

# Update

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## THE CHIEF'S BRIEF

By Danny Moody, Chief Executive, Northants CALC

I find this time of year exciting. The local government year finishes on 31 March, so accounts are closed off, plans are wrapped up, and one municipal year ticks over to the next. 1 April is like taking the wrapper off a brand-new notepad, and we can look forward to new beginnings and fresh starts. Out with the old, in with the new. Who knows what 2023/24 will bring us – a heady mix of highs and lows if the last few years are anything to go by – but what we do know is that whatever happens it will keep us on our toes.

Talking of new beginnings, there has been quite a high turnover of clerks again this year. There is no single factor behind it, it is a combination of retirements, clerks leaving to go to other sectors, or to go back to full time employment, and in some cases, multi-councillled clerks consolidating their portfolios and taking a full-time position with one council. The turnover means lots of new clerks coming into the sector, and we had a good cohort on our spring New Clerks course.

Recruitment continues to be a challenge, both in terms of the availability of high calibre candidates, and in the quality of the recruitment process, which is normally run by councillors who may not have any HR experience and may have quite limited understanding of what the job entails. It is far less common now than five or ten years

ago, but I still hear councillors say that the

job of clerk is “*Just taking the minutes at our meetings and looking after the books*”. If they recruit on that basis, the appointee is unlikely to stay very long! A lot of guidance and support is available to councils when they are recruiting, so there is really no excuse for not doing it properly.

A key feature of our work with the unitary councils over the past two months has been on the emerging Local Area Partnerships (LAPs), with Lesley Sambrook Smith and I attending multiple meetings to give our input into the role of parish and town councils. There is an article below that sets out the latest position and follows on from the article in the previous *eUpdate*.

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Another focus has been preparations for the Coronation, which will be celebrated over the weekend of 6 – 8 May 2023. It promises to be a right royal romp, and parish and town councils across Northamptonshire are putting on street parties, Big Lunches, parades, and parties. An article below contains links to all sorts of information, resources, tips, and guidance.

The board of directors at Northants CALC has been busy too. In February a joint meeting was held with West Northamptonshire Council (WNC) at the Guildhall in Northampton to explore the strategic relationship between WNC and parish and town councils. It was interesting to hear what WNC thought the strategic priorities were and how it intends to engage with the parish sector in the future. The board is holding a similar meeting with North Northamptonshire Council (NNC) in April at the Corby Cube. I will compare and contrast the two meetings in the May/June *eUpdate*. The board also signed off the Strategic Plan 2023 – 2026 at its March meeting. You'll find a copy at <https://www.northantscalc.com/uploads/ncalc-strategic-plan-2023-2026-vadopted.pdf>.

Talking of the unitary councils, I was sad to hear this week that Rob Bridge, Chief Executive at NNC, will depart in June for pastures new after a couple of years in post. Memories of the 2019 Northants CALC Annual Conference came flooding back where Sarah Mason, my counterpart from Cornwall, gave a presentation on "*Life after Unitary Reorganisation*" and said that in the ten years since Cornwall went unitary there had been multiple Chief Execs, and that each one had bought in a new team and different ways of working. I wish Rob all the best and look forward to working with his successor.

In March we held the latest meeting of the Northamptonshire Larger Councils Partnership (NLCP) and were delighted to welcome colleagues from the Northamptonshire Armed Forces Covenant Partnership ([www.afcnorthamptonshire.co.uk](http://www.afcnorthamptonshire.co.uk)). The Armed Forces Covenant is a voluntary pledge that those who serve or have served in the Armed Forces, and their families, should be treated fairly and should not face disadvantages when seeking to access public or private goods and services in the UK. Thirty parish and town councils in Northamptonshire have already signed the pledge; it would be great to make that two hundred and thirty!

Please do continue to get in touch with your queries and questions. That's what we are here for!

## REGISTERS OF INTEREST

Every parish and town councillor is required to disclose certain interests, including their occupation, address and any other property in the parish, and any contracts held with the



council that they are a member of. The interests must be registered within 28 days of becoming a councillor and updated within 28 days of any changes. Failure to do so is a criminal offence (although in England in the past decade there has only been one criminal prosecution).

The Register of Members' Interests (ROMI) is a public document and should be readily and freely available to anyone who wants to inspect it. Provisions for redacting sensitive interests do exist, but the bar is necessarily high. Remember that a councillor is a holder of public office and should expect to be open and accessible.

A parish or town council's web site should have an up-to-date list of the councillors, and each councillor's ROMI should be linked to from that page. The link might be to a PDF document served from the parish or town council's web site, or it could be a link to the relevant page or section on the unitary council's web site. It is the Monitoring Officer (MO) at the relevant unitary council who is responsible for maintaining the register, so their team will receive new registers and updates (either sent directly by the councillor or sent via the clerk) and will update the register accordingly. The register held by the unitary council is the official register, so it is best practice to link to it rather than to a locally held copy.

The form for councillors in West Northamptonshire can be found at <https://bit.ly/435HPOi> and once completed should be returned by email to [democraticservices@westnorthants.gov.uk](mailto:democraticservices@westnorthants.gov.uk).

The form for councillors in North Northamptonshire can be found at <https://bit.ly/3U5o6dl> and is completed and submitted online.

The parish or town council's clerk might assist, but it is each councillor's responsibility to make sure their register is up to date and complete.

## DECLARATIONS OF INTEREST

Following on from the article above, when, and how should a councillor declare their interests in meetings, and what happens if they fail to do so?

Typically, a council will have a standing item on the agenda “*To receive declarations of interest relating to business on the agenda*”. This is the first opportunity for councillors to make their declaration. Prior to the meeting a councillor should be looking at the agenda to see what business will be transacted and whether they may need to declare an interest in any item. If a councillor only discovers, or remembers, during the debate on an item that they have an interest they should have declared, then they should do so at that point and not take part further in the debate. The council’s Code of Conduct will specify what the councillor is required to do in terms of voting and whether they should leave the room during the debate and vote.

The responsibility for declaring interests rests solely with the councillor. No other person – not the chair, nor the clerk – can insist that a councillor declares an interest. If a chair thinks or knows that a councillor has an interest that should be declared, they could and should give the councillor several prompts in the meeting, but ultimately if the councillor declines to declare anything, that is up to them. Obviously, the councillor is putting themselves at risk of being complained about under the Code of Conduct if they fail to declare an interest they have, and if it relates to their Disclosable Pecuniary Interests (DPIs) then it could be a criminal matter.

All councillors should read their council’s Code of Conduct and familiarise themselves with the rules and regulations and what the Code requires them to do. The Code should be published on the council’s web site and should be easily accessible.

If your council’s Code has not been reviewed or updated since January 2021 then it could be out of date. Contact Northants CALC ([info@northantscalc.com](mailto:info@northantscalc.com)) for the latest template.

99.9% of councillors will do the right thing and will be completely open and honest in their interests. Be in that 99.9%.

## THE 2023/24 PRECEPT

It's an interesting year to look at precepts. On the one hand we have the cost-of-living crisis, which suggests that increasing the precept might not be very helpful to residents, and on the other hand we have high inflation and a shift towards communities needing to look after themselves, which suggests that increasing the precept by at least inflation and maybe more is essential. So, here we analyse the precepts set by councils nationally and in Northamptonshire to see what happened this year:

There are 10,326 local precepting bodies in England. Of these, 8,883 are parish and town councils that have raised a precept for 2023/24. The remainder are mostly parish meetings that have not raised a precept.

In England, parish and town council precepts total £708 million in 2023/24, an increase of 8% on 2022/23. It represents 1.8% of the total council tax raised by local authorities.

The national totals and averages hide the enormous diversity in the sector. For example, the twenty highest-precepting town councils account for just over 8% of the total precept raised. Thirteen of these have precepts higher than £2 million. Northampton Town Council (NTC) is in the top twenty with a precept for 2023/24 of £1,807,837. Note that 15 of the top twenty precepting councils are in unitary authority areas.

For all councils, Band D tax rates are 14.6% higher in unitary authority areas than in three-tier areas (parish/district/county).

The average Band D tax rate for all precepting councils in 2023/24 is £78.79, an increase of £3.98 or 5.3% over the previous year.

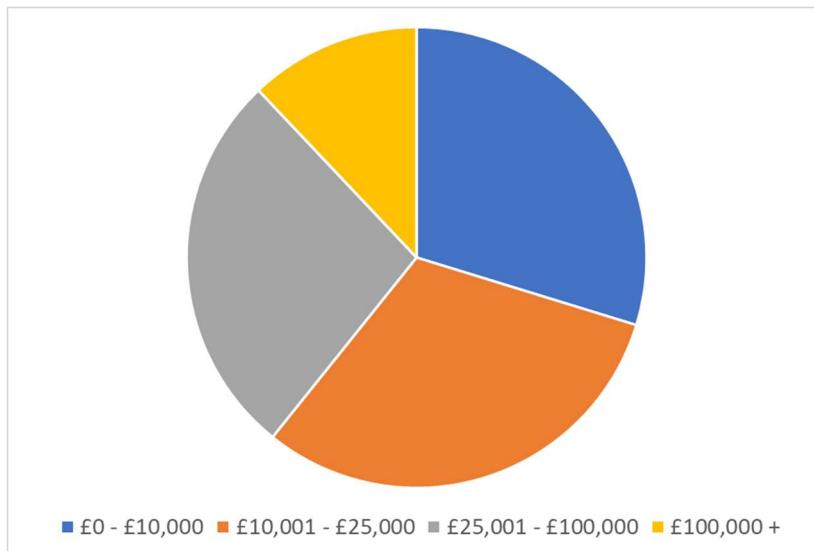
In Northamptonshire there are 277 local precepting bodies, but of those 40 are financially inactive parish meetings (zero precept) and other non-council bodies. The total raised by the 237 precepting bodies for 2023/24 is £19,628,590, an increase of £1,506,282 or 8.3%. The average Band D tax rate for 2023/24 is £81.86, an increase of £4.49 or 5.8%.

The highest precepting council is Northampton Town Council at £1,807,837. It is one of four councils in Northamptonshire in the million-pound club, along with

Daventry Town Council, Rushden Town Council, and, for the first time, Brackley Town Council (£1,009,630). Northampton Town Council's Band D tax rate is £48.78 (0% increase on 2022/23).

The top ten precepting councils raise a total of £8,971,363 or 45.7% of the total for all councils. The average Band D tax rate for the top ten councils is £152.18.

The highest Band D tax rates in Northamptonshire are levied by Blakesley Parish Council (£249.20), and Oundle Town Council (£243.71). The lowest precepting body is Catesby Parish Meeting, with a precept of just £90 and a Band D tax rate of £2.54!



Most precepting bodies in Northamptonshire have a very modest income. 65 councils (27%) have a precept of £10,000 or less and a further 64 councils (27%) have a precept between £10,001 and £25,000. 70 councils (30%) have a precept between £25,001 and £100,000, and just 38 councils (16%) have a precept over £100,001.

There is a significant difference between the two unitary authority areas, due mainly to the fact that precepts in the former borough of Kettering (in North Northamptonshire) have been much lower than average in the past.

Unitary Area	Precepting Bodies	No Precept	Precept 23/24 (Precept 22/23)	Band D 23/24 (Band D 22/23)
North	96	10	£7,466,408 (£6,797,723)	£72.44 (£68.79)
West	141	24	£12,162,111 (£11,324,585)	£88.28 (£83.21)

The figures for the north will increase rapidly over the next few years as Corby Town Council, Kettering Town Council, Wellingborough Town Council, and the



parish councils in the former district of Kettering gradually come into line with county and national averages.

In terms of percentage change in precept the biggest mover was Kislingbury Parish Council, which increased its precept from £32,000 to £61,000, an increase of £29,000 or 91%. Kislingbury has grown though, so the resulting Band D tax increase was 77%.

Legally the precept falls out of a calculation of budget requirement. The council should work out its budgeted expenditure, decide whether it wishes to take money from reserves or put money into reserves, and the resulting amount is the precept. It is a process prescribed in law. Given that a council's budget requirement changes from year to year (by inflation if nothing else) it is almost unimaginable that the precept could work out to precisely the same figure from year to year. Therefore, most of the thirty-five councils in Northamptonshire that set the exact same precept for 2023/24 as they did in 2022/23 almost certainly started from the precept and worked backwards. Four councils took an even more "sophisticated" approach and made sure that the Band D tax rate was the same for 2023/24 as 2022/23, which means taking the Council Tax Base into account in the calculation. Again, this is not part of the process prescribed in law.

If you would like to compare your council against others in Northamptonshire, you will find a spreadsheet of precept, Band D, and Council Tax Base per parish at <https://www.northantscalc.com/uploads/northants-precepts-2023-24.xlsx>.

## **PLANNING DEPARTMENT REVIEWS**

The peer review of West Northamptonshire Council's (WNC's) planning service conducted by the Planning Advisory Service (PAS) has been published in the papers for the Cabinet meeting to be held on 11 April 2023 (See <https://westnorthants.moderngov.co.uk/ieListDocuments.aspx?CId=143&MId=696&Ver=4>). The peer review was conducted in November 2022, and some of the recommendations in the report have already been implemented. The report highlights various areas of concern. With regards to parish and town councils the report says "*The town and parish councils we heard from are incandescent with the planning service. Representatives told us that they were happy with the support that West Northamptonshire Council had given them in relation to producing neighbourhood plans. But the rest of the feedback from town and*



*parish councils was very negative. They were extremely angry with a perceived lack of transparency and unwillingness to engage. They recognised that they will not always get the planning decisions they want but they found that the council was unwilling to provide adequate responses and explanations about this.”*



The report goes on to say *“We were encouraged to see that, despite their reservations about being listened to, parish councils do still take the time to attend planning committees and make representations to the committee. Although, we heard that some are becoming so disillusioned with the service that they are considering withdrawing from responding to planning applications – clearly not a good thing.”*

The PAS review is accompanied by a “Planning Service Action Plan” that sets out how WNC will address the concerns raised in the review and how it intends to make significant improvements. The action plan highlights progress that has already been made since November 2022, including key personnel changes.

North Northamptonshire Council (NNC) also used the Planning Advisory Service to conduct a review last year and the report and action plan were published with the Executive Committee papers for the meeting held on 22 December 2022 (See <https://northnorthants.moderngov.co.uk/ieListDocuments.aspx?CId=142&MId=900&Ver=4>). The report says *“Relationships with town and parish councils are also mixed. Over 40 neighbourhood plans are in place or under development. Many town and parish councils reported good relationships with the planning service in developing their neighbourhood plans but concerns that policies are not always taken into account. There is widespread dissatisfaction about a lack of planning enforcement.”*

Northants CALC is working with the heads of the planning departments at both unitary councils to develop ways to address the concerns related to engagement with parish and town councils raised by PAS. It will take years to make everything perfect, but the journey starts now and there are quick wins available. Further news will be disseminated in the coming months.

## LOCAL AREA PARTNERSHIPS

The Jan/Feb *eUpdate* (<https://www.northantscalc.com/uploads/ncalc-eupdate-jan-feb-2023.pdf>) included an article on the structure of the new Northamptonshire Integrated Care System (ICS) and the emerging Local Area Partnerships (LAPs).

There are seventeen LAPs in Northamptonshire: eight in the north and nine in the west. Each one covers a population of around 40,000 – 60,000 people.

Over the past two months, Northants CALC has been exploring the question “What is the role of parish and town councils in the new LAPs”. Meetings on the topic have been held with the west and north “Place Directors”.

To work out where parish and town councils fit, we have considered the three key functions of an organisation: governance, management, and engagement.

In the context of a LAP, governance is about who controls and directs the LAP, how it is organised, how its resources are applied, and what its strategy is. To give a practical example, who chairs a LAP meeting and how is that person elected? The governance of the LAPs is yet to fully crystallise but is likely to rest with the relevant unitary council. In other words, the LAPs themselves will not be formal, decision-making bodies.

The next thing is management, and here the answer as to whether parish and town councils should be involved is a definite no. For the LAPs to be a success, each one will need a dedicated officer resource, a person probably employed by the relevant unitary council, and assigned to a specific LAP. The LAP managers job would be to organise LAP meetings and implement actions agreed at them, which will require identifying and engaging with all the relevant stakeholders in the LAP area.

And there’s that last thing – engagement – and this is where we believe that it is vital that parish and town councils are fully involved. A LAP, through its LAP manager, should engage with all the parish and town councils (and parish meetings) in its area. As with any engagement process, one size doesn’t fit all. For example, if we look at LAP DSN4, which covers Bugbrooke down to Deanshanger, there are 38 councils in that LAP area. With 8,481 electors, the largest by far is Towcester Town Council, then Grange Park Parish Council (2,994

electors), Deanshanger Parish Council (2,943 electors) and Roade Parish Council (2,604 electors), then a dozen or so medium councils, then some teeny tiny ones, with Upper Heyford Parish Meeting and its 59 electors being the smallest. The LAP manager must engage with all 38 parishes but will have an entirely different relationship with Towcester Town Council than they will with Upper Heyford Parish Meeting.

We don't yet know precisely what engagement will look like, what it will be about, and how parish and town councils will be involved. What we do know is that parish and town councils know their patch, know its needs and challenges, and know what already exists in terms of services and facilities that might contribute to health and wellbeing.

We are in the initial stages of exploring a potential Health & Wellbeing Representative Scheme, which would work in a similar way to the successful Police Liaison Representative (PLR) Scheme. The basic concept is that each parish and town council would appoint one person (could be a councillor, an officer, or a volunteer) to take special responsibility for matters related to health and wellbeing and act as a single point of contact (SPOC) for the LAP managers and others.

The future of local government may depend on the success of the LAPs. Their focus is on addressing the underlying causes of bad health (e.g., poor housing, obesity, smoking, lack of exercise, loneliness) and preventing, or delaying, people becoming ill in the first place. It is referred to as "left shift" and the principle is that it is more cost effective to prevent health conditions developing than it is to deal with them after they already have. Parish and town councils play a critical role, even if that role is not yet well understood. A good example is a play area. Ask the council what it is for, and they will probably say "for kids to play in". Ask someone in public health what it is for, and they might say "it's a vital local service to encourage active lifestyles, reduce childhood obesity, lessen social isolation, and reduce the number of children and adults needing to access expensive health services in the future."



## THE CORONATION OF KING CHARLES III

The Coronation of His Majesty The King and Her Majesty The Queen Consort will take place at Westminster Abbey on Saturday 6 May 2023. The Coronation service will start three days of celebration and commemoration.



Parish and town councils up and down the land are busy organising street parties, picnics, Coronation teas, Big Lunches, live screenings of national events, competitions, barbeques, fetes, and even a Coronation litter pick!

Parish and town councils in Northamptonshire are asked to register their events locally at <https://forms.office.com/e/Af1XMBgZvV> and also on the national events map at <https://coronation.gov.uk/share-event/>. It only takes a few moments and listing your events will help create a picture for posterity of how the Coronation was marked in Northamptonshire.

West Northamptonshire Council is organising a Coronation Big Lunch and After Party at Delapré Abbey on Sunday 7 May 2023 from midday to 10:30pm. It is a ticketed event and up to 10,000 people are expected to attend. North Northamptonshire Council is also planning one or more ticketed events. Full details of all the events will be published soon when tickets go on sale.

Monday 8 May 2023, which is a bank holiday, is dedicated to “The Big Help Out”, which will highlight the positive impact volunteering has on communities across the nation. In tribute to His Majesty The King's public service, The Big Help Out will encourage people to try volunteering for themselves and use volunteering to bring communities together and create a lasting volunteering legacy from the Coronation Weekend. See <https://thebighelpout.org.uk>.

More information on the Coronation will be available on the Royal web site at <https://www.royal.uk/coronation-weekend-plans-announced>, and all the Coronation resources for parish and town councils, including links to the unitary council's Coronation pages, is at <https://www.northantscalc.com/coronation>.



## COMMUNITY GOVERNANCE REVIEWS

The ward boundaries of the unitary councils are currently being reviewed by the Local Government Boundary Commission for England (LGBCE). The review for West Northamptonshire Council (WNC) is at the draft proposal stage and a consultation is open until 15 May 2023. Parish and town councils are encouraged to make comments, even if it is to support what is being proposed. The final recommendations will be published on 1 August 2023. The review for North Northamptonshire Council (NNC) is at initial consultation stage, with the consultation on draft proposals due to commence on 30 May 2023 and close on 7 August 2023. Details for both these reviews can be found at <https://www.lgbce.org.uk>.

Following the unitary council ward boundary reviews, both unitary councils intend to conduct Community Governance Reviews (CGRs). The government's guidance says that *"A CGR offers an opportunity to put in place strong, clearly defined boundaries, tied to firm ground features, and remove the many anomalous parish boundaries that exist in England. Reviews also offer the chance to principal councils to consider the future of what may have become redundant or moribund parishes, often the result of an insufficient number of local electors within the area who are willing to serve on a parish council."*



*A parish boundary might be set in stone, but the stone can be moved!*

Examples of matters that can be considered as part of a CGR are:

- the alteration of boundaries of existing parishes
- changes to the electoral arrangements of a parish council, including the number of seats on the council (increase or decrease (minimum 5))
- the name of a parish
- the establishment of a separate parish council for an existing parish
- the creation of a parish
- the abolition or dissolution of a parish
- whether a parish should be grouped under a common parish council or de-grouped

For parish and town councils wishing to address anomalies in their boundaries (e.g. to include an area where houses have been built just outside the parish boundary but the residents really identify as part of the parish), or for parish and town councils that wish to increase or decrease the number of seats they have on the council, a CGR is a once-in-a-decade opportunity.

It is also an opportunity for parish meetings to consider their future. A parish meeting represents a civil parish that usually is not big enough to have a parish council. Althorp Parish Meeting, for example, has just 7 electors! A parish meeting might have grand plans and wish to become a parish council, or it might wish to give up and be subsumed into a neighbouring parish. Or it might wish to stay the same.

The outcomes of a CGR are the responsibility of the relevant unitary council but it is a consultative process and changes are not normally forced on parishes.

Tension is possible, particularly where one parish wishes to take land off another parish, but in most cases an amicable settlement can be found.

Typically, if a parish or town council makes a recommendation for a change (such as a name change, or to change the number of seats) that doesn't affect any other parish or town council then the unitary council will consider it favourably.



What might your council (or parish meeting) wish to be considered in the upcoming CGRs? Let us know by 5pm on Friday 28 April 2023 by completing our form at <https://forms.office.com/e/WTuiMcYGm7>. Please also indicate if there is nothing that you would like considered. It is just to get an idea of the potential scope of the CGRs, so listing something is not a commitment and nor does it mean that it will happen.

Northants CALC is working with the unitary councils to produce terms of reference and a timetable for the CGRs, and further information will be sent out to all parishes in the coming months.

The government's guidance on CGRs is at <https://bit.ly/2kQwH7o>.

## END OF YEAR ACCOUNTS AND AUDIT

All parish and town councils must prepare accounts in accordance with the legal requirements.

The primary legislation is the Accounts & Audit Regulations (2003, 2006, 2011 and 2015). The regulations describe “proper practices”, and these are found in Governance and Accountability for Local Councils – A Practitioners’ Guide. The latest version was published in March 2023 and a copy can be found at <https://www.northantscalc.com/uploads/practitioners-guide-2023-7.pdf>.

Parish and town councils are subject to two levels of audit... the internal audit, which is carried out by a competent and independent person who is appointed by the parish or town council itself, and an external audit which is carried out by PKF Littlejohn, an independently appointed firm of accountants. All parish and town councils, and parish meetings, **must** complete an Annual Governance and Accountability Return (AGAR), which has 4 sections: the annual accounting statement, the annual governance statement, the external auditor certificate and opinion (AGAR Form 3 only) and the annual internal audit report. The Annual Return **must** be completed by 30 June.

PKF Littlejohn has issued detailed instructions to every parish and town council and parish meeting in Northamptonshire by email. All of the information, guidance, and forms are at <https://www.pkf-l.com/services/limited-assurance-regime/useful-information-and-links/>. It includes a useful decision tree to assist in identifying which one of the six different forms needs to be completed.

The external audit process is complex but not complicated. A calm, measured, and methodical approach is called for!

One of the issues that seems to always trip councils up is the explanation of significant variances. Essentially, the auditor is very interested in any figures in the accounting statement that have changed significantly from one year to the next. “Significant” means by more than 15% or by more than £100,000. For example, if staff costs have increased from £10,000 to £12,000 (+20%) an explanation is required. A full narrative and numerical explanation are required, so “salary increased” is not a sufficient explanation, whereas “The clerk’s hours were increased from 12 hours per week to 14 hours per week, which combined



with the contractual salary increment resulted in an increase in staff costs of £2,000.” PKF provides a useful and simple-to-use proforma and gives examples of where explanations are required. If the explanation does not fit into the proforma, then further information can be provided separately. Where a council has prepared the explanation of variances in Excel the original file should be submitted to PKF. It should not be saved as a PDF (or anything else) first. Doing so creates difficulties and PKF is likely to ask for the file to be resubmitted, which causes delays.

The information in the AGAR form is compiled by the Responsible Finance Officer (RFO - usually the clerk) and is presented to the council for completion and approval. The AGAR must be approved for signature by the full council; it cannot be delegated to a committee. The AGAR is signed by the RFO and the chair of the meeting at which it was approved for signature.

For clerks going through the audit process for the first or second time it can be quite daunting. However, the internal audit and external audit are not designed to be heavy-handed and to trip anyone up. The purpose is to review the council’s internal controls and governance and accountability, and to identify any areas for improvement. Internal audit is described as “guide dog, not guard dog”.

If your council does need support with the end of year processes, please do let us know at Northants CALC ([info@northantscalc.com](mailto:info@northantscalc.com)). There is plenty of guidance and training that we can direct you to, and we have access to people who have been through it all many times and can offer words of wisdom and comfort!

## **ADVERSE POSSESSION**

The term “adverse possession” is used in English land law to describe how someone or a legal entity, such as a parish or town council, can obtain title to land despite having no deeds. It is important in proving the right to establish title to build up evidence of use.

To claim title by adverse possession, the applicant must show that they have been in possession of the land, and that this possession has been “adverse”, for the period prescribed by the Limitation Act (12 years).

Possession may be adverse if the applicant has possession of the land, either by dispossessing the owner or by entering at some time after the owner has discontinued his own possession. There is no statutory definition of “adverse”, but it may be understood as meaning possession which is inconsistent with the rights of the owner (although it is clear that it does not have to be in any way hostile or aggressive).

There are two essential elements of possession, both of which must be shown to exist: the **fact** of possession and the **intention** to possess.

### **The fact of possession**

What is required here was described in a case in 1970 as follows: “...*what must be shown as constituting factual possession is that the alleged possessor has been dealing with the land in question as an occupying owner might have been expected to deal with it and that no-one else has done so.*”



What the applicant does with the land depends upon its nature. If it is a piece of land adjoining their garden, they may fence and cultivate it. Whatever the nature of the land, the applicant must be able to show that they have exclusive possession; sharing possession with the owner is not enough.

### **Intention to possess**

As well as taking physical possession of the land, the applicant must have the intention to possess it. This was defined in the same 1970 case as follows: “...*the intention, in one’s own name and on one’s own behalf, to exclude the world at large, including the owner with the paper title ...so far as is reasonably practicable and so far as the processes of the law will allow.*” The applicant must not only have this intention, but they must also make it clear to the whole world. This can be done by making a precedent statutory declaration. Sometimes a council can prove that it was its intention to possess the land but then allows the public use of the land as open space.

If your council would like to consider taking adverse possession of land, or if it thinks it has already had adverse possession for 12 years or more and would like to attempt to register, please contact Northants CALC ([info@northantscalc.com](mailto:info@northantscalc.com)) and we can put you in touch with the experts in the field.

## PLANNING CONFINES

Many parts of Northamptonshire have “planning confines” or “village envelope”, essentially an imaginary line around a settlement outside of which normal built developments would not be allowed. There are pros and cons. One pro is that a village is protected from “sprawl”, where development gradually pushes outwards creating bigger and bigger settlements. A related con is that most development occurs inside the confines meaning that housing density increases and important green space and breaks in the street scene are lost.

There are all sorts of exceptions to the rule. Development of agricultural buildings and other outlying properties, sites that provide for affordable housing, and community buildings may all be permitted outside the confines, subject to certain conditions.

One particular exception is self-build developments. The government’s guidance says “*Self-build and custom housebuilding covers a wide spectrum, from projects where individuals are involved in building or managing the construction of their home from beginning to end, to projects where individuals commission their home, making key design and layout*



*Self-build properties sometimes have innovative and eye-catching designs.*

*decisions, but the home is built ready for occupation (‘turnkey’). The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding and provides that both are where an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals.”*

If you have ever watched Kevin McCloud’s Grand Designs, you might have an image of “self-build” being a family hunkered in a static caravan on-site whilst nipping out to do a bit of brick laying or roofing inbetween rain storms. You probably don’t think of “self-build” being where, for example, a developer builds a

house for someone who had one cup of tea with the architect to discuss where the bathrooms might go.

A situation came to light last year in West Northamptonshire where planning permission was granted on a so-called “exception site” for a self-build development outside the village confines. It had been imagined that the application would be refused because the applicant did not have a local connection. When it was granted permission the chair of the parish meeting scrutinised the West Northamptonshire Council (WNC) planning policy. The policy clearly provides for “self-build” development for those with a “local connection”, but the definitions of those things might raise some eyebrows. The chair of the parish meeting wondered whether their village was the only place in West Northamptonshire to experience this issue, and whether they were the only ones surprised at the loose definitions. So Northants CALC did a survey of all parishes in West Northamptonshire to find out. We received 74 responses.

We asked, *“Were you aware that development outside the village confines might be permitted if it is a “self-builder” with “local connection?”*. 67% were not aware that self-build was even a potential exception.

We then asked, *“Were you aware that the definition of “self-builder” includes so-called “package” companies, who find the land, design the house, build it, and then hand it over to the “self-builder” who will occupy it?”* 78% were not aware of the very wide definition.

We then wanted to ask about the definition of *“local connection”*, which according to the policy would include someone who has a relative living in the area. That means a person living in Timbuktu who has a relative living in Brackley could apply for a self-build development in a village near Daventry on the grounds they had a “local connection” to that village.

We asked, *“Were you aware that “local connection” included e.g., anyone that has lived anywhere in West Northamptonshire for 12 months preceding their application, or anyone whose close relative has lived in West Northamptonshire for 24 months preceding their application?”* 82% of responders were not aware of the definition.

92% of responders said they agreed or strongly agreed that the definitions of “self-builder” and “local connection” were wider than they imagined.

35% of responders said that there had already been a “self-build” application outside the village confines in their parish, so the case that was drawn to our attention is very much not an isolated incident.

It’s not that responders were against the concept of self-build per se, in fact from the additional comments received many would probably agree with national planning policy, which says that a “*Self-build or custom build helps to diversify the housing market and increase consumer choice. Self-build and custom housebuilders choose the design and layout of their home and can be innovative in both its design and construction*”. It is the very wide definitions that are problematic.

The opportunity for parish and town councils to make formal representations on this matter will be during the development of the new West Northamptonshire Local Plan (WNLP) and Northants CALC will feed our survey results into that process. The survey results will also be discussed at a meeting at the end of April 2023 to see whether there is anything that can be done in relation to self-build applications received before the WNLP is made.

## **SPEAKING UP FOR PARISH COUNCILS**

The president of the National Association of Local Councils (NALC), Baroness Ros Scott of Needham Market, and vice-president, The Earl of Lytton, championed parish and town councils in the House of Lords Committee Stage of the Levelling Up and Regeneration Bill.

There were several revisions by NALC representatives in the session held on 15 March 2023. These adjustments covered the suspension of councillors, carer’s dependents allowance, review of neighbourhood governance, power to pay grants to local councils, financial assistance to places of worship and the General Power of Competence.

NALC is pressing for further amendments at the Report Stage of the Bill, such as the carer’s allowance.



## CIVILITY & RESPECT

More than one thousand parish and town councils in England have already signed the Civility & Respect Pledge, a public demonstration that they are committed to standing up to poor behaviour across our sector and to driving through positive changes which support civil and respectful conduct.



By signing the Pledge, a council is agreeing that it will treat councillors, clerks, employees, members of the public, and representatives of partner organisations and volunteers with civility and respect in their roles and that it has put in place a training programme for councillors and staff, has good governance arrangements in place including staff contracts and a dignity at work policy, and will commit to calling out bullying and harassment if and when it happens.

## SITUATIONS VACANT

Please see <https://www.northantscalc.com/council-vacancies> for details of all the officer vacancies that are currently open in Northamptonshire.



Burton Latimer Town Council is looking for a Town Clerk (20hrs/wk) and an RFO (10hrs/wk), as well as an Admin Assistant (10hrs/wk) and a Handyman (2.5hrs/wk). If you, or anyone you know, might be interested in any of those opportunities please see full details at the link above.

There is also a vacancy at Corby Town Council for an Administrative & Projects Officer (25hrs/wk), and Hardingstone Parish Council is looking for a Clerk & RFO (14hrs/wk).

As well as the vacancies currently posted we are also aware of several clerkships coming up soon, so if you or anyone you know might be looking for a clerkship and there isn't one on <https://www.northantscalc.com/council-vacancies> that fits the bill, please email [dmoody@northantscalc.com](mailto:dmoody@northantscalc.com) to receive details of potential future opportunities.

## A CAUTIONARY TALE

Parish and town councils are public bodies and should operate in an open and accountable way. However, from time-to-time councillors will be privy to confidential information that must not be divulged outside the council. The most common example is HR matters (the clerk's terms and conditions is personal information), but there may also be commercial and legal matters that are sensitive and confidential.

A council in Kent eventually settled a dispute with a landowner out of court for more than £55,000 when the original offer to settle at £5,000 was declined. The council had obtained legal advice, which, rightly, was discussed by councillors in a closed session at a council meeting. The legal advice suggested that the council may lose the case if it came to court. One councillor appears to have taken it upon himself to contact the landowner about the legal advice, as a result of which the landowner became more determined to take the matter to court.



A Code of Conduct complaint was made about the councillor and a Standards Committee found that on the balance of probabilities the councillor had made contact with a third party, without consent from the parish council to do so and that such contact was improper. The councillor was issued with a formal censure.

It is important for councils to be clear about what is, and what is not, confidential. Sometimes information might be confidential at the point that it is being discussed but cease to be confidential once the decision on it has been made. In other situations, confidential information may remain confidential for many years, or even permanently.

Fairly obviously, legal advice relating to a live dispute is highly confidential, at least until the case has been settled.

Councillors should be careful. If in doubt as to the confidentiality of any information it is best to check with the clerk before divulging it, even if you think sharing the information is being helpful.



## TRAINING AND DEVELOPMENT FOR LOCAL COUNCILS

Below is a couple of examples of the training opportunities we have over the next few weeks. Look for a course or event that may be of interest and make a booking through the Clerk to the Council. All councils must have a training budget from which councillors can book courses under the authority of the clerk. See <https://www.northantscalc.com/training-and-events> for details of all courses.

**Chairperson and Leadership** - 20 April 2023 18:30-21:00

<https://www.northantscalc.com/chairperson-and-leadership-training.html>

Are you thinking of becoming a chair for the council or one of its committees this coming May? Are you already a chair but would like to brush up on your skills? This course is for current and aspiring chairs. Covering topics such as How to conduct an efficient and effective council meeting, Dealing with disruptive Councillors and/or members of the public and the non-statutory duties of a chair. This course is part of the Leader stage of the Councillor Development Framework.

**Planning Nuts and Bolts** - 25 April 2023 19:00-21:00

<https://www.northantscalc.com/planning-nuts-and-bolts.html>

An introductory training session for Parish/Town Councillors and Clerks covering the basic principles of planning including policy, applications, appeals and enforcement. This course counts towards the Core stage of the Councillor Development Framework.

Other courses in April 2023 include:

- **Data Protection for Councillors** - Mon, 03 Apr 2023 18:00
- **Communicating with your community Part 1: creating a communications strategy** - Tue, 04 Apr 2023 10:00
- **Communicating with your community Part 2** - Wed, 05 Apr 2023 10:00
- **How councils can more effectively engage with young people** - Wed, 12 Apr 2023 10:00
- **Social Media for Councils Part 1** - Thu, 13 Apr 2023 10:00.

We are now running more courses than ever before, so the above is just a small selection of what is available to you as a clerk or councillor in Northamptonshire. See <https://www.northantscalc.com/training-and-events> for details of all courses.

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