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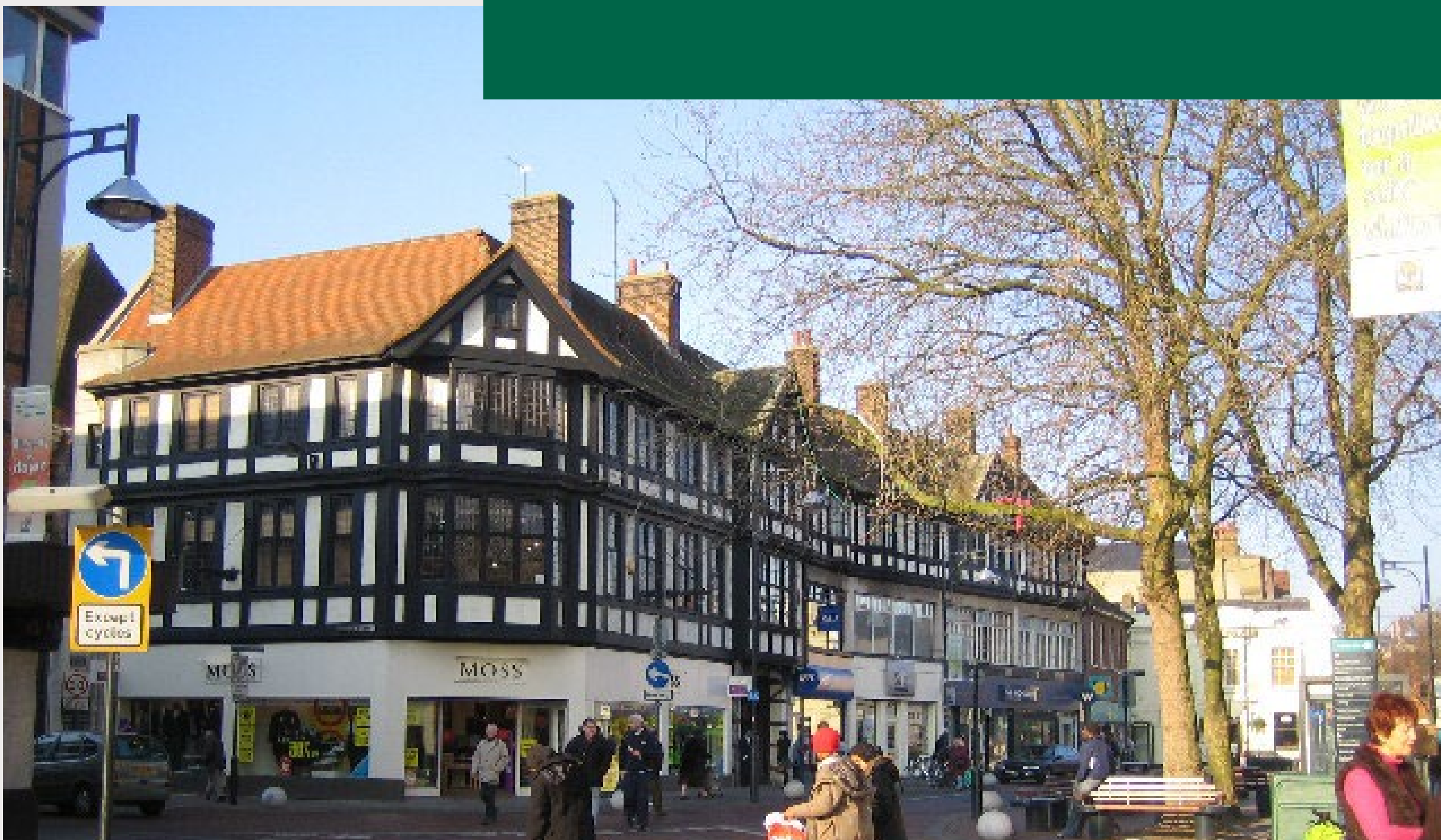
Local authority financial resilience



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Watford, Market Street and High Street geograph.org.uk 116645 , Watford: Market Street and High Street. The junction of Market Street with the pedestrianised High Street looking westwards. The timbered buildings date from 1928. by Nigel Cox/ image cropped

Contents

Summary

This briefing paper summarises concerns around local authority financial resilience, which initially rose in profile in the late 2010s. It begins by setting out the accountability framework within which local authorities operate, including the accountability system operated by the Department for Levelling Up, Housing and Communities (DLUHC), and statutory codes of practice: the Prudential Code, treasury management guidance, guidance on local authority investments, and guidance on minimum revenue provision.

The paper then provides brief details of the legal accountability structures faced by local authorities, and of the process that they must follow when producing their annual budgets. This includes the role of the head of finance (the 'section 151 officer') and the procedure surrounding the issue of 'section 114 notices' within local authorities.

The paper provides details of concerns expressed by the local government sector in recent years regarding the future funding of local authorities. These include analysis of falls in central government funding for local authorities; analysis of the 'funding gap' provided by the LGA's 'Future Funding Outlook' reports in the 2010s, and then by their 'Cost Pressures Model' in the 2020s; and debates concerning whether English local authorities collectively have access to sufficient funding to continue to discharge their functions. The paper also covers some analysis of how local authorities have tackled the challenges caused by reductions in funding. Brief mention is made of local authority commercial property investments, an issue that has received some attention in the national media and from bodies such as the National Audit Office due to the large sums of money involved.

The paper provides some details of higher-profile financial difficulties experienced by individual councils, including Northamptonshire, Croydon, Slough, Thurrock, Woking, Birmingham, and Nottingham.

The paper includes a separate section on the financial challenges generated for local authorities by the coronavirus pandemic during 2020-21. This includes details of the various funding support packages provided by the Government to local authorities in that financial year; brief details of support grants for businesses, distributed via local authorities; and changes to the timing of some existing grant provision, in order to minimise cashflow difficulties.

The paper provides details of the Local Government Association's peer challenge system, and the monitoring framework for local authorities operated by DLUHC. Lastly, it notes the 'financial resilience index' created in 2018 by CIPFA (the Chartered Institute of Public Finance and Accountability).

Local government is devolved to Scotland, Wales and Northern Ireland. Local authorities in those areas have not been subject to the level of funding reductions that their counterparts in England have faced since 2010. Accordingly, debates about local authorities' financial resilience have focused principally on England, and this briefing paper therefore principally covers England.

1 Local financial accountability: the legal framework

Local authorities' principal accountability for the services that they provide, and for their financial management, is to their electorates. Councils are independent bodies with legal responsibility for their own financial sustainability; they own assets, may borrow and invest money, and hold financial reserves to enable them to plan for and manage financial risk.

In England, the UK Department for Levelling Up, Housing and Communities (DLUHC) maintains a monitoring framework for English local authorities. This locates financial accountability – and therefore concerns about resilience – within a broader governance framework. Details of this were published in the National Audit Office's 2019 report Local authority governance, though a number of changes have since been made to the capital finance governance framework (see pages 7-8 below).

Local government is fully devolved to Scotland, Wales and Northern Ireland. In each devolved area, local authorities receive some of their funding in the form of grants from the devolved administrations. They are subject to audit by Audit Scotland, the Wales Audit Office, and the Northern Ireland Audit Office respectively.

1.1 Accounting officers

All departments and public bodies have an accounting officer, who is normally the chief executive or another senior official. The accounting officer is personally accountable to Parliament, normally via the House of Commons' Public Accounts Committee, for the use of public funds by the department or public body.[1] This has been the case since 1872.[2] The accounting officer has a statutory duty to prepare the body's accounts for examination by the Comptroller and Auditor General.[3] A further exploration of the accounting officer role can be found in the Institute for Government's 2013 report Following the Pound.

The DLUHC's fundamental responsibilities in this regard are set out in its Accounting Officer System Statement, last updated in June 2023:

1 See HM Treasury, Managing public money, 2013, pp15-17, for an explanation of the nature of this responsibility.
2 Treasury Minute, dated August 14, 1872. The National Archives, Public Record Office (PRO) BT 13/7/15
3 See the Government Resources and Accounts Act 2000, s 5(7)

> 2.2. As Principal Accounting Officer, I am personally responsible for safeguarding the public funds for which I have been given charge under the DLUHC Estimate and the Business Rates Retention and Non-Domestic Rates Trust Statement. Where I have appointed additional Accounting Officers, their responsibilities are also set out in this system statement.
>
> 2.3. This system statement covers the core department, its ALBs and other arm's length relationships such as local authorities and Local Enterprise Partnerships (LEPs). It describes accountability for all expenditure of public money through the department's Estimate, all public money raised as income, and the management of shareholdings, financial investments, and other publicly owned assets for which I am responsible. This system statement describes the system which I apply to fulfil my responsibilities as an accounting officer ...[to] ensure that spending is carried out with regularity, propriety and achieves value for money.[4]

The DLUHC considers itself to have an overall responsibility for the local government finance system in England, not just for the grant funds that it distributes to local authorities. The 2019 NAO report Local Authority Governance said:

> In the Department's view, its responsibility is for the local governance system as a whole. The Department relies on this system to ensure that local authorities are accountable for acting with regularity, propriety, and value for money in the use of all their resources. The accounting officer is clear that she is responsible for ensuring that the local governance system as a whole contains the right checks and balances and is working.[5]

In July 2021, the DLUHC's predecessor, the Ministry for Housing, Communities and Local Government (MHCLG), published a note entitled Local authority capital finance framework: planned improvements. It stated that practice in a small number of authorities introduced high levels of risk, which it proposed to contain:

> ...while many authorities are compliant with the Framework, there remain some authorities that continue to engage in practices that push the bounds of compliance and expose themselves to excessive risk.
>
> Further, although recent scrutiny has focussed on the risks associated with borrowing for commercial investments, it is clear that pursuit of commercial profit is not the only activity that creates risk to the system. Government is aware of risky practices such as authorities taking on disproportionate levels of debt and pursuing novel investments for which they do not have the right skills and experience. Problems with governance and management of risk have been identified in recent cases of financial failure, as have issues arising with arms-length bodies such as local authority companies.[6]

MHCLG's response to this situation was as follows:

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4 DLUHC, Accounting Officer System Statement, June 2023, p6

5 NAO, Local authority governance, HC-1865 2017-19, 2019, p11

6 MHCLG, Local authority capital finance framework: planned improvements, 28 Jul 2021, para 11-12

- Obtaining better quality data, permitting MHCLG to "develop… an analytical process to pre-emptively identify risks in the sector";[7]
- Commissioning a review of governance and skills around borrowing and investment in local authorities;
- "A range of interventions to directly address risk", which may include engaging with local auditors;[8]
- Reviewing statutory powers to cap borrowing;
- Plans to "review and clarify" guidance on minimum revenue provision (see section 1.2 below).

1.2 Statutory guidance and codes of practice

As DLUHC is responsible for the local government finance system as a whole, its accountability system statement includes two subsidiary accountability systems, which provide accountability frameworks for the substantial amounts of revenue that it provides to other elected bodies within England. These are:

- the 'local government accountability system', covering local authorities;
- the Local Growth Fund accountability system, covering Local Enterprise Partnerships (LEPs). An assurance framework document was published in January 2019 covering LEPs, and also covering Mayoral combined authorities where these manage LEP funds. However, Government funding of LEPs will cease from April 2024.

The following four codes of practice play a critical role within the financial framework applying to local authorities:

- Treasury management guidance, concerning the investment of local authority funds and cash holdings. In 2017 CIPFA (the Chartered Institute of Public Finance and Accountancy) published a guidance manual entitled Treasury Management in the Public Services: code of practice and cross-sectoral guidance notes, which applies to local authorities and other public bodies. CIPFA consulted on revisions to this code of practice in January 2021, and published a revised code of practice in December 2021;

- Statutory guidance on local government investments and statutory guidance on minimum revenue provision. New editions of both of these were published on 2 February 2018, alongside a Government response to consultation. The guidance on investments covers the placing of short and long term deposits with financial institutions, and also the purchase of assets as a form of investment. The guidance on minimum revenue

7 Ibid., para 19
8 Ibid.

provision concerns the amount of cash local authorities should put aside to service debt repayments in any given financial year.

- The Government consulted in December 2021 on further changes to the guidance on minimum revenue provision. The consultation reflected concerns that some authorities were not applying MRP correctly. The consultation noted two practices that the Government considered should be prevented. These are: ignoring investment assets for MRP purposes unless they have fallen in value; and subtracting capital receipts from a 'gross' sum allocated for MRP. The consultation proposes to prevent these via changes to secondary legislation.[9] The Local Government Association noted potential difficulties with the proposals in its response in February 2022. DLUHC then re-issued a similar consultation document in December 2023.[10]

- The Prudential Code, which governs local authority borrowing. Published by CIPFA, this document contains statutory guidance on the management of local authorities' capital finance, in particular the setting of borrowing limits. The most recent version of the Code was published in December 2021. More detail is available in the Library briefing Local government in England: capital finance.

The revisions to these codes in the late 2010s took place in the context of substantial increases in local authority borrowing and investments (see section 3.4 below), and general concerns about local authority financial resilience. The National Audit Office stated in March 2020 that the then MHCLG:

> ...did not have clear measures to test the impact of the changes on risk from commercial property investment and did not carry out new quantitative analysis of commercial investment activity in the sector. The Department has told us it has subsequently decided this work will form a first phase of its review and that this work was scoped to provide an initial review of early progress. The Department will review trends in the sector in later phases of its review work.[11]

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9 The changes would be made to the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003

10 DLUHC, Consultation on changes to statutory guidance and regulations: Minimum Revenue Provision, 21 Dec 2023

11 NAO, Local authority investment in commercial property, HC-45 2019-21, March 2020, p11

2 Local authority budgeting

2.1 Legal requirements

Local authorities must, in normal times, set a balanced budget for each financial year. They must follow a procedure laid out in legislation in order to do this. They must also maintain a system of internal audit, and make arrangements for the external audit of their financial management and the value for money achieved in their provision of services.

In England, Wales and Scotland, local authorities are required to set their budgets before 11 March each year,[12] in advance of the start of the new financial year on 1 April. The date in Northern Ireland is 15 February.[13] There is no legal requirement for the Government, or any independent authority, to approve or sign off a local authority's budget.

Local authorities in England and Wales are required to set a balanced budget for each financial year, following a specific process. They must calculate "the expenditure which the authority estimates it will incur in the year in performing its functions";[14] and then they must subtract "the sums which it estimates will be payable for the year into its general fund",[15] not including business rates, revenue support grant or other grant funding. This calculation leads to a local authority's 'budget requirement' for the financial year in question.

The local authority must then subtract the amount that they expect to receive in Government grants and business rates. The amount remaining is the total amount that they must raise in council tax.[16]

These provisions have the effect of obliging a local authority to set a balanced budget, by providing that its forecast expenditure must align with its forecast income. 'Income' may include transfers from the authority's reserves, but this

12 Local Government Finance Act 1992, section 30 (6) (England and Wales); section 93 (Scotland). Precepting authorities must set their budgets by 1 March each year.

13 See the Local Government (Capital Finance and Accounting) Regulations (Northern Ireland) 2011 (SI 2011/326), regulation 3

14 Local Government Finance Act 1992 section 32 (2) (a)

15 Ibid,. s32 (3) (a)

16 For Scotland, see section 93 of the Local Government Finance Act 1992.

must be specified in the calculations. The provisions prevent a local authority from borrowing money to cover its annual revenue expenditure.[17]

Due to the financial impacts of the Covid-19 pandemic, the Government made regulations in November 2020 permitting local authorities to balance their budgets over three years (2021-24) rather than one. This was done by permitting them to make provision for a deficit in their collection fund over three years rather than one. The 'collection fund' is the account in which a local authority places its council tax and business rates income.[18] The regulations apply only to budget shortfalls accumulated in 2020-21. Where authorities have such a deficit, the regulations state that they must spread it across the three years in question.[19] The Government has published guidance and a 'deficit spreading tool' to assist local authorities to calculate whether they are eligible for these provisions.[20]

Local authorities are required to undergo an annual external audit. This is governed by the 'local audit' regime. The authority's auditor must provide an opinion on a local authority's accounts, and also a conclusion on value for money. To this end, the auditor has various powers to ensure appropriate financial management. They may investigate items in the authority's account at the request of an elector; they may apply to the court to have an item of expenditure declared unlawful; they may make a statutory recommendation which is copied to the Secretary of State; and they may make a 'public interest report' on matters of concern within a council's accounts. Further details are available in the Library briefing Local audit and accountability in England.

Local authorities must also maintain a system of internal audit, as required by the Accounts and Audit Regulations 2015 (SI 2015/234). These "require that elected members maintain a sound system of internal control including arrangements for the management of risk, an effective internal audit, and that local authorities prepare annual accounts".[21]

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17 Local authorities follow the standard accounting distinction between capital and revenue expenditure. Capital funding is spent on assets that last for several years, and that may depreciate over time (see the Library briefing Local government in England: capital finance). Revenue expenditure refers to regular annual spending on matters such as service provision and staffing costs.

18 See the Local Authorities (Collection Fund: Surplus and Deficit) (Coronavirus) (England) Regulations 2020 (SI 2020/1202)

19 MHCLG, letter to finance directors, 5 November 2020

20 See MHCLG, Council Tax Information Letter 6/2020, 15 December 2020

21 MHCLG, Accounting Officer System Statement, July 2018, p42. See also regulations 3-6 of the Accounts and Audit Regulations 2015. For Scotland, see regulation 7 of the Local Authority Accounts (Scotland) Regulations 2014 (SI 2014/200); for Northern Ireland, see rule 6 of the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015 (SI 2015/106)

2.2 Section 114 notices

In England and Wales, each local authority's chief finance officer (the 'section 151 officer') has statutory status and is responsible for financial administration. The chief finance officer has a number of duties related to financial resilience, including a duty under section 25 of the Local Government Act 2003 to report on the robustness of the council's budget estimates and the adequacy of its reserves.[22]

The chief finance officer is also under a statutory duty to issue a formal report if s/he believes that the council is unable to set or maintain a balanced budget. This is often known as a 'section 114 notice', after section 114 of the Local Government Finance Act 1988:

> 114 (3) The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

After a section 114 notice is issued, the local authority may not incur new expenditure commitments,[23] and the full council must meet within 21 days to discuss the chief finance officer's report.[24] There is no legal provision regarding what action the council must take then. Although media reports may describe the issue of a section 114 notice as indicating 'bankruptcy', there is no procedure in law for a UK local authority actually to become bankrupt, and none has ever done so.

The issue of a section 114 notice is a statutory requirement upon the chief finance officer, but it only usually takes place when regular discussions have failed. The Chartered Institute for Public Finance and Accountancy (CIPFA) says:

> To be at the point where a Section 114 report is a real possibility would suggest that the organisation has failed to heed or act effectively on the warnings of the CFO about the seriousness of the budgetary position. Warnings and conversations that CIPFA would expect to have been taking place at the highest level of the organisation. Facing a difficult financial outlook is not a reason in itself to expect a rush of Section 114 reports.[25]

Section 114 notices issued in the late 2010s and early 2020s are listed in the table below. Prior to these, the most recent issue of a section 114 notice

22 Section 6 (2) of the Local Government Finance Act (Northern Ireland) 2011 makes an equivalent provision to section 25 of the 2003 Act for England and Wales. However, there is no equivalent of the section 114 notice in Northern Ireland.

23 See section 115 (6) of the Local Government Finance Act 1988

24 See section 115 (2-3) of the Local Government Finance Act 1988

25 CIPFA, Balancing local authority budgets, 2016

relating to a failure to balance the budget was by the London Borough of Hackney in October 2000.

The notices issued by Northumberland, and Nottingham City (Dec 2021) were issued because of unlawful items of account (see section 114 (2) of the 1988 Act). This is distinct from notices under section 114 (3) relating to balancing the budget..[26]

Section 114 notices: 2018 onwards	
Nottingham City Council	29 Nov 2023
Birmingham City Council	5 Sep 2023
Woking Borough Council	7 Jun 2023
Thurrock Borough Council	18 Dec 2022
Croydon Borough Council	22 Nov 2022
Northumberland Council	23 May 2022
Croydon Borough Council	2 Dec 2021
Nottingham City Council	15 Dec 2021
Slough Borough Council	2 Jul 2021
Croydon Borough Council	11 Nov 2020
Northamptonshire County Council	24 Jul 2018
Northamptonshire County Council	2 Feb 2018

During the later months of 2023, a number of commentators suggested that ongoing pressures on local authorities' finances meant that further section 114 notices could be expected in 2024 and coming years. The chief executive of CIPFA, Rob Whiteman, speculated about possible consequences in July 2023:

> My judgement is we may see more s114s from commercialism and excessive borrowing that were in the pipeline before the rules tightened. ...More likely, however, if we see more councils in close proximity to issuing a s114 it will be owing to difficulty covering significant pressures, such as adult and children's social care.
>
> ...sooner or later we will reach a point when a well managed authority, whose costs benchmark well and resources are managed effectively, hits the buffers through a lack of funding to meet service demands.
>
> There is a risk, of course, that many more s114 notices may normalise financial management failure. I think there is scope for a double moral hazard developing. The Government worries if it 'bails out' councils that can't manage their budgets or debt repayments then it creates an incentive to borrow and take imprudent risk. Meanwhile, rather than make cuts or reprioritise reserves to cover overspending, might some councils deem a s114 notice as a less unattractive option if others are doing the same? How many councils can DLUHC intervene in at any one time?

26 See Aysha Gilmore, "Northumberland county council issues s114 for unlawful expenditure", Room 151, 24 May 2022; Nick Golding and Jessica Hill, Nottingham issues s114 over 'unlawful' use of HRA funds, Local Government Chronicle, 15 Dec 2021

> If this happens it's a game of chicken that will end with some flattened and bloodied feathers. I am in no doubt the Treasury and DLUHC will allow a council to go bust and default on its debts pour encourager les autres if there is any hint that serving a s114 notice becomes something of a fashion.[27]

[27] Rob Whiteman, Section 114s: where are we headed next?, Municipal Journal, 31 July 2023

3 Financial resilience concerns: England

3.1 Local authority financial resilience in the 2010s

Financial resilience became a significant concern in English local government in the late 2010s. This arose in the context of substantial reductions in grant funding for local authorities from the UK Government. Discussions of resilience generate discussion of governance issues – good planning, strong financial control, and audit – that apply to all local authorities in the UK. During the 2010s and early 2020s, the profile of such issues was higher in England, generating a greater quantity of debate in Parliament and amongst stakeholders.

Central government grant funding for local authorities in England has fallen substantially since 2010. England-wide and regional figures can be found in the Library briefing Local government finances. Figures for individual local authorities can be found in the Library's interactive local authority finance data pages.

English local authorities have also experienced a fall in their 'spending power' since 2010. This is a UK Government calculation of their capacity to spend funds: in essence, it takes account of a local authority's grant funding, business rates revenue, and its capacity to raise council tax (not necessarily the actual rise in council tax). The Government has produced a note explaining how it calculates spending power.[28]

In 2018 the Public Accounts Committee stated that central government funding for local authorities fell by 49.1% in real terms between 2010 and 2018. This was equivalent to a real terms reduction in spending power of 28.6%.[29]

In March 2018, the Bureau of Investigative Journalism suggested that a number of county councils faced financial stress in the short- to medium-term.[30] Pixel Financial Management carried out some research on local authority reserve levels in 2018, which suggested that district councils too

28 See MHCLG, Core spending power: explanatory note, January 2019

29 Public Accounts Committee, Financial sustainability of local authorities, HC-970 2017-19, 2018, p7

30 Gareth Davies, County councils in crisis: three more named as showing signs of financial distress, Bureau of Investigative Journalism, 8 Mar 2018. See also CIPFA, Surrey County Council finance, July 2018, p2

might face difficulties in the medium term owing to uncertainties over business rates income.[31]

Financial difficulties intensified during the Covid-19 pandemic. The Local Government Chronicle reported in August 2020 that a leaked Cabinet Office document suggested that 1 in 20 local authorities were at high risk of failure due to the financial pressures of responding to the pandemic.[32] The Government provided emergency financial support throughout the 2020-21 financial year (see section 6.2 below).

The NAO report Local government finance in the pandemic, published in March 2021, surveyed unitary and county councils, and found that 67% of respondents had made unplanned in-year savings, and 26% expected to use reserves to cover overspends at the end of 2020-21.[33] These conclusions were based on the situation in December 2020. Subsequently, the IFS concluded that overall, emergency support from the Government to English local government in 2020-21 was equivalent to the cost pressures arising from the pandemic, though individual councils had been over- or under-compensated.[34]

3.2 Cost pressures and the 'funding gap'

The Local Government Association publishes estimates of the 'cost pressures' falling on local authorities. These are used to provide an estimate of the additional funding needed by the sector to maintain services at the level of the recent past. For instance, its submission to the Spending Review in October 2023 said:

> Our analysis shows that by 2024/25 cost and demand pressures will have added £15 billion (28.6 per cent) to the cost of delivering council services since 2021/22. Local government received additional funding in 2023/24 and there is a commitment to a further uplift in 2024/25. Despite this we estimated in July that councils were facing funding gaps of £2.0 billion in 2023/24 and £900 million in 2024/25. But following an updated inflation forecast from the Bank of England in August our analysis now shows funding gaps of £2.4 billion in 2023/24 and £1.6 billion in 2024/25. These gaps relate solely to the funding needed to maintain services at their current levels. The implication here is that councils do not have enough funding simply to stand still.[35]

The LGA's estimates of cost pressures include modelling the impact of pay, energy prices, inflation, and population changes, based on data from the

31 Adrian Jenkins, "Research: financial stresses remain despite stabilisation of reserves", Local Government Chronicle, 28 June 2018

32 See Martin George, "Cabinet Office: 5% of councils 'at high risk of financial failure'", Local Government Chronicle, 24 Aug 2020

33 NAO, Local government finance in the pandemic, HC-1240 2019-21, 10 Mar 2021, p10

34 Kate Ogden, David Phillips and Cian Sion, What's happened and what's next for councils?, 7 October 2021

35 LGA, Autumn Statement 2023: LGA submission, 24 Oct 2023

Office for National Statistics. Cost pressures that are unique to individual local government services are also taken into account, and income from sales, fees and charges is modelled.[36]

Previously, the LGA published a series of reports in the 2010s entitled 'Future funding of local authorities'. Each of these identified a 'funding gap' that was forecast to arise by a particular date in the (then) future, based on the difference between Government figures for projected local authority income and projected demand for service spending at that point.

Although central funding of local authorities fell throughout the 2010s, the forecast 'funding gaps' vary in size: they have not become larger and larger over time. This is because they are (normally) based on comparing service provision at the point at which they are published with projected service provision at a future date: they are not all based on the same starting point.

For example, the first of these reports, published in 2012, was entitled Funding outlook for councils from 2010-11 to 2019-20: preliminary modelling. It estimated a £16.5 billion annual funding gap by 2019-20 compared with 2010-11. A further paper in 2015 revised the projected funding gap for 2019-20 to £9.5 billion.[37] This figure is lower because it uses local authority spending in 2015 – which had fallen from levels in 2010 - as its baseline. In a briefing published on 1 October 2018, the LGA estimated an annual funding gap of £3.85 billion in 2019-20, rising to £7.81 billion by 2024-25.[38]

All figures of this kind should be treated with caution. They compare funding at the time of writing with future funding projections. They should not be compared with one another, or used to draw conclusions about the comparative health of local government finances at different points since 2010.

The LGA's projections take into account projected rises in demand and population in the relevant periods. This is also accounted for in other analyses. The National Audit Office's 2018 report Financial sustainability of local authorities stated that demand for certain services had risen during the 2010s.[39] The report stated that, between 2011 and 2018, the number of looked-after children had grown by 11%; the estimated population in need aged 65 or over by 14%; and the number of unintentionally homeless people by 34%.

3.3 How much funding do local authorities need?

These concerns have led to debates on how much funding the local government sector as a whole should receive, and how this should relate to

36 For further information on the LGA's cost pressures methodology, see LGA, Cost pressures and funding gap modelling 2023 - Technical Annex, 2023

37 LGA, Future funding outlook for councils 2019-20: interim 2015 update, July 2015

38 LGA, Local services face further £1.3 billion government funding cut in 2019/20, 1 October 2018

39 National Audit Office, Financial sustainability of local authorities 2018, HC 834 2017-19, 2018, p19

need. There exists no agreed, objective measure of 'need' for local authority services, nor is there a settled mechanism to translate 'need' into total levels of funding.

The local authority finance website Room 151 reported in September 2018:

> Local authorities need to unite to make the case for overall greater funding, rather than argue over how the money is divided, heard delegates at the summit, which is being held alongside the Local Authority Treasury Investment Forum.
>
> Tony Kirkham, director of resources at Newcastle City Council, said: 'The cake needs to be bigger. The question of who gets what out of the distribution is in some ways secondary for me – the cake isn't big enough.
>
> The government has not validated that we have not got enough money in the first place. It hasn't assessed the 1400 statutory requirements placed on us and the amount needed to deliver them. And it doesn't allow us to raise council tax.'
>
> Tony Travers, visiting professor at the London School of Economics, also speaking at the summit, said: 'The truth is that national politicians in government and indeed at the top of the opposition are unwilling to face the fact that local government can't deliver £100 worth of services for £70.'[40]

The outgoing Comptroller and Auditor General, Sir Amyas Morse, said in a blog post in September 2018:

> …During this progressive reduction in funding [since 2010], I have not seen any evidence-based effort to reconcile funding to local needs. In my view, the policy objectives for local government and the local government statutory duties have not been properly weighted against potential efficiency savings. The 2015 Spending Review made some headway here but it was not a comprehensive approach.[41]

Sir Amyas also drew attention to a lack of local government sector-wide statistics to indicate changes in patterns of service use in response to the changes identified.

3.4 Responses to funding pressures

Local authorities have been required to respond to falling levels of funding, within the constraints of balancing their budgets annually. In a report in 2018, the NAO identified changes in their patterns of response to funding challenges throughout the 2010s:

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40 Colin Marrs, "FDs' Summit 2018: Funding crisis poses 'existential threat' to public services", Room 151, 20 Sep 2018

41 Sir Amyas Morse, "When 'more for less' becomes 'less for less': the implications of central decision-making for the delivery of frontline services", LSE Politics and Policy, 21 September 2018

> 1.23 Our modelling indicates a shift in the way that authorities have used these different options since 2010-11.... For the first three years of funding reductions, local authorities as a whole reduced service spending at a rate in excess of their income reductions. This allowed them to build up their reserves and also offset growth in other spending.
>
> 1.24 In the second three-year period, the scale of funding reductions was similar to the first period, but net reductions in service spend accounted for less than half of the required savings. Instead, at the aggregate level, local authorities have increasingly offset funding reductions by reducing other spending, reducing their net contributions to reserves or drawing them down, and growing alternative income such as commercial trading profits or external interest.
>
> 1.25 This suggests that authorities have moved from simply reducing service spend to looking for alternative savings and sources of income. However, a growing reliance on the use of reserves to offset funding reductions raises questions about the sustainability of the current model.[42]

Rishi Sunak, then minister for local government, said in an interview in December 2018:

> 'Councils individually are quite rightly the ones making those decisions closely to those they represent; it is not for me to sit in Whitehall to dictate to people exactly how they should serve their constituents.
>
> When it comes to funding, a combination of the Budget and the settlement shows an enormous vote of confidence and support for the sector.
>
> In aggregate the resources available to councils are growing significantly head of inflation in this forthcoming year. It is the largest year over year cash increase in this four-year settlement period.'[43]

In June 2019, the Housing, Communities and Local Government Committee published a report entitled Local government finance and the 2019 Spending Review. One of its conclusions was that "if HM Treasury wants local government to continue providing the services it currently does it needs to provide local government with a significant real-terms increase in its spending power".[44] Like the LGA and NAO reports cited above, it identified significant rises in demand for local government services during the 2010s, with which funding had not kept pace.[45]

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42 National Audit Office, Financial sustainability of local authorities 2018, HC 834 2017-19, 2018, p21

43 Jon Bunn, "Sunak: no 'general clampdown' on local authority entrepreneurs", Local Government Chronicle, 13 December 2018. The entire quote is from Mr Sunak himself.

44 Housing, Communities and Local Government Committee, Local government finance and the 2019 Spending Review, HC-2036 2017-19, 21 Aug 2019, p5

45 Ibid,. p.8-9

3.5 Commercial property investment

During the 2010s, a number of English local authorities made substantial investments in commercial property, many using sums of money borrowed from the Public Works Loan Board (PWLB). The aim is to bolster their income, and protect local services, by letting commercial properties at a net profit. More information on these developments can be found in the Library briefing paper Local government: commercial property investment.

Concerns have been expressed that borrowing and investing comparatively large sums of money could damage the resilience of local authorities. The National Audit Office reported on these developments in March 2020.

> There are inherent potential risks associated with the acquisition of commercial property. These include 'specific risk' associated with each individual property such as the length of the lease or the financial strength of the tenant. Local authorities also face 'systematic risk', which reflects movements in markets; in the last recession UK commercial property values and market rental values both fell.[46]

The NAO also noted a lack of centrally-held data on the investment decisions made by local authorities:

> The Department has data on local authority debt levels and costs and it has used these to support its work on the financial sustainability risks of commercial investments. However, there are a range of other areas such as trends in buying out of area, the contribution of commercial income to service expenditure, and the scale of contingency funds where the Department needs better and more timely data and analysis.[47]

Government concerns over the effects of large-scale borrowing led to the Government raising the PWLB interest rate by 100 basis points (1%) on 9 October 2019, and proposing to prevent local authorities that borrow money to purchase property for yield only from using the PWLB at all. A consultation on this proposal concluded in November 2020, and it came into effect on 26 November. The 1% increase was reversed on the same day.[48] The Government also published additional guidance on the lending terms of PWLB loans following this change.[49]

These changes will not affect local authorities' powers to invest in property for purposes other than purely for financial yield. The majority of property investment by local authorities is directed towards their functional responsibilities, such as regeneration. Local authorities may still borrow from the PWLB if they are spending money on their functional responsibilities in a way that will also generate commercial income. However, they will be unable to do this if their financial plans include transactions intended solely to

46 NAO, Local authority investment in commercial property, HC-45 2019-21, March 2020, p8
47 Ibid., p10
48 See PWLB, Operational Circular 162, 26 November 2020.
49 See PWLB, Treasury guidance, 26 November 2020.

generate income. This issue is discussed further in the Library briefing Local government: commercial property investments.

The Public Accounts Committee expressed concern in July 2020 that local authority commercial property investments constituted a severe financial risk in a small number of cases:

> The behaviour of these authorities not only means that they are highly exposed to risk, but it also alters the terms of the debate; the outlier authorities are viewed as behaving poorly, while other authorities borrowing for yield at relatively lower levels are now not necessarily seen as an issue. Extreme behaviour needs to be curtailed not only for the risk it represents for those specific cases, but also for the mixed messages it sends across the sector, normalising behaviour that may be relatively less risky but nonetheless is still not within the spirit of the framework.[50]

In December 2022 KPMG issued a Public Interest Report in respect of commercial property acquisition by Spelthorne Borough Council. Spelthorne's commercial acquisitions have had a high profile for several years. The Public Interest Report says:

- Three properties that Spelthorne bought in 2017-18 for £225m were purchased unlawfully. This is because these properties were outside Spelthorne's area and therefore could only have been bought for a commercial purpose.[51] The Localism Act 2011 requires councils to use a wholly-owned company in this scenario, but this was not done;
- Commercial property acquisition was not mentioned in the council's investment strategy. This meant that, in deciding to acquire commercial property, the council could not claim to be meeting its statutory duty to 'have regard' to its own strategy;
- The report criticised the governance of the investments and the lack of in-house expertise. It noted that the rate of return on the purchased properties was below what an institutional investor would expect.

The report also noted that Spelthorne has "brought its policy of borrowing to invest in commercial property to an end" (see its Capital Strategy 2021-2026). KPMG suggest that, whilst Spelthorne's strategy has not led to financial difficulties to date, this could change in the longer term. Many of its loans are 50 years in length but many of its commercial properties are leased for only 20 years, making it difficult to assess the risk posed by the commercial strategy.

50 Public Accounts Committee, Local authority investment in commercial property, 11th report, HC-312 2019-21, p6

51 See Adam Carey, Council and external auditors at loggerheads over lawfulness of commercial property investment spree, Local Government Lawyer, 2 Dec 2022. This article notes that Spelthorne remained unpersuaded by KPMG's findings.

3.6 Capitalisation directions

The Government has made bilateral agreements with a number of authorities since early 2021.[52] These took essentially the same form. The Government agreed a 'capitalisation direction' with the authority using section 16 of the Local Government Act 2003. This type of direction provides exceptional permission for the authority to transfer a specified sum from its capital to its revenue account, and to use that sum to bolster its revenue spending. The agreements made provisions for external assurance reviews of the local authority's spending, applied a higher interest rate to future PWLB loans, and determined how the authority should make its minimum revenue provision in its accounts (normally a matter of local discretion).

These capitalisation directions have been erroneously reported as 'bailouts' or 'loans' in many parts of the media. In reality they consist of permission for local authorities to use existing money in a different way. They do not provide local authorities with additional grant or loan funding that they did not previously possess. More information on capitalisation can be found in the Library briefing paper Local government in England: capital finance.

This policy is in line with Government practice when local authorities have encountered severe financial difficulties in the past: as a rule it does not provide any financial support or 'bailout'. This was true in two of the most recent large-scale threats to local government financial stability – interest rate swaps (in the late 1980s) and Icelandic banks (2008-09). More information on these episodes can be found in the Library briefing Local government: commercial property investments. Exceptionally, the Government loaned Western Isles Council (Comhairle nan Eilean Siar) £30 million after it lost £24 million following the collapse of the Bank of Credit and Commerce International (BCCI) in 1991.

52 MHCLG, Exceptional financial support for local authorities, 7 April 2021

4 Financial resilience concerns: Scotland and Wales

4.1 Scotland

Audit Scotland produces an annual 'financial overview' report on the local government sector in Scotland. The most recent covers the 2022/23 financial year. It states that Scottish government revenue funding for local authorities – in effect, grant – had risen by 2.6% in real terms since 2013-14.[53] However, this is expected to reduce in the next few years. In 2021/22 there was a 5.2% rise in revenue funding in real terms, excluding exceptional funding related to the Covid-19 pandemic. There is no equivalent in Scotland (or Wales) of the concept of 'spending power' used by the UK Government with regard to English local authorities.

Unlike in England, local government grant funding in Scotland includes school education funding and business rates revenue, but it does not include fire and rescue or public health; thus these figures are not directly comparable with England.[54]

4.2 Wales

The Wales Audit Office issued a report on 18 August 2016 on the financial resilience of local authorities in Wales. It stated that authorities had managed reductions in funding effectively, but that they needed to improve their capacity, strategic planning, and income generation plans in the medium term:

> Dealing with the impact of these budget decreases therefore requires local authorities to significantly change the way they manage and govern their finances. Financial management arrangements that were once good enough, are now unlikely to be fit for purpose to continue to deliver strong financial outcomes in the future. The scale of cost reduction required also means that local authorities have to look beyond immediate short-term savings and think more radically about how to reduce costs, and how to sustain this in the longer term whilst still maintaining or improving services.[55]

53 Accounts Commission [Audit Scotland], Local government in Scotland: Overview 2023, 2023, p15
54 Fraser of Allander Institute, Fiscal issues facing local government in Scotland, 2017, p.10-12
55 Wales Audit Office, Financial resilience of local authorities 2015-16, 2016, p6

The report identified that several local authorities intended to cover unplanned budget gaps by using earmarked reserves; or by allowing underspending in one service area to mitigate overspending in another in any given financial year. It suggested that "as relatively easy savings have already been made, local authorities would need to develop longer-term transformational projects to address the significant budget pressures they face".[56]

A further report from the Wales Audit Office, in 2020, stated that the impact of Covid-19 on local authorities had been muted up to that point, noting that Welsh councils' levels of reserves had remained static in 2019-2020.[57] Another report published in September 2021 stated that councils had continued to receive sufficient funding to enable them to mitigate the effects of the pandemic, and had not had to access reserves at significant levels in order to balance their budgets. However, the longer-term outlook remained uncertain.[58]

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56 Ibid,. p17

57 Audit Wales, Financial Sustainability of Local Government as a Result of the COVID-19 Pandemic, October 2020, p7

58 Audit Wales, Financial Sustainability of Local Government – COVID Impact, Recovery and Future Challenges, September 2021

5 Financial stress: effects on individual authorities

This section outlines some details of events in seven local authorities that have issued section 114 notices since 2018.

5.1 Northamptonshire County Council

During 2016, evidence became available of the potential for substantial financial failings at Northamptonshire County Council. In response to these concerns, on 9 January 2018 Sajid Javid, then Secretary of State for Housing, Communities and Local Government, commissioned a Best Value inspection by Max Caller, a former Boundary Commissioner and local authority chief executive. In a written statement, Mr Javid said:

> For some time there have been concerns about financial management and governance at Northamptonshire County Council, and in recent months a number of reports have been published which have led me to question whether the authority is failing to comply with its best value duty. Particular reports include the external auditor's (KPMG) "adverse" value for money opinion in relation to the 2015-16 and 2016-17 accounts, publicly available budget documents, and the September 2017 Local Government Association peer review into the council's financial planning and management.

While the Best Value inspection was in progress, the county council's section 151 officer issued a section 114 notice, on 2 February 2018. On 20 February 2018, KPMG issued an advisory notice, indicating that they believed that the council was about to set an unlawful budget.

The county council met to discuss the section 114 notice on 22 February. It eventually passed a revised budget on 1 March 2018, which reduced spending for 2018-19 by a further £10 million.[59] This met the council's legal requirement to set a balanced budget.

Mr Caller's report was published on 15 March 2018. It found that Northamptonshire had failed to exercise proper budgetary control since 2013-14. Earmarked reserves had fallen from £57.7 million in 2013-14 to £8.8 million by 1 April 2017. The council had "repeatedly under-assessed the level of spending pressures it will experience across the years within its medium-term

59 Colin Marrs, "Northamptonshire plans for £10m in cuts a week after 'unlawful' budget", Room 151, 1 Mar 2018

financial plan".[60] The report also noted that the council had used capital receipts to compensate for overspending in its revenue budget, but that no strategy document directing this use was in existence, contravening statutory guidance.[61]

On 10 May 2018, the Government intervened formally in Northamptonshire, appointing two commissioners to run the council for the period up to March 2021.[62] However, the section 151 officer issued a second section 114 notice on 24 July, in respect of the 2018-19 financial year, believing that the council was not on track to make necessary in-year savings. Further reductions in spending were subsequently voted through.[63]

The Government then agreed to allow Northamptonshire to use £70 million of capital receipts to bolster revenue expenditure (a 'capitalisation direction').[64] £42 million of this sum came from the sale and leaseback of the county council's headquarters, One Angel Square.[65] The council was subsequently also permitted an extra 2% of 'headroom' in the council tax referendum regime for 2019-20.[66]

Mr Caller's report also recommended that, in the medium term, the county council area should be restructured into two unitary authorities. A proposal to this effect was submitted to the Secretary of State in August 2018.[67] Two new unitary authorities, North Northamptonshire and West Northamptonshire, held their first elections in May 2021 (postponed from 2020 due to the coronavirus pandemic).

Unlike many other authorities covered in this section, commercial property investment was not a factor in Northamptonshire's financial difficulties. A major cause was its use of reserves and capital budgets to plug gaps in revenue spending.

In July 2020, the Government published a 'lessons learned' document written by the commissioners appointed to Northamptonshire.[68]

60 DCLG, Northamptonshire County Council Best Value Report, 2018, p23

61 See the Library briefing Local government in England: capital finance for an explanation of capital receipt use and 'capitalisation', and details of the current statutory guidance.

62 See HCWS673 2017-19, 10 May 2018; MHCLG, Northamptonshire County Council: Directions and explanatory memorandum, 10 May 2018

63 Robert Cusack, "Northants votes to 'significantly reduce spending'", Local Government Chronicle, 8 August 2018

64 MHCLG, First progress report of commissioners at Northamptonshire county council published, 29 November 2018. 'Capitalisation' is discussed in section 1.5 of the Library briefing Local government in England: capital finance.

65 See paragraphs 2.7 and 2.8 of the second section 114 notice, issued on 24 July 2018

66 In other words, Northamptonshire would be able to raise its basic rate of council tax by 5% - 2% more than all other county councils – without holding a referendum. See the Library briefing paper Council tax: local referendums for more information.

67 See MHCLG, The proposed reorganisation of local government in Northamptonshire, 25 November 2018

68 MHCLG, Northamptonshire County Council: lessons learned from the first year of intervention, July 2020

5.2 London Borough of Croydon

The London Borough of Croydon issued a section 114 notice on 11 November 2020. This followed the publication of a public interest report by the council's auditors, Grant Thornton, on 26 October 2020. The Government also ordered a rapid review into the council's governance structures on 29 October. The public interest report noted:

- a rapid running down of council reserves over a few years, in order to plug overspends on services. The report anticipated an overspend of £49.1 million in 2020-21;
- a lack of challenge by councillors of financial decision-making, through overview and scrutiny or audit committees;
- evidence that Government guidance around capitalisation had not been followed. Some £73 million had been capitalised – transferred from capital to revenue budgets – between 2017 and 2020. Capitalisation is permissible only for specific circumstances, defined by Government guidance, or with explicit permission from the Government;
- concerns being raised by auditors over more than one financial year, which were largely disregarded by officers and elected councillors;
- a lack of documentation surrounding companies established by the council, including Brick by Brick, a housing delivery company, and London Borough of Croydon Holdings, which was struck off by Companies House. Croydon had borrowed some £545 million to direct towards property investments since 2017.

David Simmonds MP led an adjournment debate on Croydon's financial difficulties on 9 December 2020. Responding to his points, Kelly Tolhurst, for the Government, said:

> On 29 October, my right hon. Friend the Secretary of State for Housing, Communities and Local Government announced a rapid, non-statutory review of the council to be conducted by an independent review team. ...I am pleased to confirm that the independent review team has reported its findings to the Secretary of State. He is considering the report and will respond in due course. I can reassure Members that the Secretary of State will take a keen interest in the steps the council will need to take to address the governance and financial management issues that have been identified through the independent review, ensuring that the residents of Croydon receive the services they have every right to expect.[69]

An 'improvement and assurance panel' was appointed on 1 February 2021.

The Government granted a capitalisation direction of £50m to Croydon on 7 March 2022, in respect of the 2021/22 financial year.[70] This was provided in support of the council delivering the Croydon Renewal Plan [PDF], intended to

69 HC Deb 9 Dec 2020 c952

70 Sarah Calkin and Jessica Hill, Croydon, Nottingham and Slough set to balance books after eleventh hour support, Local Government Chronicle, 7 Mar 2022

restore the council's financial sustainability. The Government had also agreed to a further £145m in respect of the 2020/23 period.[71]

Grant Thornton published a further public interest report in January 2022, examining the council's refurbishment of Fairfield Halls. This stated that the contract for the refurbishment was given to Brick by Brick, without a formal procurement process, in a way that was likely to have been unlawful. Croydon also loaned some £67.5 million to Brick by Brick (over twice the original budget) to carry out the work, but has since written off the debt, adding to its financial difficulties.

A referendum in October 2021 expressed support for moving to an elected mayoralty in Croydon. In May 2022 the first mayor, Jason Perry (Conservative), was elected. He proposed a six-month scrutiny exercise of Croydon's financial situation. A report to the council in July 2022 identified budget gaps of £42.9m in 2023/24 and £15.7m in 2024/25 at that stage.[72]

A third section 114 notice was issued in November 2022, in response to significant additional financial difficulties. These were described in a report to the cabinet on 30 November 2022.[73] It said:

> The Council owes £1.6bn (including £300m HRA debt) and this costs the Council at present £47m a year from the General Fund (16% of the Council's net budget) before the Council can spend any money on services for the people of Croydon. This could rise to over £60m a year (over 20% of net budget). The Council also has significant levels of negative equity on its assets.
>
> Given the emergence of these further legacy issues, the significance of the impact of the toxic debt burden on the Council's budget and the lack of financial and operational resilience the Council has to withstand major shocks in the national and local economy, the original 2020/21 Croydon Renewal Plan and the accompanying transitional Capitalisation Direction are unable to cope with the now more fully understood financial position. This is despite significant savings of some £90m and £50m in asset sales being delivered over the past two years.[74]

The report also states that the council's capital spending exceeded the value of the assets it held by some £320m. It estimates that capitalisation directions totalling £269m between 2023 and 2027 would be a necessary condition of future financial sustainability.[75] It also proposed complementary options, such as higher increases in council tax, and greater allowance in Government funding for the pressures on services caused by Government locating asylum seekers and ex-offenders in Croydon.

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71 MHCLG, Exceptional financial support for local authorities, 7 April 2021

72 Croydon BC, Opening the Books: returning the council to financial sustainability [PDF], 6 Jul 2022

73 Croydon BC, Medium Term Financial Strategy Update [PDF], 30 Nov 2022

74 As above, p3

75 Croydon received capitalisation directions of £25m in 2022/23 and £63m in 2023/24, plus an extra £161.6m in respect of 2019 to 2023. See the DLUHC webpage Exceptional financial support for local authorities

5.3 Thurrock Borough Council

During 2022 a number of concerns were expressed about the financial strategies pursued by Thurrock Council. An LGA peer review in January 2022 had suggested that the council was taking on too much responsibility and would not have the capacity to deliver on its ambition. In financial terms, the peer review noted that Thurrock's investment strategy had delivered considerable revenues in recent years, but that from 2022/23 savings would need to be delivered. At that point Thurrock planned to draw a large sum from its reserves for 2022/23.[76]

On 2 September 2022 the Government announced an intervention into Thurrock Council.[77] Essex County Council was appointed as a commissioner for three years, and will have full power over Thurrock's financial decision-making.[78] Essex will also conduct a best value inspection, with the prospect that its powers will be increased if Thurrock's financial situation is found to have knock-on effects. On 24 January 2023, the Government announced that it was minded to expand its intervention.[79]

At the time of the intervention, Thurrock's total borrowing stood at some £1.5 billion. A large proportion of this constituted borrowing from other local authorities: Thurrock put the figure at £1.162 billion at the end of the 2021/22 financial year, whilst the Government estimated it at £940 million in September 2022.[80] Inter-authority borrowing is a normal element of English local government finance, but it is unusual for an authority to borrow either such a large amount or such a large proportion of its total borrowing on the inter-authority market. Following the intervention, Thurrock converted some £687.5 million of inter-authority borrowing into borrowing from the Public Works Loan Board.[81] This was done at considerably higher interest rates than the original borrowing – reflecting the substantial rises in interest rates in the second half of 2022 – which increased Thurrock's ongoing costs further.

Thurrock then issued a section 114 notice on 19 December 2022. This was discussed at a meeting on 9 January 2023.[82] Thurrock had already identified that an in-year budget gap of £469.5 million existed for 2022/23, with a

76 Local Government Association, Corporate Peer Challenge: Thurrock Council, January 2022
77 DLUHC, Government announces intervention into Thurrock Council, 2 Sep 2022
78 This is the first occasion on which another local authority has been appointed as a commissioner: the Government's previous practice has been to appoint a small group of individuals. Thurrock BC was a district council, falling within Essex County Council's area, until it became a unitary authority in 1998.
79 See HCWS516 2022-23, 24 Jan 2023
80 See DLUHC, Thurrock Council: Explanatory Memorandum, 2 Sep 2022; Thurrock Council, Update on Council Borrowing Briefing Note [PDF], 6 Oct 2022
81 See Thurrock Council, Update on Council Borrowing Briefing Note [PDF], 6 Oct 2022
82 Thurrock Council, Government intervention into Thurrock Council

projected gap of £184.4 million for 2023/24.[83] These gaps have two principal causes:

- the assets that Thurrock had purchased with its borrowed funds had been 'written down': that is, accounting rules deemed them to have lost £275 million in value.
- Thurrock had not made sufficient minimum revenue provision in its accounts for 2022/23 and 2023/24. Correcting this required an additional £129 million and £75 million respectively to be set aside for debt repayment.

Thurrock's general reserves had fallen from £66.3 million to £12.2 million during 2022/23. An update paper in December 2022 also stated that "in accordance with directions there will be a necessary divestment of those commercial investments, with a consequent reduction of debt and treasury costs".[84]

Some £550 million of Thurrock's borrowed funds were invested in a solar farm company called Toucan Energy Holdings 1. This company entered administration in November 2022. The Local Government Chronicle reported that its assets were estimated at £339m, against £692m owed to Thurrock.[85]

Events at Thurrock have been extensively covered by the Bureau of Investigative Journalism: see for instance an article from November 2022 entitled Thurrock council reveals £500m black hole caused by ruinous business deals.

The Government published a best value inspection report on Thurrock on 15 June 2023.[86] A further update was provided in a commissioners' report on 5 October 2023.[87] This report stated that some progress had been made in improving decision-making and strategic planning, but concerns remained over many aspects of the decision-making process. From 5 October 2023 Essex County Council was replaced as commissioner by Gavin Jones and Nicole Wood, Essex's chief executive and chief financial officer, acting on an individual basis.

5.4 Slough Borough Council

Slough Borough Council approached the Government in late 2020 seeking a capitalisation direction for the 2021/22 and 2022/23 financial years. The council had suffered financial strain after losing a large business rates appeal

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83 Thurrock Council, Financial Update - Quarter 2 2022-23 [PDF], 7 Dec 2022. See also Appendices 1-7
84 As above, p3
85 Kirsty Weakley, Thurrock owed more than £690m by collapsed firm, Local Government Chronicle, 4 Jan 2023
86 DLUHC, Thurrock Council: Best Value Inspection report, 15 Jun 2023
87 DLUHC, Thurrock Council: Commissioners' second report, 5 Oct 2023

and paying off debts relating to its children's trust.[88] It capitalised £12.2 million in advance of the 2021/22 financial year.

Whilst setting the budget for 2021/22, several additional financial issues were uncovered. The council then issued a section 114 notice on 2 July 2021. An external financial and governance review was then commissioned by the Government, which reported in October 2021.[89]

Slough had increased its borrowing from £180 million in 2016/17 to £760 million in 2020/21. The funds were spent on a variety of investments: commercial property both inside and outside the borough, a new headquarters, and regeneration projects. The reviews criticised Slough's lack of a strategy for its capital spending. Unlike in other councils that have experienced financial difficulties, neither overspending on services, nor very large commercial property investments, were the core causes of Slough's difficulties.

However, a major cause of Slough's financial difficulties was its failure to make sufficient minimum revenue provision in its accounts to repay the borrowing. This was a major cause of a budget gap, identified by the October 2021 review, of £59 million for 2021/22. The review also identified liabilities arising from previous financial years of some £52 million, and projected a further £62.4 million gap in respect of 2022-25. Another cause of the budget gaps was the transfer of funds from capital to revenue accounts for impermissible purposes.

The October 2021 financial review and governance review both stated that Slough would need to dispose of substantial assets in order to rebalance its books (giving figures of £200m and £400m respectively). To enable these funds to be transferred out of the council's capital account, the financial review suggested that capitalisation of some £174m would be required to set a balanced budget in 2021/22: however, it also said that further support was likely to be required in the forthcoming years.

The Government formally intervened in Slough on 1 December 2021.[90] The commissioners (led by Max Caller) published their first report on 9 June 2022.[91] This report did not comment on the budget gap figures noted above, but it suggested that Slough would need to raise council tax by 12-20% per year for a number of years in order to balance its books. Slough was permitted to raise council tax by 10% in the 2023/24 local government finance settlement, and by a further 10% in the provisional 2024/25 settlement.[92]

88 CIPFA, Local government finance review: Slough Borough Council, October 2021, p18

89 See HCWS353 2021-22, 25 Oct 2021; DLUHC, Slough Borough Council: external assurance review, 25 Oct 2021

90 DLUHC, Commissioners sent into Slough Borough Council - GOV.UK (www.gov.uk), 1 Dec 2021

91 DLUHC, Best Value Intervention - Slough Borough Council [PDF], 9 Jun 2022

92 See DLUHC, Provisional local government finance settlement 2023-24 consultation: summary of responses, 6 Feb 2023; DLUHC, The Referendums Relating to Council Tax Increases (Principles) (England) Report 2024/25, Dec 2023, paragraph 11

The Government agreed to capitalisation for Slough totalling £782 million in respect of financial years prior to 2022/23 and financial years through to 2047/48. A report from the council in September 2022 suggested that the capitalisation requirement had fallen to £369 million.[93]

5.5 Woking Borough Council

The Government commissioned an external review of Woking BC in January 2023. Woking had been in dialogue with DLUHC regarding its financial situation throughout 2022, and had earlier applied for a capitalisation direction in 2021.[94] The external review was published in May 2023.[95] It stated that the council might be able to set a balanced budget in 2023/24 and 2024/25, but that this was contingent on several assumptions and the issue of a section 114 notice could not be ruled out.

Following publication of the external review, the Government announced that it would formally intervene in Woking on 25 May 2023.[96] Documentation relating to the intervention can be found on the gov.uk website.

Woking issued a section 114 notice on 7 June 2023. The notice stated that the council had passed PWLB loan funding to wholly-owned companies for many years, based on a 50-year payback period. Woking held some £1.8bn in loans in 2023, most of which was being intended for large-scale regeneration in the town centre and of housing stock in Sheerwater. Passing on PWLB funding in this way is permitted, but the notice stated that some £160 million of this funding may have been used for revenue instead of capital spending, breaching capital finance regulations. This would imply correcting the accounts to treat this sum as spending from the council's general fund.

The notice also stated that minimum revenue provision had been too low since 2007/08. This would require a 'prior period adjustment' to be made to previous years' accounts. In essence, a prior period adjustment requires money from current financial years to be set aside to correct accounting mis-statements in previous years. This would create an additional charge of some £75 million on the council's 'revenue account' (its general spending). Woking's net budget is in the order of £24 million, thus this level of extra costs would wipe out all of the council's spending twice over. In addition, a budget shortfall of £9 million was already anticipated for 2024/25, leaving aside the accounting issues identified by the section 114 notice. The notice said:

93 Slough BC, Agenda Supplement for Council [PDF], 22 Sep 2022; see also Jessica Hill, Commissioner on why Slough's capitalisation requirement has been slashed, Local Government Chronicle, 18 Oct 2022

94 DLUHC, Governance, Financial and Commercial Review of Woking Borough Council, 25 May 2023, paragraph 19

95 DLUHC, Governance, Financial and Commercial Review of Woking Borough Council, 25 May 2023

96 See HCWS 813 2023-24, 25 May 2023.

> ...the Council presently has an estimated negative General Fund balance of c. £350m at 31 March 2023. The negative value of the General Fund at this date is forecast to more than triple to around £1.20bn by 31 March 2024. In order to resolve this position the Council will need a commensurate injection of cash or removal of liability.[97]

The section 114 notice also stated that assets held by Woking's wholly-owned companies had diminished in value by some £600 million. These assets were purchased with loaned funds from Woking, borrowed in turn from the PWLB.

Woking was permitted to take on some additional debt in late 2023.[98] The Government independent review had anticipated that up to £100 million in additional debt, for each of the three following financial years, might be required whilst the council transitioned to a more sustainable footing.[99]

The second report from the commissioners appointed as part of the Government intervention stated, in December 2023, that "a legal budget cannot be set for 2024/25 without a significant and carefully structured government support package".[100] The council has consulted on significant budget reductions and is planning to sell a range of its physical assets, but income from these sources will be insufficient to clear its debts. This aligns with a suggestion from Rob Whiteman, chief executive of CIPFA, in May 2023, that Woking "cannot afford the costs of then serving the debt and so the government is likely to have to write it off".[101] The provisional 2024/25 local government finance settlement would permit Woking to increase council tax by up to 10% without a referendum.[102]

A report from the Local Government Chronicle in June 2023 indicated that a member of the public had raised concerns over some of Woking BC's large-scale transactions in 2021, but that these had not been addressed.[103]

The current chief executive plans to leave Woking in early 2024. Unusually, the Government has in effect appointed a new commissioner, Richard Carr, as interim chief executive until a permanent appointment can be made.[104]

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97 Woking BC, S114 Notice, 7 Jun 2023, paragraph j

98 Jason Holland, Woking receives approval to borrow extra £78m from PWLB, Room 151, 14 Nov 2023

99 DLUHC, Governance, Financial and Commercial Review of Woking Borough Council, 25 May 2023, paragraph 39

100 DLUHC, The Commissioners: Woking Borough Council second update, December 2023, p3

101 Jonathan Knott, Scale of Woking mismanagement revealed, Local Government Chronicle, 7 Jun 2023

102 DLUHC, The Referendums Relating to Council Tax Increases (Principles) (England) Report 2024/25, Dec 2023, paragraph 10

103 Kwame Boakye, Woking 'armchair auditor' had concerns ignored, Local Government Chronicle, 21 Jun 2021

104 See DLUHC, Letter to Woking Borough Council Chief Executive, 13 December 2023

5.6 Birmingham City Council

Birmingham City Council issued a section 114 notice on 5 September 2023. It identified two main causes for the notice: an in-year financial gap in the budget of £87 million, and the ongoing cost of equal pay claims.

On 28 June 2023, Birmingham City Council announced that new analysis showed it had liabilities of between £650 million and £760 million with respect to equal pay claims, with this liability increasing at a rate of between £5 million and £14 million per month.

The background to these claims was a dispute that has been running for over ten years. In 2012, former cleaners and dinner ladies won a court case against the council, arguing that female staff on the same pay grades as their male colleagues had not been given access to the same bonuses and had been paid less as a result. Further claims from former staff followed. In 2014, the council sold off the National Exhibition Centre to help to meet the bill.

The Government intervened in Birmingham on 5 October 2023.[105] The Secretary of State, Michael Gove, had signalled his intention to launch an intervention in a short debate in the House of Commons on 19 September.[106] Alongside the intervention itself, he said:

> I intend to launch a local inquiry to consider the more fundamental questions around how Birmingham got to this position and options for how it can become a sustainable council moving forward that secures best value for its residents.[107]

Birmingham published the report of an independent governance review, commissioned from the Centre for Governance and Scrutiny, in cabinet papers on 12 December 2023.[108]

5.7 Nottingham City Council

Nottingham City Council has issued two section 114 notices: one on 15 December 2021, and one more recently on 29 November 2023. As noted, the December 2021 notice related to the discovery of unlawful payments from Nottingham's Housing Revenue Account to its general fund.

Unlike the other authorities noted above, Nottingham's second section 114 notice was not triggered by financial movements related to a large-scale

105 DLUHC, Government launches intervention at Birmingham City Council, 5 Oct 2023
106 HC Deb 19 Sep 2023 c1265&ff
107 As above, c1266
108 Birmingham City Council, Report to cabinet, 12 Dec 2023

financial anomaly such as a commercial property portfolio. The section 114 notice said that budgetary pressures were arising from:

- Increased demand (Adult social care volume and need, Children's social care package volumes and complexities, home to school transport and temporary accommodation)
- Non-delivery of Transformation savings
- Increased costs (particularly in Children's social care packages and temporary accommodation) and broader provider inflationary pressures
- Nationally agreed pay agreement, above the 2023/24 budgetary provision
- Income shortfalls
- Pressures relating to non-qualifying capital recharges[109]

The section 114 notice was triggered by an anticipated in-year (2023/24) shortfall of £23.4 million.

Background

In November 2020 the Government announced a rapid review into Nottingham City Council, following the collapse of the council's wholly-owned company, Robin Hood Energy.[110] A report from the BBC suggested that the council had lost some £38 million on the venture.[111] The review report was published on 21 January 2021.[112]

An improvement and assurance board, chaired by Sir Tony Redmond, was announced on 17 December 2021. It was to produce a three-year improvement plan by the end of January 2021.[113]

In late 2021, Nottingham then discovered historic accounting errors associated with its housing revenue account (HRA). Some £15.8 million had in effect been diverted into the council's 'general fund'.[114] This was potentially unlawful, as HRA funding is ring-fenced from the general fund. This led to the issue of a section 114 notice on 15 December 2021, owing to the need to set aside revenue at that point to correct historic errors.

109 Nottingham City Council, Section 114 notice, 29 Nov 2023

110 Nottingham's auditors, Grant Thornton, published a public interest report on this issue in August 2020. This report appears not to be available online but a summary can be found at on the Local Government Lawyer website: Lack of adequate governance arrangements and "institutional blindness" led to council energy company losing over £34 million, report finds, 13 Aug 2020.

111 BBC, Nottingham council 'sorry' as Robin Hood Energy collapses, 4 Sep 2020

112 DLUHC, Non-statutory review of Nottingham City Council, 21 Jan 2021

113 DLUHC, Jenrick acts to tackle failure of Nottingham City Council, 17 Dec 2020. The board's terms of reference were set out in a letter to Sir Tony Redmond.

114 Richard Penn (independent investigator), Key Findings Report for Nottingham City Council, March 2022, p4

The Government then intervened in Nottingham City Council on 23 June 2022, issuing directions under section 15 of the Local Government Act 1999.[115] The Government announced plans to appoint commissioners to run the council: in the end these did not proceed, but they were revived in December 2023.[116] In January 2024, Nottingham made representations against the Secretary of State's decision to appoint commissioners.[117]

115 See HCWS 135 2022/23, 23 Jun 2022; DLUHC, Statutory Intervention: Nottingham City Council, 23 Jun 2023

116 HCWS121 2023/24, 13 Dec 2023

117 Kwame Boakye, Nottingham appeals against plans to appoint commissioners, Local Government Chronicle, 4 Jan 2024

6 Financial resilience and coronavirus

The Covid-19 pandemic presented a number of severe challenges to the financial resilience of local authorities during the 2020-21 financial year. These include:

- Cashflow problems: local businesses and residents required urgent financial support, but local authorities did not have ready access to enough revenue to provide the support needed;
- Lost revenue arising from the restrictions on travel and economic activity mandated by the Government.

6.1 Cashflow and financial support

The Government provided a number of sums of money to English local authorities to assist their cashflow and supplement their funding during the pandemic. These include the following, though this is not a comprehensive list of Covid-19 related extra funding for local government:

- **11 March 2020**: A £500 million 'hardship fund' for residents struggling to pay council tax bills. This funding is to be allocated to residents currently benefiting from local council tax support schemes. Government guidance was published on 24 March, and additional guidance on 16 April.
- **19 March 2020**: £1.6 billion additional funding made available to local authorities. £1.4 billion of this funding was allocated via the adult social care needs formula. The remaining £200 million was allocated in line with each councils' Settlement Funding Assessment. The Institute for Fiscal Studies has argued that the impact of the virus on different councils "may not reflect historical differences in social care spending needs." As a result, the formulas used to allocate funding are "out of date."
- **25 March 2020**: £1.8 billion grants paid to local authorities in advance in respect of business rates relief. This followed the Chancellor's announcement of widespread exemption from business rates for 2020-21. Normally, business rates relief would be applied first, and local authorities would seek reimbursement after it had been applied.
- **1 April 2020:** £12 billion funding for business grants transferred to local authorities. These funds were distributed under the Business Rates Grants schemes (see Coronavirus: support for businesses). BEIS published the actual amounts distributed under this scheme on 12 November 2020;

- **16 April 2020**: Councils were allowed to defer £2.6bn in business rates payments to central government from April to June 2020. This was in respect of the 'central share' of business rates.
- **16 April 2020:** £850m in central government social care grants for both children and adults, from April to June 2020. This was paid up front in April.
- **18 April 2020:** A second £1.6 billion of additional funding for local government. This was distributed on a different basis from the funding announced on 19 March, with district councils receiving a considerably larger share of the 18 April funds (though see also the entry below for 22 October 2020).
- **2 May 2020:** a further discretionary fund of £617 million was made available for grants to businesses that do not qualify for the Small Business Grant scheme and the retail grant scheme.
- **15 May 2020:** £600 million made available to local authorities to support social care provision. 75% of the funding to be passed on direct to care homes, with the other 25% to "be used for infection control measures [which] … local authorities are able to allocate based on need";[118]
- **24 May 2020**: £50 million made available to councils via the Reopening High Streets Safely Fund. This funding was to cover planning and communications to assist the reopening of high street businesses, together with temporary changes to the public realm. This fund could not be used to provide grants to businesses or for capital spending. Grant funding agreements were made between local authorities and the Government;
- **24 May 2020**: £150 million for new homes was allocated to local authorities on 29 October 2020. A further £105 million was made available to tackle homelessness on **24 June 2020**.
- **11 June 2020:** A 'local welfare assistance fund' of £63 million made available to councils to "support people struggling to secure food and other essentials". This funding was available to upper-tier authorities;[119]
- **11 June 2020**: A £300 million fund announced for local authorities to support the Government's test and trace service;
- **2 July 2020**: A further £500 million of un-ringfenced funding for councils. The Government published allocation figures for this third round of funding, alongside figures for the rounds made available on 19 March and 18 April;
- **24 August 2020**: guidance issued on a fund to compensate local authorities for lost income from sales, fees and charges. In brief, the Government committed to compensating local authorities for 75% of income from these sources for which they had budgeted in 2020-21, with a 5% 'deductible' rate for which no compensation would be paid. This fund does **not** cover commercial income.
- **22 October 2020**: A further £919 million of un-ringfenced funding for councils. Funding allocations are based on the 'Covid Relative Needs

118 DHSC, Care home support package backed by £600 million to help reduce coronavirus infections, 15 May 2020

119 Sarah Calkin, "Districts hit out at decision to hand food poverty cash to counties", Local Government Chronicle, 7 Jul 2020

Formula' and take into account the sums allocated on 16 March, 19 April and 2 July. An additional £100 million fund to support "council leisure centres most in need" was also announced, with further details becoming available in mid-December.

- **4 November 2020**: The Local Restrictions Support Grant, Additional Restrictions Grant and Contain Outbreak Management Fund were made available to all district and unitary councils in England. They are allocated on a formula of £20 per head and £8 per head respectively.

The following arrangements applied during the national lockdown beginning on 5 January 2021:

- The Local Restrictions Support Grant (Closed) scheme was available to all businesses in England required to close. It was accompanied by a 'Closed Businesses Lockdown Payment', an additional one-off support grant for businesses totalling £4.6 billion for England. Guidance for both these grants was published on 13 January 2021. The eligibility criteria for these two schemes were the same.
- The Additional Restrictions Grant will be increased by £500 million. Local authorities could make discretionary grants from this fund to businesses not eligible for the LRSG, or to other local businesses as they see fit;
- £1.55 billion in un-ringfenced funding for local authorities. This was distributed according to the 'Covid Relative Needs Formula'. In effect, it is a fifth tranche of the funding support summarised in the 22 October announcement. The Government guidance does not prescribe what use should be made of the funding, but recommends priority be given to:

  > ....adult social care, children's services, public health services, household waste services, shielding the clinically extremely vulnerable, homelessness and rough sleeping, domestic abuse, managing excess deaths, support for re-opening the country and, in addition, the additional costs associated with the local elections in May 2021.[120]

- £670 million was allocated to local authorities to support local council tax support schemes. These are expected to face increased pressure due to the economic effects of the pandemic.[121]
- A Government commitment to reimburse local authorities for 75% of irrecoverable council tax and business rates shortfalls in the 2020-21 financial year. Authorities must make claims for reimbursement based on their forecast income;
- Compensation for lost income from sales, fees and charges, originally announced on 24 August 2020, was extended to cover April, May and June 2021.
- A 'Restart Grant' was made available at the outset of the 2021-22 financial year, providing a one-off grant to retail, hospitality and leisure sector businesses.

120 MHCLG, COVID-19 funding for local government in 2021-22: consultative policy paper, 11 Jan 2021, paragraph 20

121 Ibid.

Indicative allocations for a number of these support grants are available on the gov.uk website, via the links in the above list. In other cases, the allocations to individual local authorities will depend on the amount that local authorities applied for.

The £12 billion in business rate-related grants made available on 1 April 2020, the Local Restrictions Support Grant, the £4.6 billion announced on 5 January 2021, and the Restart Grants, are to be passed on directly to businesses. These amounts therefore do not constitute additional funding for local authority functions. The Library has published a dashboard summarising the various sums of funding made available since March 2020.

The amounts made available on 25 March and 16 April 2020 constitute already committed funding being made available on an earlier timescale. This reflects widespread concerns in local government about a cashflow crisis – the threat that councils would pay large amounts of money out in respect of various support programmes early in the 2020-21 financial year, then run out of money in advance of being reimbursed by central government.

6.2 Loss of revenue

Local authorities also expressed strong concerns about broader losses of revenue arising from the pandemic.[122] The main concerns included:

- **Council tax**: A number of local authorities permitted council tax-payers to pay their ten monthly instalments from June 2020 to March 2021, instead of the normal pattern of April to February.[123] Payments were rescheduled rather than cancelled. This practice also generated tensions in two-tier areas, where district councils are responsible for council tax administration;[124]
- **Commercial property:** On 20 April 2020 the Financial Times reported that landlord and tenant representatives had jointly called for support from the Government for property that had "been furloughed". This reflected concerns that businesses with little or no turnover could rapidly become unable to pay rent, with knock-on consequences for landlords dependent on rental income;
- **Other commercial income**: Local authority income from sources such as car parks and leisure centres fell dramatically during 2020-21. This is a significant source of income for district councils in particular. The Local Government Chronicle conducted a survey in April 2020 that, if the figures were scaled up, suggested a shortfall of £9 billion for 2020-21 (though this was a very rough figure and did not take into account the

122 Sarah Calkin, "Revealed: the multi-billion pound Covid-19 funding shortfall", Local Government Chronicle, 17 Apr 2020

123 The law allows council tax instalments to be paid in ten consecutive months: see schedule 1 of the Council Tax (Administration and Enforcement) Regulations 1992.

124 See Mark Smulian, "Coronavirus council tax holidays spark county fear over cashflow", Local Government Chronicle, 7 April 2020

additional £1.6 billion of funding announced on 18 April).[125] In October 2020 the Government announced a £100 million fund to support leisure centres threatened with closure;

- **Lost grant / local income**: local authorities may have budgeted for income from New Homes Bonus or business rate retention, which might then have been affected by property construction being paused or abandoned;
- **Business rates**: the Chancellor provided large-scale business rates relief during the pandemic for many businesses. However, the Government reimbursed local authorities for any revenue lost as a result of those schemes (see the Library briefing paper Business rates).

Many local authorities responding to the LGC's April 2020 survey indicated that their reserves were not sufficient to compensate for forecast lost income. Results from a survey by the County Councils Network, published in November 2020, suggested continued pessimism from finance officers regarding the 2020-21 financial year:

> More than half (56%) of the 35 two-tier and unitary counties that responded to the survey last month [October 2020] admitted they were planning to reduce access to care packages and/or introduce new charges for services in order to balance the books. Two fifths (42%) were also eyeing reductions to personal budgets and mental health services.
>
> There is less scope to reduce services in children's social services, with all respondents seeing a rise in vulnerable children. However, 27% said they will have to reduce services for children in council care and subject to safeguarding, and 33% planning reductions to early years and youth services.[126]

In August 2020, the Institute for Fiscal Studies compared the additional support that Government had provided at that point with local authorities' forecasts of financial need for the 2020-21 financial year. They estimated a shortfall of £2.0 billion for English local authorities, based on support provided at that point.[127] A further IFS report, published in October 2021, stated:

> Overall, the £10.4 billion in additional funding provided by the UK government more than compensated English councils for their estimated in-year COVID-19-related financial pressures in 2020–21. However, most funding was provided on the basis of relatively rough, up-front needs assessments, and councils were only partly compensated for losses in their incomes, which varied widely. As a result, underlying the aggregate 'over-compensation', many councils, and particularly shire district councils, were 'under-compensated'.[128]

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125 Sarah Calkin, "Revealed: the multi-billion pound Covid-19 funding shortfall", Local Government Chronicle, 17 Apr 2020

126 Jessica Hill, "Counties warn of major cuts", Local Government Chronicle, 13 November 2020

127 See Kate Ogden and David Phillips, COVID-19 and English council funding: how are budgets being hit in 2020–21?, Institute for Fiscal Studies, 19 August 2020

128 Kate Ogden, David Phillips and Cian Sion, What's happened and what's next for councils?, 7 October 2021

In contrast, the IFS suggested that additional funding in the 2021-22 financial year would not (at that point) cover the cost of additional pressures relating to Covid-19:

> In England, around £3.8 billion has been provided to meet higher expenditures and non-tax income losses, but councils forecast that such pressures amounted to £3.2 billion in the first half of the year alone.[129]

6.3 Accounting requirements

Separately, changes have been made to the financial accounting requirements placed on local authorities. The deadline for publishing audited accounts was moved from 31 July to 30 November 2020.[130] Unaudited accounts must be published by 31 August, and authorities were permitted discretion on the period when they must make the accounts available to the public in advance of publication.[131] However, proposals to simplify the accounting requirements themselves were abandoned after resistance from auditors and regulatory bodies.[132]

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129 Ibid.

130 See the Accounts and Audit (Coronavirus) (Amendment) Regulations 2020 (SI 2020/404)

131 Stephen Sheen, "Accounts simplification isn't happening. What next?", Room 151, 15 April 2020

132 Sarah Calkin, "Bid to relax accounts code 'not acceptable' to auditors and regulators", Local Government Chronicle, 7 April 2020

7 Monitoring financial resilience

7.1 Sector led improvement

The Audit Commission was the main body responsible for financial and performance oversight of local authorities in England, until its inspection powers were removed in 2010 and its responsibility for audit lapsed in 2015. The Commission's audit activities have been taken over by a range of different bodies: see the Library briefing paper Local audit in England.

The Local Government Association (LGA) runs a programme of self-improvement for local government known as Sector Led Improvement. DLUHC and its predecessors have provided in the region of £18-19 million per year for this programme. Sector led improvement is available to all local authorities in England irrespective of whether they are members of the LGA.

Sector led improvement comprises a range of support programmes for councils that are set out on the LGA website. They are based on strong leadership, challenge from peers, comparative performance information and sharing good practice.

The LGA also publishes comparative data on local authority value for money and performance on its LG Inform website.[133] This includes the 'value for money profiles' previously published by the Audit Commission, and financial diagnostic reports available to councils.[134]

As part of sector led improvement, the LGA runs a programme of corporate peer challenges for local authorities in England. Participation by local authorities is voluntary. Any action to address issues identified is the responsibility of the council concerned. (This has always been the case for peer challenges. The Audit Commission itself had no formal powers of intervention, as these were reserved to the Secretary of State.)

The LGA publishes a description of the process of peer challenge. This is concerned with local government operations generally, though financial management will naturally feature frequently within it. In 2018 the LGA commissioned research to identify the outcomes and benefits of the peer review process. An interim report published in November 2018 identified a number of benefits (with named examples from local authorities and individuals). The research identified the following as key points:

133 See https://lginform.local.gov.uk/

134 See https://vfm.lginform.local.gov.uk/

- The input of local government peers;
- The need for formal vs. informal learning;
- The timing of sector-led improvement; and
- The value of the self-assessment process.[135]

The LGA states that 143 peer challenges were facilitated in 2022/23.

The LGA has an ongoing programme to evaluate the impact and effectiveness of this sector led approach to improvement.[136] It has also published a 'sector support offer' for councils.

7.2 Government monitoring

The DLUHC accounting officer statement sets out how DLUHC monitors the financial sustainability of English local authorities. It collects financial data from local authorities and the Office for National Statistics, information on service provision, and 'soft intelligence'.[137] Its predecessor department, MHCLG, had faced criticism previously for its oversight of the financial resilience of local authorities. This first appeared in the 2014 National Audit Office report Financial sustainability of local authorities:

> …the Department uses limited information to monitor financial and service pressures in the sector. It relies for information on systems designed for different purposes. …the Department's view that the accountability system has been effective to date in preventing financial failure is reasonable. However, the Department is poorly placed to understand the scale of financial pressures within local authorities. As a result, it does not know enough about whether local authorities are close to failing financially and whether they are diverting financial pressures onto their services.[138]

A further report from the NAO in 2018 stated that the Government's assurance systems had improved. It stated that MHCLG used a 'local authority sustainability tool', comparing levels of reserves with shares of 'inflexible spend', mainly on social care and the servicing of debt:

> "The Department uses the tool to:

- model the impact of different scenarios, such as new policies, on financial risk;
- track how far assumptions underpinning the 2015 Spending Review modelling have been borne out; and

135 LGA, Case study: the impact of sector-led improvement, November 2018, p6
136 See LGA, Evaluation of sector-led improvement: phase two interim summary report: November 2018
137 MHCLG, Accounting Officer System Statement, November 2020, p47
138 NAO, Financial sustainability of local authorities, 2014, p33-34

- inform the Department's assessment of the level of risk of widespread financial failure."[139]

The NAO's 2019 report Local authority governance stated that MHCLG produces "detailed financial risk analysis reports that identify authorities about which the Department has concern and highlight the extent to which governance factors may be contributory to financial risk".[140] These analyses are not made public. The Public Accounts Committee has suggested that this hinders assessment of MHCLG's conclusions about sustainability and risk. In its 2019 report Local government spending, the PAC recommended that MHCLG should "revisit its refusal to publish a shared definition of financial sustainability",[141] and that:

> The Department should write to the committee by May 2019 setting out a step-by-step model of how it assures itself that the sector is sustainable… this should include a detailed account of how adequate funding need has been defined and calculated including assumptions over service levels (including both statutory and discretionary) and demand projections.[142]

The HCLG Committee's August 2019 report on local government finance included a number of pieces of evidence suggesting that data on financial sustainability, and other aspects of council performance, was hard to find:

> The Government should develop a more regularised and consistent approach to the collection and monitoring of comparative data about councils' performance, efficiency and financial sustainability. The current situation means there can be no certainty about the state of individual councils or the sector as a whole.[143]

7.3 Financial Resilience index

In response to concerns about financial resilience in the local government sector, CIPFA (the Chartered Institute for Public Finance and Accountancy, the membership body for local government finance professionals) announced plans to produce a 'financial resilience index' for English local authorities. These were published on 2 July 2018. The consultation suggested six resilience indicators:

- Level of reserves as a proportion of net revenue expenditure;
- Change in reserves over the past three years;
- Ratio of government grants to net revenue expenditure;
- Proportion of net revenue expenditure going to social care and debt financing;

139 National Audit Office, Financial sustainability of local authorities 2018, HC 834 2017-19, 2018, p43
140 NAO, Local authority governance, HC-1865 2017-19, 2019, p44
141 Public Accounts Committee, Local government spending, HC-1775 2017-19, February 2019, p7
142 Public Accounts Committee, Local government spending, HC-1775 2017-19, February 2019, p7
143 Housing, Communities and Local Government Committee, Local government finance and the 2019 Spending Review, HC-2036 2017-19, 21 Aug 2019, p16

- Ofsted inspection score for children's social care;
- Auditor's value for money judgement.[144]

CIPFA stated:

> … the index will not be a predictive model but a diagnostic tool – designed to identify those councils displaying consistent and comparable features that will highlight good practice, but crucially, also point to areas which are associated with financial failure.[145]

The consultation also included proposals for how scores should be allocated against each indicator, and the weighting that would be given to each of them when combining them into a single overall score. Data would be made available in an interactive tool, permitting the production of a 'league table'.

The consultation provoked some disquiet in the sector. For instance, the LGA's response said:

> …the LGA does not believe that financial health of large and complex organisations such as local authorities can be adequately summarised and forecast by a handful of indicators. …Although not CIPFA's intention, we believe that it is inevitable that the index will be seen by some as a performance table. This is particularly likely given that the index will be published by a respected institute such as CIPFA as it will give the index a perceived credibility.[146]

John Sinnott, chief executive of Leicestershire County Council, said in July 2018:

> There is no performance information vacuum. Chief executives should ensure that their councils have systems to measure and compare performance using data from LG Inform, Public Health England and government departments. You know how well your council is doing; unofficial league tables exist for cost effectiveness and value for money, prompting questions around financial sustainability.
>
> There may be no perfect set of performance measures on which to draw up a league table but that is not to deny its potential worth.[147]

Further perspectives on the construction of a resilience index can be found in Dan Bates, "How should we measure financial resilience?", August 2018; and Don Peebles, "Save your bacon through financial resilience", April 2018.

CIPFA published a response to the consultation on 4 December 2018.[148] This document proposed fifteen indicators, an increase from the original six. It omitted the proposal to produce a weighted 'total' indicator. It proposed to distribute the resilience index confidentially to finance teams in local

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144 CIPFA, Consultation – local authority financial resilience index, July 2018, p5

145 CIPFA, Consultation – local authority financial resilience index, July 2018.

146 LGA, Response to CIPFA Consultation on a Local Authority Financial Resilience Index, August 2018, p1

147 John Sinnott, "CIPFA deserves backing over resilience", Local Government Chronicle, 25 July 2018

148 CIPFA, Local authority financial resilience index: consultation response, December 2018

authorities, with a commitment to making it publicly available in subsequent years.[149]

A high-level briefing on the initial findings of the resilience index was published by CIPFA in December 2018.[150] The press release said:

> ….the majority of councils are in a stable financial position, and are not showing signs of financial failure in spite of managing severe budget cuts. Clearly this shows effective financial management against a challenging context.
>
> However, there is a tail, of 10-15% of councils, where there are some signs of potential risk to their financial stability. Having now provided data, CIPFA will discuss professional support for CFOs in those authorities.[151]

A similar high-level finding was made public in December 2019.[152] A further edition of the financial resilience index, with nine indicators and interactive graphs, has been published in respect of the 2021/22 financial year.[153]

The new Office for Local Government (OFLOG), established in 2023, consulted in October 2023 on a series of metrics that it plans to publish regularly via its Local Authority Data Explorer. This paper said that OFLOG intended to focus on two issues raised frequently by local government leaders: spotting early warning signs of organisational failure in good time, and sharing best practice on ways of improving performance.[154]

149 Ibid., p6. The reference to the Public Accounts Committee is to a recommendation in the report Financial sustainability of local authorities 2018, HC-970 2017-19, 2018, p6

150 CIPFA, Measured resilience in English authorities, 2018

151 Ibid.

152 Colin Marrs, "CIPFA hopes updated resilience index will strengthen s151s", Room 151, 16 Dec 2019

153 See CIPFA, Resilience index, 2022. Further explanation of the indicators that make up the index can be found on the Contextual information page.

154 DLUHC, Office for Local Government: next steps and new draft metrics, 26 Oct 2023

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