

COVID-19 support to councils

Guide 5: Council finances, audit and scrutiny

The Centre for Public Scrutiny is supported by the Local Government Association to provide advice, guidance and support to councils on governance and scrutiny. At this time of crisis we are working closely with national partners, and local authorities, to develop practical solutions to the challenges that this situation poses. This includes a series of five guides on key governance responses to the crisis which will be periodically updated.

CfPS operates a helpdesk through which we can provide support to councils and councillors on matters relating to governance and scrutiny. This can include answering questions as well as problem-solving assistance and help with member training and development.

Contact: info@cfps.org.uk or ed.hammond@cfps.org.uk

We are working closely with other partners – particularly the Association of Democratic Services Officers and Lawyers in Local Government – to ensure that advice of consistent and accurate.

More information can be found at <https://www.cfps.org.uk/home-2/covid-19/>.

This is the fifth of five guides for councillors (and those supporting them) on managing some of the challenges associated with carrying out their governance roles during the COVID-19 crisis.

It starts by covering some of the national context of which members need to be aware on national finances.

It covers the significant financial matters of which scrutiny members will need to be aware, and suggests a proportionate four-step approach for scrutiny to take in order to better understand the current, and near-term, financial position in which councils are likely to find themselves. It suggests ways that scrutiny can embed this understanding in its wider work, and provides possible finance-related questions that can be asked in relation to some of the more significant substantive issues on which councils will now be seeking to make decisions.

Contents

1. National context on the impact on council finances from COVID-19

2. Ways of working

3. Four steps to better understand and act on the current situation

Step 1: understanding what has already happened

Step 2: understanding what controls and oversight now exist in light of the pandemic

Step 3: starting to think through the financial implications of what is coming

Step 4: thinking about how scrutiny could play a part in understanding and acting on these implications

4. Addressing live issues with a connection to financial scrutiny

1. National context on the impact on council finances from COVID-19

The COVID-19 crisis represents a critical threat to local authorities' finances. Councils' ability to provide a full spectrum of services and support to local people is at immediate risk. This threat is in-year (including the likelihood that delivering a balanced budget in 2020/21 will be impossible for some) and medium term (given that the assumptions councils have used to develop and refine their medium term financial strategies (MTFSs) will now largely have to be rethought).

In the early years of the 2010s English councils were encouraged by Government to run down their level of reserves and to take steps to cut costs; these activities have contributed to a lack of financial resilience, and capacity, in managing and responding to the current crisis. This has been exacerbated by the fact that Government has not committed to reimburse local authorities for the significant additional costs which they are incurring as a result of the pandemic.

Further reading on council finances

You can find out more about the basics of council finances by:

- reading [this guide on the CIPFA website](#), and
- reading the forthcoming CfPS/CIPFA "Financial scrutiny practice guide" (due to be published in late May 2020).

Because local authorities are not able to run a deficit, failure to balance the budget in-year will lead to chief finance officers being required to draft a so-called "**section 114 notice**". These statutory notices limit the authority's ability to spend and require urgent action to be taken to deliver a balanced budget. S114 notices are often incorrectly described as a "declaration of bankruptcy" by a council; legally, councils cannot "go bankrupt" but an s114 notice does have the effect of imposing financial controls on authority business which look similar to those of the administrator of a private company. All but the most mundane regular expenditure must stop; the s151 officer has an explicit role in signing off other spending¹.

Under normal circumstances, the imposition of these tighter controls is often enough to draw the council out of its immediate crisis. But given the current crisis many councils may find themselves with nowhere to go – with a financial black hole whose scale makes remedial in-year action functionally impossible, notwithstanding the fact that a s114 notice has been issued. A collapse in revenues coupled with an explosion in the demand for other, critical, life or limb services presents councils with no room for manoeuvre.

Many councils will be able to avoid s114 action in 2020/21 – but the crisis will leave them significantly weakened, and it is impossible to know how the crisis will affect future income and expenditure.

This means that the financial situation will force councils into even more difficult decisions than those they have been forced to make over the course of the austerity of the past

¹ The Statement on the Role of the CFO in Local Government includes a section on 114.
<https://www.cipfa.org/policy-and-guidance/reports/the-role-of-the-chief-financial-officer-in-local-government>

decade. These tough decisions will be of an inherently political nature and will require care, thought and reflection – even at a time when the crisis demands immediate action.

This guide sets out how scrutiny can take a role in this, in two ways:

- By offering, alongside councils' audit committees, an augmented but proportionate approach to financial oversight and scrutiny;
- By taking a role in understanding medium term challenges and how services will need to be transformed in 2021 and beyond in direct consequence of the COVID-19 crisis.

This guide can be read alongside the forthcoming CfPS/CIPFA financial scrutiny practice guide, expected to be published in late May 2020.

It is based on two connected activities:

- The need to take steps to better understand the ongoing situation. Councillors will need a baseline of understanding and an overall sense of how scrutiny ought to fit in to the existing landscape of financial oversight;
- The need to address live issues with a connection to financial scrutiny. When members have an active understanding of the ongoing situation they will be able to design interventions which make sense, and which do not duplicate the activities of others. We provide some examples of distinctive activities which scrutiny might employ and which are less likely to cut across the work of others.

2. Ways of working

Right now, scrutiny can seek to better understand the exposure of the council's finances to risk as a result of COVID-19.

Part of this will involve scrutiny gaining a basic understanding of the national financial context, and using this to better understand the local context (including the local financial control environment, including the roles of the s151 officer in this context, the audit committee and other key actors).

The need for solid relationships

Productive scrutiny of financial matters at this time requires solid relationships between scrutiny and other actors. Section 151 officers and others in key leaderships will require reassurance that the kinds of activity that we propose is framed around the need to provide ongoing support for the council as it tackles the need to support local people and deliver a balanced budget.

Existing assumptions around the nature of financial scrutiny – especially if, in the past, it has looked adversarial and party political – will need to be challenged on all sides.

The critically important thing is to broker a consensus between scrutiny and the council's leadership about scrutiny's role. This does not need to be a complex protocol; we think that the material in this guide can act as such a roadmap.

In these matters, scrutiny members should not act unilaterally. Scrutiny does of course have legal rights to carry out work on these and related issues. But starting with reference

to these rights will not work. Scrutiny and the s151 have to agree on the approach likely to be most useful and proportionate. This will be different for each council.

Members need to be involved in this activity because council's will benefit from additional member perspective and insight at this critical time. Good s151 officers will recognise that – if their input is proportionate and designed to feed in at the right time and in the right way – scrutiny councillors' insights will support the council to ensure its approach is sensible and robust. The council will be called on to make decisions with substantial, long term financial implications at very short notice. It is vital that sensible oversight is built into this process.

In particular, if the council is called on to make significant, and urgent, decisions in order to deliver a balanced budget, then some of the activity we describe below can prepare councillors for this eventuality. Scrutiny's role here can be in providing a public space for the systematic discussion of such proposed decisions.

We note below that effective working here will involve scrutiny working close with the council's audit committee. How this happens will vary area by area, but frequent dialogue between scrutiny and audit chairs will have to be a key feature of the next few months as an absolute baseline.

3 Four steps to better understand the ongoing situation

Neither the budget – only passed a matter of weeks ago – nor the monitoring arrangements relating to that budget will any longer reflect the reality of council delivery. This will have led to an uncertain landscape, and the first part of members' task in navigate this landscape lies in understanding the steps that the s151 officer, and others, have put in place to “shore up” the council's short term finances in light of pressing new needs relating to the pandemic.

Step 1: understanding what has already happened

Councils will already have taken emergency action to protect services – and local people – which will have involved significant expenditure. This will have involved:

- In the initial weeks, decisions being taken under emergency arrangements, possibly by the Chief Executive alone. Many councils have emergency decision-making systems built into their constitutions. In some places, general emergency statutory powers under s138 of the Local Government Act 1972 may have been used.

Members will need to understand what decisions have been made, why they have been made, how they have been made, why they were made in the way they were made, and those decisions' short term financial and general consequences. This is not to subject them to the same level of anxious scrutiny, but to understand where the focus for more detailed work may lie;

- Stops on spending in certain areas, and possibly “virements” (movements of money) from one budget to another to prop up services in areas of increasing demand.

Members will need to understand where big spending changes may have been made which may sit outside the councils' budget and policy framework. Under ordinary circumstances, those decisions will have needed to be confirmed by a meeting of Full

Council. Where such decisions have been made (and where future decisions are proposed of this nature, how might scrutiny, alongside the audit committee, be actively involved in assurance and oversight?

- Budget discussions as a component of emergency planning. When Gold command structures for the emergency response were established these will have incorporated financial discussions between partners.

Members will need to understand the nature and scope of partnership activity around the emergency plan, and to have a general sense of how council money is being used to support partnership activity. This will need to be fed back into wider scrutiny work; understanding the practical nature of partnership working (and the financial implications of such partnerships) is critical for scrutiny to be able to make realistic and proportionate suggestions and recommendations on future action. If recommendations are not grounded in this understanding, they are less likely to be relevant and realistic.

These decisions, and the evidence behind them, may not have initially been visible to councillors. This recent history cannot be overlooked, because it provides the context within which constructive, supportive scrutiny can be carried out. The recent financial actions of the councils will have put in place a dramatically different framework – a framework which will need to be reflected in scrutiny’s priorities.

Step 2: understanding what controls and oversight exist in light of the pandemic

Understanding the general framework of recent decision-making and budget activity will allow members to develop a parallel understanding of the controls and oversight that exist with regard to that activity.

What are the safeguards that have been created in order to manage the situation; what arrangements have the s151 officer and others put in place to ensure there is rigour and consistency in how money is managed? These safeguards and the context in which they are placed are generally seen to form part of the council’s financial “control environment”.

Understanding the control environment

There are several places which will give councillors insight into the council’s control environment.

- Financial procedures in the constitution (particularly urgency procedures, which are likely to be in place at the moment, and any revised systems and procedures drafted specifically for use during the crisis);
- Specific monitoring arrangements put in place by the s151 officer – the s151 officer may have put in place (with other members of SMT) specific arrangements for financial oversight and control, particularly if departmental budgets are in a state of flux and uncertainty;
- The ongoing work of the audit committee. Member-led audit may have taken less immediate action as it will have taken time for remote meetings to have been convened. But the chair of audit is likely already to have set out their expectations for ongoing work, and will have a clear sense of the role that they expect to perform;

- The work of external auditors. The foregoing three sets of activities are all subject to oversight from external auditors. Understanding the council's expectations of auditors' roles (and vice versa) will be useful for scrutiny.
- The work of internal audit, in particular the head of internal audit's annual opinion and report on governance, risk management and control.

Understanding the foregoing, alongside the financial decisions which have already been made (as covered in step 1) will give members an accurate sense of where some of the greater risks lie, and the part they can play in supporting the s151 officer and the council to better understand and mitigate these risks.

This overall understanding means that members will be in a strong position to play an active part in understanding what financial decisions made now are likely to mean in the short, medium and long term.

Step 3: starting to think through the financial implications of what is coming

There is no easy demarcation between the immediate crisis and medium term financial planning. The preparation and agreement of an accurate and prudent MTFS is the bedrock of councils' approach to in-year and long term finances, and the MTFS itself is built on an understanding of the in-year budget position. In-year decisions will impact significantly on the viability of the MTFS. Furthermore, dramatic reductions in available funds will have an effect on the council's wider strategic objectives.

Realistically, councils are not going to be able to pick up and make accurate judgements on the MTFS until the immediate crisis has receded. Revision of the MTFS is likely to be a priority for the s151 officer; hopefully by early 2021 there will be a degree more certainty on the longer term financial position. Alternatively, there may not be, and this uncertainty gives rise to exposure to risk.

Risks and challenges the members may want to turn their minds to include:

- The ongoing viability of commercial activity. The council may be particularly exposed to risks around commercial property investment. The council may own – wholly or jointly with others – a trading company on whose income it relies. The council may have shifted to a more commercial mindset in order to secure its finances – an approach which might (but might not) mean that is affected in specific ways by the possibility of a substantial economic downturn. It will be impossible to effectively model these risks at this stage – but members should be prepared to begin talking about them and considering how understanding of them needs to be developed, and acted on, in the coming months;
- Future income from fees and charges. There will be a substantial drop in the short term in councils' income from fees and charges. How has the council scenario planned around this – based on a various different possibilities for the release of lockdown and a return to something like “normality”, possibly accompanied by a lengthy period in which social distancing is a feature?
- Future business rates income. Members need to understand the possible impact of economic recession and possible depression, and an expectation around business rate rebates and holidays to stimulate activity – plus continued uncertainty over the future funding of the sector, which rests so significantly on business rate income.
- The need to put in place longer-term schemes to assist and support local people. Councils will feel the need to proactively support local people. Some of these

schemes may be nationally mandated and funded, some may rely on local councils themselves to take action. Understanding the scope, benefits and financial implications of such action will be important.

- Additional demand in some services. Social care and children's services are likely to see particular demand at the moment. But how might demand express itself in other services – both now, and as lockdown is eased? Can councils expect spikes in service demand, where latent demand can now be met? For example, the use of libraries, community and leisure facilities as they come to be reopened. Could this demand lead to an outlay of expenditure before income can be realised?

At the time of writing, the most substantial risk associated with future finances lies in Government's lack of clarity about the extent to which local authorities will be reimbursed for activity undertaken to support local people as a result of the crisis. For this reason, it may be that scrutiny members will find it useful to see the various scenarios that finance professionals may have sketched out to support the authority and its partners to understand the impact of various possible near-term futures.

These will be used to assess risk, and is an exercise that councillors ought to be involved in. Their perspective can be used to lay the groundwork for decisions, with big financial consequences, which may need to be made very quickly once the financial situation has been clarified. For example, if the sector's fears are realised and the level of Government support is less than the amount needed to cover expenditure, councillors will need to understand now what short term decisions will be required in order to deliver a balanced budget – or whether a balanced budget is indeed possible under those circumstances.

Step 4: thinking about how scrutiny could play a part in understanding and acting on these implications

Based on considering the above issues it will be possible for scrutineers to be able to build a role for themselves in this complex environment. Members have to be able to understand this landscape – the financial implications of the past few weeks and officers' expectations of the coming weeks and months – in order to be able to direct their work appropriately.

In particular members will need to be able to:

- Know and understand the current rhythm of financial reporting;
- Understand how the council is using financial information to inform its decisions;
- Understand how financial information is being used to influence how risk is managed and mitigated;
- Understand who the key local players are in the financial landscape and what their roles are;
- Understand which of these players is responsible for leading on what.

Following the steps above will allow members to have confidence on all these issues. This confidence will allow them to follow the last step – carving out a specific role in this landscape for scrutiny.

Rather than carrying out specific scrutiny relating to “council finances”, scrutiny's specific role is more likely to involve building an awareness of these financial issues into the overall scrutiny work programme.

Likely “core tasks” relating to financial and budget scrutiny

For the purposes of this section we have assumed that councils will be adopting the approach suggested in Guide 2 – the establishment of more streamlined arrangements based perhaps on a single committee which will carry out frequent meetings focused on the impact of COVID-19. In this context, weaving financial insight into this committee’s work would involve:

- Reviewing ongoing monitoring information (relating to the matters covered in steps 1 to 3), and understanding what the s151 officer and others are doing to act on this information;
- Reviewing budget development plans for 21/22, based on an understanding of the medium-term;
- Using these two sets of information to identify particular risks and pressures;
- Timetabling agenda items which provide members with the opportunity to engage with those risks and pressures as a component part of other scrutiny work.

This is an approach which aligns with the guidance issued in May 2019 by Government relating to the use of information digests to direct and frame the scrutiny work programme.

The next section of this guide explores how scrutiny might ask questions relating to the financial implications of some of the most likely “live issues” relating to the COVID-19 crisis.

4. Addressing live issues with a connection to financial scrutiny

There will be financial matters to be addressed in relation to a range of live local issues and council services. For the purposes of this guide we will cover those which we consider most important, but it does not mean that there are not others. These are:

- Finances around social care;
 - What ways do we have of satisfying ourselves on demand and people’s needs?
 - What will this mean for our finances this year and next?
 - Are we proposing to use financial constraints as part of an evidence base to justify the use of an easement around our Care Act obligations (as set out in Guide 4)?
 - How will we use financial information to develop an understanding of how those easements are being exercised, if activated?
- Finances around children’s services;
 - How are we supporting children and their carers within existing, and projected, budgets?
 - How are our finances influencing how we use powers granted in Regulations to reduce the level of service and support to young people and their carers (as set out in Guide 4)?
 - How are we able to build into future budgets expectations of the likely additional support that young people will need once the crisis has receded?
- Finances around waste, recycling and environmental services;
 - What are the financial implications of maintaining existing service levels – for example, in relation to both domestic collection (where higher volume and demand will exist) and street cleaning and commercial collection (where demand and volume are likely to be lower)?

- What are the charging implications in the medium term in relation to commercial collection?
- How well do we understand the financial implications of operating household waste and recycling centres with social distancing?
- Finances around councils' capital infrastructure obligations.
 - How much of the Government's overall fund for highways infrastructure changes will we benefit from?
 - How well do we understand the financial implications of the need to design and implement significant highways changes in a very short timescale?
 - How prepared are we to manage the change in income levels around parking charges in the medium term (particularly if changes lead to a long term reduction in the use of private vehicles?)

The example questions above will hopefully provide a sense of how an awareness of financial issues can be woven into wider scrutiny work.

Version 1

13/05/20