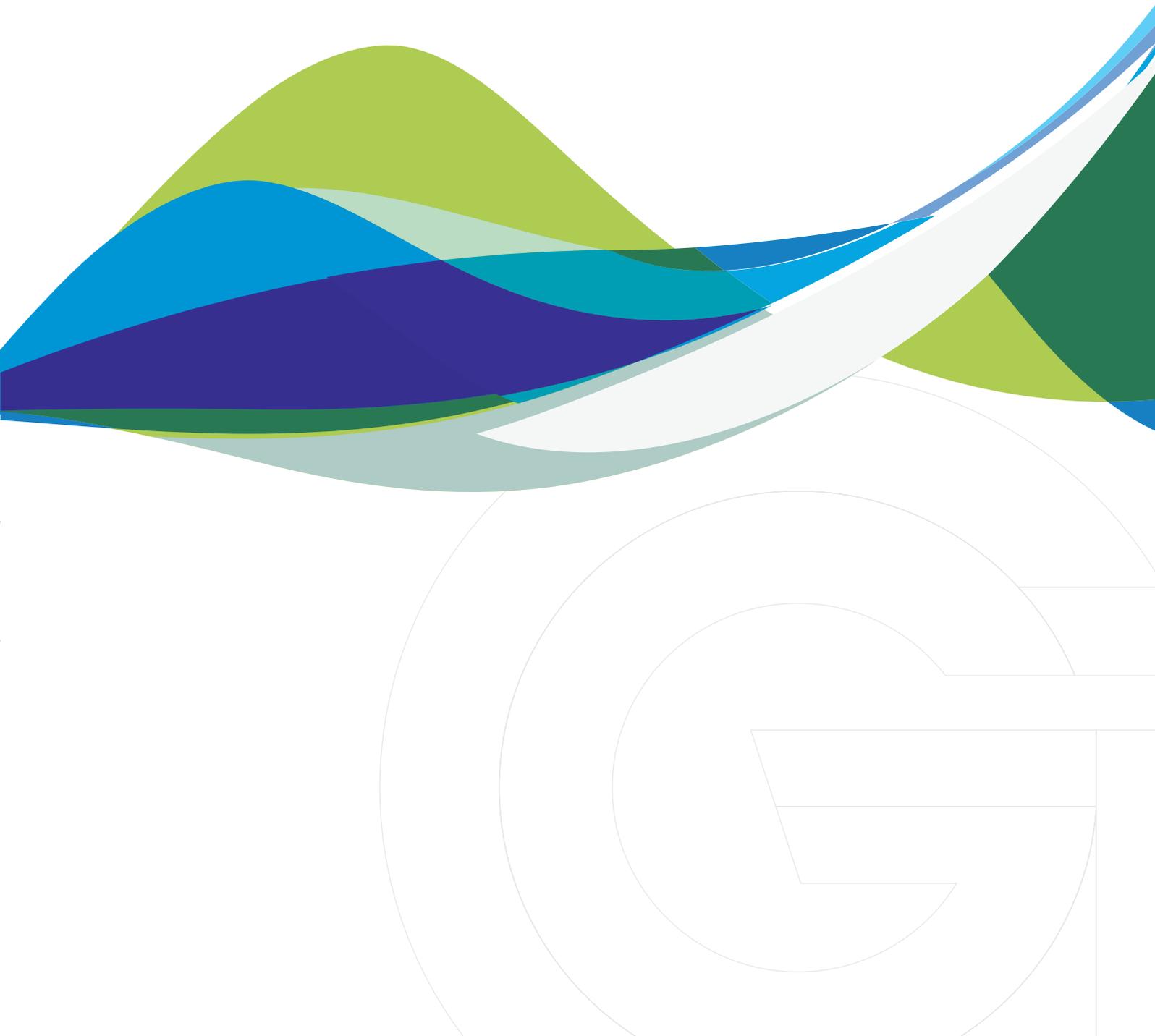


Local government governance explained





The Good Governance Institute exists to help create a fairer, better world. Our part in this is to support those who run the organisations that will affect how humanity uses resources, cares for the sick, educates future generations, develops our professionals, creates wealth, nurtures sporting excellence, inspires through the arts, communicates the news, ensures all have decent homes, transports people and goods, administers justice and the law, designs and introduces new technologies, produces and sells the food we eat - in short, all aspects of being human.

We work to make sure that organisations are run by the most talented, skilled and ethical leaders possible and work to build fair systems that consider all, use evidence, are guided by ethics and thereby take the best decisions. Good governance of all organisations, from the smallest charity to the greatest public institution, benefits society as a whole. It enables organisations to play their part in building a sustainable, better future for all.

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Local government governance explained

Local government is exactly what it sounds like; government local. Led by democratically elected councillors, council's provide essential services to populations they serve, from waste collection to public protection and planning.

Across the UK millions of people work for local authorities, providing more than 800 different services to local communities.

Thousands of councillors from these local authorities work with local people, stakeholders and partners, such as NHS, police, fire and rescue, voluntary groups, local businesses and other organisations, to agree and deliver on local priorities. The decisions are implemented by permanent council staff, council officers, who deliver services on a daily basis.

It is really important to be clear that when we are talking about local government as a collective, we are talking about a variety of different types of local authorities.

Types of local authorities

Within local government there are 5 types of local authority and each has a different set of statutory duties and responsibilities. They include:



There are also **parish and town councils**, around 9,000 or so, that sit under a number of types of local authorities and operate at town and neighbourhood level.

Governance and operating models

Councils operate on one of the following models:

- a leader and cabinet
- a committee system
- executive arrangements with a directly elected mayor

All councils must have a full council on which all councillors sit. Full council is:

- responsible for setting the policy framework
- agreeing the budget and spending plans
- electing the leader and making constitutional decisions
- a forum for debate on major issues affecting the council and its local area
- **responsible for all decisions.**

Full council meetings are public meetings.

Leader and cabinet model (most popular)



The full council elects a leader who, in turn, appoints and chairs the cabinet. Each cabinet member has a specific area of responsibility – for example regeneration, children and young people, housing or finance.

The cabinet meets regularly (normally weekly or fortnightly) so decisions are made quickly. The cabinet may also be called the executive.

Committee system (less popular)



The council establishes a number of committees, each with a specific area of responsibility.

The political groups appoint elected members to the committees. More councillors are actively involved in decision-making, but it can take longer to reach decisions.

Councils not operating a committee system must establish overview and scrutiny arrangements through which non-cabinet councillors can scrutinise decisions.

Executive mayor model



In some areas, an executive mayor is elected for a four-year term. The mayor has greater powers than a council leader and may or may not be a member of the majority party on the council. He/she proposes the budget and policy framework and appoints and chairs the cabinet, which can be single or cross-party.

In councils with a directly elected mayor, the budget and framework are proposed by the mayor and can only be amended or overturned by the council with a two-thirds majority.

Decision making structures

Regulatory committees (planning and licensing)

There are some regulatory and quasi-judicial functions over which the cabinet does not have responsibility – such as determining planning applications and making decisions on licensing. These are delegated to separate planning and regulatory committees.

The role of cabinet

A council’s cabinet is its main decision making body. It is led, and cabinet meetings are chaired by, the leader of the council.

The leader and cabinet are responsible for policies, plans, and strategies which must be within the budget adopted by the full council. These will be reported to the overall full council, which is convened to bring together all elected members of the authority at regular meetings.

No individual member of cabinet has any formal decision making authority.

The full terms of reference and delegated functions of a council’s cabinet will be codified in its constitutions.

Overview and scrutiny committee

Introduced by the Local Government Act 2000 as a requirement to ensure the scrutiny of the council’s executive.

The Localism Act 2011 gave councils the option of converting to a committee system form of governance. Councils that have chosen this option are not required to have a separate overview and scrutiny committee but it is expected that scrutiny will take place within committees.

Overview and scrutiny committees investigate the decisions and policies of the executive, and issue reports and recommendations where any shortcomings are identified.

Generally, a scrutiny committee has the legal power to:

- require that the council makes information available to it, both in the form of written reports and by officer and cabinet member attendance at committee meetings
- require that the cabinet responds to its recommendations within a set time frame

Council constitutions

Every council has a constitution.

A council's constitution sets out how the it will conduct its business, including:

- who is responsible for making decisions and how decisions are made
- procedural matters (set out in the 'standing orders')
- the role of officers
- standards and ethical governance.

Council constitutions also specify:

- the terms of reference of the council's various member structures
- the rules on declarations of interest
- the timings and order of business at council meetings
- the rules of debate at council meetings.



Meetings, agenda and minutes

By law the council's formal meetings must be held in public. For these formal meetings every council must publish:

- the agenda and other key meeting documents at least five days before the meeting
- minutes of meetings – showing the decisions that were made

Council's must also publish details of its forward plan, showing the key decisions to be made in the next four months.

The public and press can be excluded for discussions on some confidential items (known as 'Part 2' items).

Cllr vs officer roles and responsibilities

Although councillors and officers work very closely together in local government, they each have distinct roles.

Councillors provide the democratic leadership of the council. They:

- represent members of the public
- provide leadership and direction to the council
- scrutinise service delivery.

Officers are employees of the council. They:

- implement the policies agreed by councillors
- organise and deliver services
- provide unbiased, professional advice and support to councillors.

A general distinction - though there are blurrings of responsibility - is that councillors provide strategic direction and officers are responsible for operational delivery, implementation and management of the council and ensuring the implementation of agreed policies.

Both groups have a shared corporate responsibility for things like agreeing workable policies and monitoring performance.

Accountability

- Councillors accountable to the electorate.
- Council officers are accountable to the council.

Statutory officers

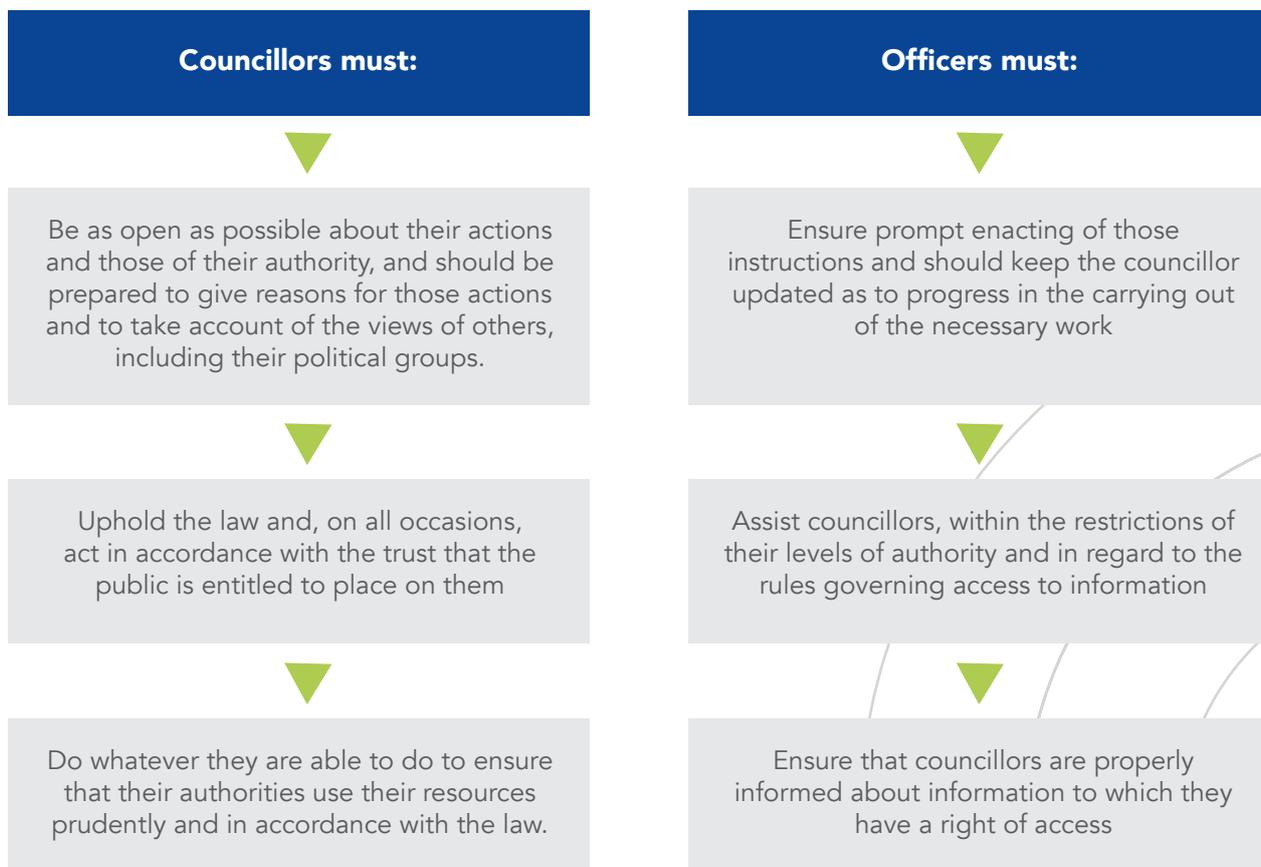
The key officer roles are:

- Head of paid service (chief executive and ultimate accountable officer)
- Section 151 officer - whose duties are prescribed under section 114 of the Local Government Finance Act 1988 (these are more commonly referred to as Section 151 Officers which refers to the reference in the Local Government Act 1972)
- Monitoring officer - whose duties are set out under section 5 of the Local Government and Housing Act 1989, and amended by schedule 5, paragraph 24 of the Local Government Act 2000, often combined with Head of Legal Services

For upper tier authorities (county councils, metropolitans, unitarities)

- Director of Adult Social Services, established in the Children Act 2004
- Director of Children's Services, established in the Children Act 2004.

Cllr and officer standards and conduct



They **must not** use professional expertise to discourage or intimidate councillors from pursuing lines of inquiry.

Both councillors and officers are expected to adhere to and uphold the Nolan Principles. These are codified within councillor code of conduct and formal employee policies for staff.

Councils will also have protocols that regulate councillor and staff relationships.

Councillor conduct is governed by the council's code of conduct for councillors, which they will swear to in the witness of the council's monitoring officer (a statutory position) when they are elected as councillors.

Councillors must also declare any interests they have that might influence their decision making, which are recorded officially in a register.

The council's monitoring officer deals with all allegations of breaches of the code of conduct, issues with councillor standards and failure to register pecuniary interests.

Councillors can be sued for defamation if they say or write anything that will 'lower a person in the estimation of right-thinking people'.

However, in council meetings councillors have a qualified privilege to allow freedom of speech.

Financial management and governance

Every council has a section 151 officer (a statutory role responsible under sections 113 and 151 in the Local Government Act 1972) for ensuring the:

- ▶ effective financial advice to councillors and officers
- ▶ organising and maintaining a sound system of financial governance and control
- ▶ ensuring that the council follows all of its legal duties in financial matters.

They are required to be a qualified member of one of the accountancy institutes (such as, but not exclusively, The Chartered Institute of Public Finance and Accountancy, CIPFA).

Unlike the NHS and other public sector organisations, local authorities have a legal duty, under the Local Government Finance Act 1992, to issue balanced budgets. Unlike central government, who can borrow to finance day-to-day spending, local authorities cannot.

Councils must ensure that their expenditure is matched by their resources. If it isn't, the chief finance officer, or Section 151 officer, must by law issue a Section 114 notice, preventing any expenditure other than on statutory services or to fulfil existing contracts.

Due to the Localism Act 2011, councils can act commercially but only in certain ways. They cannot make a profit from certain services, like licensing.

There is a significant list of financial documents that the council must publish regularly on its website in set formats.

A review of local government funding - the Fair Funding Review - was due last November (2020) but was delayed.



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