the priorities with projects, campaigns and actions agreed by parish residents.

The process unlocked the amazing gifts and assets held in all communities, and these poured forth generously through volunteers, new and existing community groups – with so many shoulders to the wheel, not everything ends up draining the parish coffers.

Of course, this is a simple summary of an amazing and carefully structured process. There is much more to tell. Community engagement is often a very much derided Aunt Sally, but if parish and town councils are to reclaim democratic legitimacy and move away from the

Vicar of Dibley and Jackie Weaver stereotypes, the 'Our Community Matters' approach is a good place to start.

Well, that's all for now, catch up again sometime for a pint in the bar of the Speckled Wig in Little Tinkleton.

The 'Our Community Matters' action planning toolkit for local authorities has been developed by the Local Government Resource Centre (LGRC) and is available for use anywhere in the UK. The toolkit is tried and tested, simple, and highly cost effective. If you would like to follow in the groundbreaking footsteps of Haydon Wick Parish Council, please get in touch.

*Steve Milton, FSLCC ACG*, has spent more than 40 years working in local government at district, county, unitary and parish level. He was instrumental in the development of Wiltshire's community governance arrangements, has assisted the Government with the development of UK legislation, and spoken on devolution all over the world. LGRC (Local Government Resource Centre) Associates Ltd is a company providing locum, consultancy and training services to own, parish and community councils. The company's training offer includes bespoke member training to suit councils' needs. Visit: [www.lgrc.co.uk](http://www.lgrc.co.uk) and its social media channels @lgrcuk

*Written by Steve Milton, vice-chair, director and trustee, LGRC*

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## Activism begins in Village Halls

by Phillip Vincent,  
*Action with Rural Communities in England( ACRE)*

RURAL communities have great potential to be pioneers in the local battle for Net Zero. This is likely to include adopting more sustainable agricultural practices, welcoming renewable energy generation, improving the energy efficiency of older buildings and reducing the need for people to travel by utilising digital technology.

Mitigation too is needed to blunt the consequences of climate change such as flooding and wildfires.

The Village Halls Week campaign orchestrated by Action with Communities in Rural England (ACRE) returns this month for the seventh year running and challenges community buildings to consider how they can save energy and support environmental initiatives that help with Net Zero.

With scientific warnings of the climate crisis mounting and governments and international institutions scrabbling in search of grand solutions, it's easy to feel powerless to act in the face of great threats to our way of life, and that of future generations.

But as much as bold decisions are needed regarding the global management of the Earth's resources and the carbon emitted into the atmosphere, little will happen unless there

is action on the ground.

Village halls, like parish councils, are one of very few institutions embedded in nearly every corner of rural England. Hosting a wide range of activities, events, groups and services, they have great reach into communities.

Many have been used as a place of refuge during extreme weather events. As the Post Office Horizon scandal has recently brought to light, they are sometimes venues where radical community activism begins!

The humble village hall is therefore surprisingly well placed to be a catalyst for environmental action. Village Halls Week 2024 will consider how this can happen. It will look at what some halls are already doing to serve as inspiration, and it will provide an opportunity for others to hold events and reach out to residents to see what might work locally for them.

A highlight of this year's campaign, which runs from March 18-24, will be the publication of energy efficiency design guidance produced by Stagg Architects on behalf of ACRE.

Typically, village halls are older buildings, which can be off the gas grid. Some date back more than 100 years. Many have been vulnerable to energy price shocks over the past couple of years, with some spending more than half their income keeping the building warm at the peak of the crisis. On this basis, a logical, and much needed starting point for village halls interested in 'going green' is making improvements to their buildings to reduce the amount of energy they consume.

The guidance set to be launched features case studies of halls in Cumbria, Lancashire, Buckinghamshire, Dorset and Somerset, which

have done just that.

Work undertaken by these halls includes improving insulation, upgrading heating systems and even generating their own energy. They demonstrate that while there's no one-size-fits-all solution, there are many lessons to learn from their experiences with regards to project planning, involving the wider community, fundraising and working with technical experts and contractors. Of course, making improvements to buildings isn't the only way to 'go green'.

Village Halls Week will also be supporting behaviour change so people are encouraged to reduce, reuse and recycle more. It will look at halls that are providing a space or working with other green groups in the community. It



**Wraysbury Village Hall**

will also consider how village halls lucky enough to have responsibility for outdoors space can make use of this to support food growing, wildlife and biodiversity. Through its network, ACRE is aware of a number of halls, such as Wraysbury Village Hall, in Berkshire, and Yarm Community Centre, in North Yorkshire, that have stepped up to the plate and used existing facilities to prepare meals on wheels and delivery services to provide a lifeline to isolated members of the community.

Village halls are being encouraged to get involved with the campaign by holding open days and events and sharing their stories on social media. Interested groups can register their interest using a form on ACRE's website, from which they can request a campaign pack, including posters, badges bunting and other resources.

For more information about Village Halls Week, visit:

<https://acre.org.uk/village-halls-week-2024/>

### Case study: Haddenham

THIS large village hall in Buckinghamshire was upgraded on a modest budget, with insulation, a new air source heat pump, PV panels and EV charging.

Haddenham is a large village of about 5,000 people, which benefits from being located on a strategic railway line between Birmingham and London, and has recently expanded due to new housing developments. The village hall is therefore larger than most, built originally in the 1960s and then extended in the 1980s. Today the building consists of three main spaces and is owned by a

trust, the trustees of which are the Parish Council.

Haddenham was fortunate to already have an active zero carbon group, which included some parish councillors, and having delivered a number of initiatives in the village, the community was well prepared to undertake an energy efficiency improvement programme. Some minor works had already been completed, such as installation of low-energy LED lighting, replacing inefficient appliances, installing programmable thermostats to prevent the heating being left on, and ensuring

lights were turned off and doors closed. The building also benefitted from double-glazing. Funding was secured for three main elements of work:

- £40,000 to install 48 solar PV panels;
- £40,000 to replace the old 115kw gas boiler with a 36kw air to air heat pump;
- £10,000 to install 200mm of Knauf mineral wool insulation above the main hall ceiling.

The money for the work came from three sources – ACRE’s Jubilee Fund, Section 106 money with assistance from the parish council, and £10,000 from fundraising.

Two electric vehicle charging points were installed as a result of a partnership between the parish council and the charging company.

**Case study: Skelton Toppin**

Breathable internal insulation, infra-red panel heating and a large array of PV panels will transform this remote Cumbrian memorial hall. Skelton is about six miles west of Penrith and the stone and wood-panelled hall was built in 1923, comprising one main space with two smaller rooms and ancillary spaces to the front. The committee secured a lottery grant of £50,000 in 2018-2019 to explore options for improving the hall. A local architect was appointed, an energy audit was undertaken, and plans were made for extending and upgrading the hall.

Contractor quotations however came back at more than twice the anticipated level and funding became even more scarce, so the project went on hold until early 2023 when they began work on a phased basis with a local builder.

They have secured £200,000 of funding for phase one, which comprises internally insulating the walls and roof of the main space,

installing infra-red heating panels, and re-decorating. The oil heating system will be removed and hot water provided with electric instantaneous heaters.

Phase two will include the same work to the smaller rooms, altering the entrance to enable wheelchair access, and refurbishing the kitchen and stores.

Installation of solar panels formed a separate package of work in 2022. Between August 2022 and August 2023 these generated enough for the excess to be exported back to Octopus for 4.1p per kwh.

The work as cost £176,072 with funding and grants coming from: the National Lottery Development Fund, Cumbria Environmental Landfill site, National Lottery, Eden District Council, Lake District Foundation and a bridging loan from ACRE.

*Action with Rural Communities in England (ACRE)* is a national charity speaking up for and supporting rural communities. It works to create thriving, inclusive and sustainable rural communities, which are economically active and have the services they need. Phillip has worked with the charity on and off for more than eight years. He has a particular interest in how communities can be empowered to have greater influence over their local environment and the decisions that affect day-to-day lives.

*Written by Phillip Vincent, public affairs & communications manager, Action with Rural Communities in England( ACRE) as appeared in Clerks & Councils Direct, March 2024*

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-Brampton Parish Council



## Managing allotments

by Tyler Harris, National Allotment Society

Recently, the National Allotment Society (NAS) has been contacted by quite a few of our local authority members and others regarding the need to increase the rent that they charge for allotment plots. The reasoning behind the increase can vary, from the fact that there has not been an increase for many years to the allotment plots being heavily subsidised by the taxpayers. Given the timing, it would seem that a big driving force behind the need for rent increases is the sharp rise in the cost of living that we all face. However, there are alternatives to simply increasing the rent that could save local authorities money, as well as offer positive benefits to the allotment holders. The alternatives being considered here are with regards to issuing some or all of the management responsibilities for the site to an allotment association on the site.

### Rents

Before considering the different management options available, it is important to understand the legal situation with rent increases, such as how increases can be implemented and what level can rents be set to.

Firstly, it is good practice that when any rent increases or rule changes are being

considered, the plot holders should be consulted on the change. This allows for any major concerns to be highlighted and dealt with at an early stage.

The level of rent being considered must be in line with section 10 of the Allotments Act 1950 and must therefore be a "reasonable" amount. Case law has shown that when considering what is a reasonable amount for the rent, the local authority should compare the rent to: other sites in the nearby area, the rate of inflation, increases made to other leisure activities and other factors. It is important that all of the funds from the collected rents are being re-invested into the allotment site and not being used to prop up other areas for the council. Any excessive profits from the rent would likely show that the rent is set unreasonably high.

When introducing the rent increase itself, 12 months' notice of the increase must be given outside of the growing season (which runs from the 6 April to 29 September). This is in line with Section 1 of the Allotments Act 1922 (as amended by the 1950 Act). The only exception to this is where the tenancy agreement has a fair rent revision clause included that provides for a shorter period of time.

### Partially self-managed

Alternatively, councils could choose to share some or all of the site management responsibilities with an allotment association on the site. This will help save the council in administration costs as well as costs associated with some of the repairs and maintenance depending on what responsibilities are shared. The first

alternative form of management to be considered is partial self-management. This is the simplest method to set up in that the council only needs to establish a simple management agreement, which could be as basic as a simple table where all the responsibilities are listed in the first column and then the next column marks out

whether it is the council or the association that is expected to manage that responsibility. It is important to note, however, that with partial self-management, councils cannot pass on the responsibility for letting plots or terminating tenancies. This is due to the fact that the association will not have sufficient legal interest in the land in



order to perform these tasks without a lease in place. The main benefit for partial self-management is that it is easy to set up and change over time, and is a great fit for fairly new, or less established associations. This option may be less desirable in situations where the association wants to have more control over the site, particularly where they may be looking to apply for grant funding and need to be able to show that they have a lease in place for the funding.

### Self-management

In contrast, a local authority can establish a lease with an association on their allotment site to

give them the legal interest in the land and allow them to be fully self-managed. In setting up self-management, councils would be advised to perform due diligence checks on the association. Such checks should include looking at the group's constitutional rules so that the council can be satisfied that the group can sufficiently manage itself for the long term. Once satisfied, the council and association can enter a period of negotiation to discuss and agree the terms of the lease. Following this, a heads of terms document can be produced and agreed, before then looking to draft the lease itself. When producing the lease, there can be a tendency for some councils (or the third party assisting the council) to use a template lease that is more relevant to a standard commercial property rather than an allotment. This is ill-advised in many cases, as it can be confusing for the association and include content that is not relevant for an allotment. For any councils or allotment associations that are members of the NAS, lease agreement templates are available, and the NAS can also provide comments on any drafts.

It is important to note when considering what terms to include in the lease that whilst the majority of tasks could be passed to the association, the council cannot escape all liability for the allotment site. The council will still owe a basic duty of care to the users of the site and the association will arguably be viewed as the agents of the council. Therefore, it would be advisable to still perform due diligence checks on the association from time to time, whether that be by performing inspections, meeting with

the committee, etc. It can also be advisable for councils to hold on to some of the responsibilities that are likely to cause the most significant issues such as the replacement of any boundaries or the maintenance of trees.

Once the lease is signed, if the term is longer than seven years then it must be registered with the Land Registry. It would be best to clarify who's responsible for the registration of the lease during the negotiation stage. Following the registration if applicable, the association can then begin to perform the day-to-day management responsibilities set out in the lease.

The advantage for this style of management is that councils can see a more significant drop in administration fees and, provided the association runs well, the plot holders benefit by being able to directly influence how to improve the site. Provided that the agreement and the appropriate due diligence is performed, there should be few downsides to this approach other than it being less suited to associations that are perhaps less eager and have fewer members interested in volunteering to join the committee.

### Trustees

When signing a lease with an association for them to take on self-management, it is important to note what is the legal structure of the association. For starters, if the association is unincorporated, then they will need trustees to sign the lease agreement on behalf of all of the members. As part of the council performing its due diligence checks for such a group, the council should

be looking to see if the group has rules within their constitution that relates to appointing trustees, their role and how a trustee can be removed. The lease will need two to four trustees to sign in order to be valid. If the lease is registered with the Land Registry, the registration will need to be updated each time that there is a change of trustees.

### Incorporation

In contrast, an association may be incorporated in some form or other such as a charitable incorporated organisation, a co-operative, or a community benefit society. If the group is incorporated, then the association itself is a legal entity that be a party to the lease agreement. This means that the association itself can be named on the agreement as opposed to naming trustees and then the association can have a couple of representatives to sign on behalf of the association.

It can be useful to encourage self-managing associations to consider incorporation if they have a reasonable number of members (the NAS suggest groups under 25 members are less suited for incorporation), because they will then fall under a regulator (Companies House, Financial Conduct Authority or the Charity Commission) that will act as another check and balance on how the association manages itself. This typically provides councils with more confidence in issuing a lease to an association for them to manage the allotment site.

Overall, the National Allotment Society would strongly recommend that councils

should consider partial or full self-management if they are facing costs that is forcing them to consider increasing the rents. If managed correctly, both options can hugely benefit both the council and the association, as well as each of the individual plot holders.

### *The National Allotment Society*

Founded in the early 20th century, The National Allotment Society (NAS) is the leading representative body for UK allotment holders with over 125,000 members.

The NAS works with government, landlords and developers to provide, promote and preserve allotments – highlighting the social and environmental benefits of growing sites and preserving allotments for future generations.

Membership of the NAS comes with a host of benefits including legal advice, liability insurance, horticultural discounts, allotment expertise, advice and guidance.

In 2011, the NAS received the esteemed patronage of His Royal Highness King Charles III. His deep passion for gardening, commitment to environmental causes, and steadfast dedication to preserving the UK's rich traditions make him an invaluable advocate for the National Allotment Society's mission.

*Written by Tyler Harris, legal adviser,  
National Allotment Society  
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## Town and Village Greens

by Nicola Hodgson, Open Spaces Society

Town and village greens are important spaces, many of them steeped in history, where local people have enjoyed informal recreation through the ages. Nicola Hodgson, case officer at the Open Spaces Society, reviews the law and the means by which local councils can create and protect greens.

Village greens have an ancient origin. They have been recognised as places for customary recreation since the mediaeval era. The Commons Registration Act 1965 (section 22) provided for the registration of village greens. It was amended by section 98 of the Countryside & Rights of Way Act 2000. The original registers closed in the 1970s, and any land not then registered ceased in law to be a town or village green (TVG). However, 20 years later it became possible to register land which was omitted the first time—and such land need not be the classic village-centre green, it can be any land which meets the criteria including a rough patch on the edge of town. [see image from West Mersea, Essex] Legally, the expression 'town or village green' has a much wider meaning. It has long been used to describe land, rural or urban, over which the inhabitants of a particular locality hold customary recreational rights. The terms 'town green' and 'village green' are

legally identical, only indicating where the green is situated.

### Registration

Under the Commons Act 2006, there are two ways to register land, by meeting the criteria set out in section 15(1), or by voluntary dedication by the owner under section 15(8). The provisions of the 2006 act relating to the registration of greens do not apply to land in the New Forest, Epping Forest, or the Forest of Dean. Although greens may exist in these places, they cannot be registered.

Section 15 came into force in October 2007 and enables any person, including a parish or community, town, district or unitary council to apply to the commons registration authority to register land as a TVG where:

- a significant number of the inhabitants of any locality or neighbourhood within a locality, have indulged as of right (i.e. without force, secrecy or permission) in lawful sports and pastimes on the land for a period at least 20 years and they continue to do so at the time of application; or
- they have so indulged for at least 20 years and ceased to do so before the time of the application but after the coming into operation of section 15, and an application is made within one year (in England) or two years (in Wales) after the activity has ceased.

In determining the 20-year period, any time during which access to the land is prohibited to members of the public under an enactment is disregarded. This can happen where public access is curtailed under statutory powers. The application process is prescribed under the following provisions. The Commons

Registration (England) Regulations 2014, SI 2014/3038, for use in England in pioneer areas (Blackburn with Darwen Borough, Cornwall, Cumbria, Devon, Herefordshire, Hertfordshire, Kent, Lancashire, North Yorkshire). The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007, SI 2007/457, for use in England outside the pioneer areas. The Commons (Registration of Town or Village Greens) (Interim Arrangements) (Wales) Regulations 2007, SI 2007/2395 (W198) for use in Wales.

### Process: Submit application and evidence

- Form 44 (England & Wales)
- Form CA9 (pioneer areas)
- Send to local authority, county or unitary borough
- No fee for application

### Trigger events

In England section 15C introduces schedule 1A which specifies certain 'trigger events' associated with plans or proposals for development, on the occurrence of which an application to register land as a green is prevented. There are 16 'trigger events'; these include the publication of an application for planning permission and the publication of a development plan or neighbourhood plan which identifies the land for potential development.

In Wales section 15C introduces schedule 1B

with only three 'trigger events' including the granting of a planning application. The ban on applying to register land can be lifted by a terminating event, for instance where an application for planning permission is withdrawn or the identification of a site in a development plan is revoked. While a trigger event prevents an application for registration of a green it does not affect the process if the event occurs after an application has been made.

### Court cases on trigger events

#### Court of Appeal:

- 2019 first trigger event case Wiltshire Council and Cooper Estates Strategic



Land Limited and R Gosnell and Royal Wootton Bassett TC.

- Court upheld 2018 High Court decision that key policies in adopted core strategy had identified land for 'potential development.'
- The land was on the edge of a settlement boundary.
- Concluded was a trigger event precluding registration as TVG.
-

**High court:**

- 2022 Bellway Homes v Kent CC.
- Judicial Review of Kent CC decision that there was no trigger event
- Court agreed no trigger event.
- The object of policy OS6 in the local plan was to protect green gaps, and the land was outside the settlement boundary.

It is therefore essential to check the local plan and planning permissions before an application is submitted to ensure that the land is not subject to a trigger event. In addition, where land is acquired and held for defined statutory purposes by a public authority, the 2006 act does not allow the public to acquire rights over that land by registering it as a green where the registration would be incompatible with those statutory purposes.

**Landowner Statements**

Sections 15 A and 15 B enable a landowner to deposit a statement with the registration authority which ends any period during which local inhabitants have indulged as of right in lawful sports and pastimes on the land to which the statement relates. The registration authority is required to keep a register of the statements, and this is usually on its website. It is a good idea to ask to be notified of such statements. A TVG application must be made within one year (in England) and two years (in Wales) from the date of the notice.

**Protection**

The main benefits of registering land as a green are to safeguard the land from development and other forms of detrimental

activity by bringing the land within the protection of the nineteenth-century legislation (section 12 Inclosure Act 1857 and section 29 of the Commons Act 1876), by which it is an offence to damage or build on a green or to interrupt its use or enjoyment by the local community.

**Supreme Court:**

- 2021 TW Logistics v Essex County Council.
- Registration of land at Allen's Quay did not criminalise the activities of the landowner carried out during the 20-year application period.
- Confirms Inclosure Act 1857 and Commons Act 1876 do not prohibit activities of a landowner which were carried out before registration as a green.

**Voluntary registration**

In view of the public benefit in registering land as a green, all councils owning open spaces should consider the fast-track process under section 15(8) of the Commons Act which enables registration of land by the owner. Proof of ownership is required but no evidence is required about use of the land. Many councils have done this, for instance in Milton Keynes, Kent, and LB Havering, to protect the land for local people.

**Ownership and rights**

The owner of a green cannot do anything which interferes with the lawful recreational activities of the local inhabitants. However, there is no obligation to maintain the green in a suitable state for recreation. Where the owner is a local authority or other body with statutory powers of management, by-laws may

be made to regulate recreational activities. There are various public general acts of parliament which give statutory powers of management. Local or private acts may give similar or additional powers. The Commons Act 1899 enables a district council to make a scheme of regulation and by-laws. The Open Spaces Act 1906 empowers local authorities, at all levels, to manage village greens.

The Department for Environment, Food and Rural Affairs and the Department for Levelling Up, Housing and Communities have model by-laws which can be used and adapted.

Where the owner of a TVG is a private person or body a local authority has no power to manage the land without the owner's agreement. If the owner is unknown or inattentive, a district council could make a scheme of regulation, so that regulation and management become vested in the council. It is normally in breach of section 12 of the Inclosure Act or section 29 Commons Act 1876, or both, to drive or park vehicles on a TVG where this causes damage to the green or interrupts its use for recreation. By-laws can be used to make parking an offence. Driving and parking on a green may be an offence under section 34 of the Road Traffic Act 1988, for instance, driving anywhere off the road (except within 15 yards of a road solely to park) without lawful authority. It is also possible that driving and parking on a TVG is an offence under section 1 of the Criminal Damage Act 1971, for instance destroying or damaging property recklessly or without lawful excuse.

There is no formal consent process to undertake works on greens unless the green is managed under a scheme of regulation, where the process under section 38

Commons Act 2006 (consent for works on common land) must be used. In all other cases it is necessary to consider whether planned works are carried out 'with a view to the better enjoyment of the green'. The provision of facilities to assist in the enjoyment of recreation will not be a breach of the sections 12 or 29 mentioned above. Tree planting may be acceptable provided it does not adversely affect people's use of the land for lawful sports and pastimes. There is no specific provision which prohibits the owner of a green from granting a right of way over it, and where this does not interfere with local people's rights of recreation or with any other established rights (e.g. rights of common) it is lawful.

Registration secures the right of local people to enjoy the land for informal recreation in perpetuity. It also gives the registered land a new status as land for the community, to be valued and enjoyed.

*The Open Spaces Society* is Britain's oldest national conservation body, founded in 1865. It has 2,300 members including local councils. It campaigns to create and protect common land, town and village greens, other open spaces and public paths. As a charity it is dependent on subscriptions and donations for its funding. The membership subscription for local councils is £45 a year.

[www.oss.org.uk](http://www.oss.org.uk)

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