

# Update

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## **CONTENTS**

- **THE CHIEF'S BRIEF**
- **SPENDING POWER**
- **ORDINARY PEOPLE CAN BECOME SPECIAL CONSTABLES**
- **HEALTH ASSESSING POTENTIAL EMPLOYEES**
- **LITTER HEROES!**
- **THE RURAL POWERHOUSE**
- **BROADBAND UPDATE**
- **NEVER TOO OLD TO LEARN**
- **IS YOUR COUNCIL'S MONEY PROTECTED?**
- **BEEN THERE, GOT THE E-MAIL**
- **EMPLOYMENT STATUS**
- **LEGAL TOPIC NOTES**
- **COMMUNITY SHARES**
- **A CAUTIONARY TALE**
- **TRAINING AND DEVELOPMENT FOR LOCAL COUNCILS**
- **SITUATIONS VACANT**
- **THE "AVERAGE" PRECEPT**
- **CONTACT DETAILS**

## THE CHIEF'S BRIEF

By Danny Moody, Chief Executive, Northants CALC

The summer is drifting away and the leaves are starting to turn. It means the end of the holiday season and a return to the grindstone. I hope you all had as good a summer break as I did. I managed a two-week holiday plus a weekend away on a woodland bushcraft course in Leicestershire. As we know there is no more inhospitable place in the world than Leicestershire, so I did very well to survive!

September is always a manically busy month and this year has been no exception. With the Northants CALC AGM on 17 October and the National Association of Local Councils (NALC) AGM on 27 October we are pulling out all the stops to make sure everything is properly organised.

Many of you will have hosted a visit over the summer from Adam Simmonds, the Police and Crime Commissioner, who has been on a grand tour of Northamptonshire parishes in an attempt to understand rural issues and to promote the Parish Special Constable Scheme and other police volunteer roles. It was my pleasure to join him on 13 August when we



*On the grand tour in beautiful Wadenhoe*

visited the tiny east Northamptonshire communities of Pilton, Stoke Doyle, Wadenhoe and Ashton. I was impressed by Adam's desire to listen to people and understand the issues facing rural communities but I was even more impressed at the readiness of the councillors and clerks we met to make a contribution and to be part of the solution. I know there are mixed views about Big Society but unless anyone has a better idea it remains the most sensible way forward. The Parish Special Constable Scheme is an excellent example of Big Society and there's a report below on progress in the county so far.

In early September the Northants CALC board had two working group meetings. The first looked at the potential for designing new paid-for services that could assist member councils and help make the Association more self-sufficient

financially. Many councils use our Internal Audit Service (IAS) and it is that model that we are looking to use for other services. The second working group looked at the Association's accommodation strategy. Believe it or not we have been at Litchborough for nearly eight years and it was only supposed to be a stepping-stone! There are pros and cons to the Litchborough site, so we are looking into the options for when our lease expires in March 2017. If anyone has two acres of land and/or £250k to give away please do get in touch!

I am very pleased to report some notable successes for the parish council sector in Northamptonshire:

- Three more clerks have gained their Certificate in Local Council Administration (CiLCA) and warm congratulations go to **Jenny Hodgson** (Stanwick Parish Council), **James McKechnie** (Desborough Town Council, Wilbarston Parish Council) and **Deborah Rush** (Cogenhoe & Whiston Parish Council, Grendon Parish Council). Gaining the CiLCA qualification is no mean feat in itself but Jenny Hodgson was awarded a distinction, one of only a very small handful nationally to achieve that accolade. Well done all!
- I am very proud that Northamptonshire is represented in the inaugural Star Councils Awards organised by the National Association of Local Councils (NALC). Cllr Mrs **Pat Baldwin**, Chairman of West Haddon Parish Council has been nominated in the Chairman of the Year category. The winners will be announced on 27 October. Good luck Pat!

And not forgetting our own birthday a couple of weeks ago: on 20 September Northants CALC was 68 years old! Established on 20 September 1947 the Association has been working hard for parish and town councils ever since. We are more active now than ever before and the future looks very bright. Northants CALC has become one of the leading CALCs in the country and with a membership of 96% it is one of the strongest too. Long may it continue and I suppose we should start thinking about how to mark 70 years!

I am looking forward to seeing many councillors and clerks at the Forum in Towcester for our AGM on Saturday 17 October 2015. The booking deadline is 5 October, so be quick if you haven't already booked.

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

## SPENDING POWER

All parish and town councils should have in place effective internal controls for approving and making payments. The provisions should be set out in the council's Financial Regulations. There should be a clear audit trail, linking the decision to incur expenditure, through the approval of the bill for payment, to the accounting of the final transaction.

The first step is making a decision to spend money. Such decisions must always be made at a meeting of the council (or committee, or by an officer) under an agenda item that specifies the business to be transacted. Any other decision to spend money is unlawful and open to challenge in the courts.

No expenditure may be incurred if it will exceed the amount provided in the revenue budget for that class of expenditure unless the council by resolution approves unspent and available amounts to be moved from another budget heading as appropriate.

Once a decision to spend has been made, and the goods or services have been received by the council (and this has been checked), the clerk should prepare a schedule of payments requiring authorisation and present it to the council (or committee) under a specific agenda item. The schedule should be presented together with the relevant invoices and the council should authorise payment by resolution. A detailed list of all authorised payments should be included in the minutes.

Once the payment has been authorised the next step is the physical transfer of money. Prior to last year that meant writing out cheques and having a minimum of two councillors sign. Now, following the repeal of section 150(5) of the Local Government Act 1972 a council may make whatever arrangements it chooses for making payments, subject of course to such arrangements being in accordance with the proper practices as set out in Appendix 10 of the Practitioner's Guide (copy available from Northants CALC on request). In practice it means that councils can now use online banking arrangements, particularly where the account allows for dual or triple authority on payments. For example, Unity Trust Bank ([www.unity.co.uk](http://www.unity.co.uk)) offers an account where the clerk/RFO can set up payments and then two councillors have to log in to approve the payment before it goes off.

Councils may also make use of banker's standing orders and direct debits to make regular payments such as utility invoices or clerk's salary subject to having appropriate internal controls in place. For example, if thought appropriate by the council, payment for salaries may be made by banker's standing order provided that the instructions are signed, or otherwise evidenced by two members of the council and any payments are reported to council as made. The approval of the use of a banker's standing order should be renewed by resolution of the council at least every two years.

Councils may now also avail themselves of debit cards and credit cards subject to having internal controls in place to safeguard public money. For example, a corporate credit card account may be opened by the council to be used by the clerk to make authorised payments subject to automatic payment in full at each month-end.



For years parish councils have been used to paying everything by cheque signed by two members of the council.

There is no need to discontinue that system but the removal of the restrictive and antiquated provisions of s150(5) means that councils can modernise and be more flexible if they choose. However, the need to risk assess any method of payment has not changed, nor has the need to put in place adequate and effective internal controls that safeguard public money.

Suggested internal controls are set out in NALC's Model Financial Regulations (last updated October 2014) and in the Practitioner's Guide (last updated June 2014). Free copies of both are available to member councils on request.

## **ORDINARY PEOPLE CAN BECOME SPECIAL CONSTABLES**

The Parish Special Constable role has been around for years in Northamptonshire. However, there used to be two big drawbacks which meant that hardly any parish councils engaged with the scheme in the past. Firstly there was no guarantee that your special constable would be deployed in your parish. The fear was that specials would be deployed in Northampton town centre on Friday nights and never be seen in the parish. Secondly there was the cost.

Parish councils wishing to “sponsor” a special constable were asked to stump up around £5,000 in training and equipment costs. If the special constable left two months later it would be another £5,000 to replace them. Clearly these two drawbacks made the scheme decidedly unattractive.

In 2009 Northants CALC began negotiations with Northamptonshire Police to see if there could be a different approach. An agreement was established that the cost of training and equipping the special constables would be borne by Northamptonshire Police and that Parish Special Constables would only be deployed in their own parish except in the most exceptional circumstances, such as a major terrorist attack on the county town. It led to the creation of a Workstream in the Northamptonshire Councils’ Charter to “Develop a Community Policing Scheme” including “Recruiting/Deploying a Parish (Special) Constable” in every parish in the county.

Prior to his election as Police & Crime Commissioner in 2012 Adam Simmonds visited Northants CALC to find out more about the Charter. It was an ideal opportunity to sell the revised Parish Special Constable Scheme to him and he took it up as part of his election manifesto.

The promotion of the scheme has been in full swing for some time and every parish and town council in Northamptonshire should by now have had it on their agenda. The first new Parish Specials have been deployed and there are plenty more in the pipeline.



Special Constable Debbie Manley is the parish constable for Burton Latimer and Barton Seagrave. Debbie is keen and very highly motivated and really enjoys the parish constable role as she is able to give back to the community that she lives in. Debbie follows the role as it was created. She works and patrols from her home address, with minimal supervision. Debbie attends community events in the area on behalf of the local Safer Community Team (SCT) and being local to the area she can associated with some of issues that are raised. In addition Debbie is the first parish constable on horseback having completed all the training. This means that she is now even more visible and can cover even more ground on her patrols. She is also able to take the horse to community events, which brings in more people to speak to her as the horse always attracts a good crowd!

Special Constable Robin Carter is the parish constable for Oundle. Robin attends town council meetings to give the monthly crime report and other work he has carried out to the council's instructions. Robin has taken part in a number of community events in the area in support of and replacing regular officers. He has also carried a number of speed enforcement operations in the town. Robin is independent and can work on his own initiative supplying that visible reassurance to the residents in Oundle.

If you would like to learn more about the Parish Special Constable scheme with a view to recruiting a special constable for your parish please visit the recently updated dedicated web site at <https://northantspolicespecials.co.uk/>.

## **HEALTH ASSESSING POTENTIAL EMPLOYEES**

**An article by Christopher Moses**

The current inquest into the Glasgow bin lorry tragedy has highlighted the need for due diligence from council's in assessing the health of new recruits.

However, investigating the state of a potential employee's health isn't straight forward.

Since 2010 councils have been unable to ask potential recruits to complete a pre-employment health screening questionnaire. The use of such pre-employment assessments could expose the council to claims for disability discrimination with potentially unlimited compensation, as well as a breach of the Equality Act 2010, especially if the information was used to reject a job application.

Furthermore, when asked to provide a reference, an ex-employer may be reluctant to provide information regarding attendance and sickness records, as they could breach Part 4 of the Data Protection Act 1998, and risk being named as a co-respondent in a disability discrimination claim.

The only realistic option for councils is to carry out post appointment health screening with new recruits. If this investigation reveals a chronic health problem that could affect the employee's ability to do their job, the council cannot simply dismiss that member of staff. To do so could also result in a disability discrimination claim.

The council would be obliged to investigate what adjustments are within its capabilities to help accommodate the employee, and overcome the health problem. For many small councils there is usually little scope for them to make such adjustments, however it is important that they do investigate this before making any decisions regarding the employee's continued employment. Such an investigation would entail:

1. Asking the employee for their consent to get a medical report.
2. With the employee's consent either write to their doctor, or arrange an Independent Occupational Health Assessment.
3. Ask the doctor / Occupational Health specialist to confirm any diagnosis, assess the employee's capabilities against the requirements of the job description and offer advice and guidance on what adjustments may enable the council to overcome the problem and accommodate the employee.
4. Having received the medical report, a meeting can be conducted with the employee to discuss its findings, as well as any necessary adjustments to help accommodate them at work, such as changing the job contents, adjusting the work environment or looking at other types of work.
5. The employee should be entitled to be accompanied at this meeting by either a colleague or union representative. If there are no adjustments that can be made to accommodate the employee, and they are not able to do a job, the council may have to consider terminating their employment. However, this is very much the last resort and must be preceded by the type of investigation detailed above.

What if the employee refuses to give their consent to a medical report? A council cannot force an employee to give their consent, and in such an event, managers can only determine how to proceed based on the evidence available to them.

#### **PROFILE**

Christopher Moses is Managing Director of Personnel Advice & Solutions Ltd and a Fellow of the Chartered Institute of Personnel and Development. If you have any questions regarding these issues please feel free to contact him on (01529) 305056 or email [p.d.solutions@zen.co.uk](mailto:p.d.solutions@zen.co.uk)

While every care has been taken in compiling these notes, Personnel Advice and Solutions Ltd cannot be held responsible for any errors or omissions. These notes are intended to provide general information. Guidance for specific legal problems should be sought separately.

## LITTER HEROES!

In April 2015, Kilsby Parish Council together with Kilsby School, Pre-School, WI and villagers decided to take action against the sheer amount of litter in and around the village. The community effort included various litter picks by school children, by villagers and litter prevention posters created by Pre-School and lower school children.



A pictorial story of activities was submitted to the Council for Preservation of Rural England (CPRE) Litter Heroes Awards and representatives of the parish council were invited to an awards ceremony. Fully expecting to be runners up, it was a proud day when Kilsby Parish Council's efforts were deemed the most impressive. The council was named **Litter Heroes of Northamptonshire** and awarded a prize of £500. The certificate will be displayed in the village hall, and the money distributed amongst the contributing village organisations. Some will also be used to make permanent anti-littering signs that the lower school children so kindly designed for the village.

Congratulations Kilsby!

## THE RURAL POWERHOUSE?

The government has recently published an interesting document titled "**Towards a one nation economy: A 10-point plan for boosting productivity in rural areas**". Despite the cringe-worthy title it is an interesting read as it indicates what the government's thinking is. The report notes that "*England's rural areas are a distinct part of our national character. But they also make a substantial and vitally important contribution to the economy, accounting for around £210 billion, or 16%, of England's total output.*" The government says "*We want to do all we can, whilst continuing on our path of fiscal responsibility, to remove barriers and put in place the best possible conditions for England's rural areas to thrive. Here we set out our 10-point plan to help boost rural productivity.*"

The ten issues are broken down in to five themes:

**Rural areas fully connected to the wider economy**

1. Extensive, fast and reliable broadband services
2. High quality, widely available mobile communications
3. Modern transport connections

**A highly skilled rural workforce**

4. Access to high quality education and training
5. Expanded apprenticeships in rural areas

**Strong conditions for rural business growth**

6. Enterprise Zones in rural areas
7. Better regulation and improved planning for rural businesses

**Easier to live and work in rural areas**

8. More housing
9. Increased availability of affordable childcare

**Greater local control**

10. Devolution of power

Parish councils will recognise many of the issues in the list and will likely have varying experiences of attempts to address them. There is some encouraging news about Item 1 below.

The full report is available to download from the Northants CALC web site at:  
[www.northantscalc.com/uploads/10-point-plan-rural-productivity-pb14335.pdf](http://www.northantscalc.com/uploads/10-point-plan-rural-productivity-pb14335.pdf)

**BROADBAND UPDATE**

The Northamptonshire County Council (NCC) Superfast Northamptonshire broadband roll out is at full steam ahead. More than 50,000 homes and businesses can now access superfast fibre broadband speeds above 24Mbps and more cabinets and exchanges are being enabled all the time. The Project Team has revamped its web site (<http://www.superfastnorthamptonshire.net>), which now carries a wealth of information, including a brand new and updated “**When & Where**” map, where users can enter their postcode and find out when superfast broadband is coming. For some the wait seems interminable, but at least Northamptonshire is way ahead of many other counties having got to the front of the queue in the national [BDUK programme](#). You can sign up for the latest updates at <http://superfast.fusecollaboration.com/Pages/contact-us.aspx>.

## NEVER TOO OLD TO LEARN

In any sphere of life it is a good idea to keep up to date but when you work in a rapidly changing environment, as clerks and councillors do, Continuous Professional Development (CPD) is absolutely essential. A clerk or councillor that has undertaken no CPD activity for a year is already out of date. So what is CPD and how can clerks and councillors develop a CPD programme?

CPD activities are undertaken by council employees to help maintain and improve standards of performance in their work. When council employees engage in CPD, they strengthen their knowledge and skills for the significant benefit of their councils and their communities. Good councils recognise the need for CPD and support their staff to have active CPD plans by allocating a budget for training, providing for sufficient paid hours to engage in CPD and being encouraging, even challenging. Far from being a “cost” a good council realises that CPD pays dividends in the long run.

CPD is not simply about attending training courses. Virtually every activity that is designed to increase or enhance knowledge counts as CPD. For example, under the National Training Strategy (NTS) Continuous Professional Development Scheme for Local Council Clerks reading this *Update* newsletter is worth ½ a CPD point!

*Anyone who stops learning is old, whether at twenty or eighty. Anyone who keeps learning is young. The greatest thing in life is to keep your mind young.*

**Henry Ford**

Activities such as formal learning (e.g. CiLCA, Community Governance degree), relevant reading, attending conferences and seminars, training courses and doing the research to take on a new project or activity at work all count as CPD.

And points make prizes. All clerks whose councils seek accreditation under the Local Council Award Scheme (LCAS), are required to demonstrate that they have achieved at least 12 CPD points in the 12 months immediately preceding the council’s application. CPD activities therefore carry a specified number of points and the points system is set out in an NTS guide, which is available to download from the Northants CALC web site at:

<http://www.northantscalc.com/uploads/cpd-point-scheme-final-dec14-5.pdf>

Unfortunately there is currently no formal scheme for councillors (only clerks) but there is nothing stopping councillors following the scheme informally and keeping their own records.

All councils should by now have a Training Statement of Intent, along with an associated budget, a Training Plan and a Training Record. There is no statutory requirement for councillors to attend training or engage in CPD but it should be an expected element of good councillorship. An example Training Statement of Intent is available on request from [akirkland@northantscalc.com](mailto:akirkland@northantscalc.com).

Never stop learning because life [and local government] never stops teaching.

## **IS YOUR COUNCIL'S MONEY PROTECTED?**

The Financial Services Compensation Scheme (FSCS) protects a private individual's deposits in bank accounts and some other savings and investment schemes. Until recently parish and town councils were specifically excluded from the FSCS meaning that deposits of public funds in bank accounts lay unprotected.



Over the summer the Prudential Regulation Authority (PRA) of the Bank of England announced a change in policy to extend the protection afforded under the Scheme to "Small Local Authorities" (SLAs). Such Authorities are defined as Local Authorities with "an annual budget of up to 500,000 Euros".

SLAs are protected for deposits/investments up to £85,000 (reducing to £75,000 from 1st January 2016) with any UK bank or building society.

Banks are writing to some parish and town councils asking them to confirm if they fall within the definition of an SLA. If your council receives such a letter it is important to respond quickly.

Parish and town councils with a budget in excess of 500,000 Euros remain outside the provisions of the FSCS and should take other steps to ensure the security of their deposits and investments. If in doubt, talk to your bank or building society about the options available.

## **BEEN THERE, GOT THE E-MAIL**

In July 2015 Northants CALC CEO Danny Moody became temporary Acting Clerk at Helmdon Parish Council. Here are his personal observations:

When Helmdon Parish Council found itself in-between clerks over the summer I was only too happy, as a long-serving councillor there, to step in as Acting Clerk (unpaid of course!). I did the same thing when the council was last in that situation in 2006, which seems like a lifetime ago! I was struck by how different the experience was from 2006 to 2015 and thought I would share some of what I felt were the key differences.

Firstly it's all online now. There is very little paper correspondence; everything arrives electronically either in the body of an e-mail or as an attachment. Planning applications are viewed on the district council's web site and the council's bank account is all online too. There are of course enormous benefits to this, not least the cost-savings and the fewer trees that need chopping down. However, there are downsides too. One has to be very proficient with computers to be a clerk (or a councillor) these days and one needs to get used to reading documents on screen rather than printing everything out, because there's too much of it.

The volume of correspondence is the second key difference. Back in 2006 when correspondents had to carefully craft a letter and think about the cost of posting it out it served to reduce the quantity and increase the quality of communications. Now, in a matter of seconds, anyone can spray out thousands of e-mails to all and sundry, whether the subject matter is relevant to them or not. The council received not less than twenty e-mails every day, of which only one or two were directly relevant (mostly the ones from Northants CALC (of course!), Northamptonshire County Council (NCC), South Northamptonshire Council (SNC) and intra-council communication between councillors). All the rest were dross or just too time-consuming to read. The plethora of "regular updates" were the worst offenders... a weekly update on rural housing is not, in my opinion, required. An annual report perhaps, but not a weekly update. Some kind organisations even seem to feel it necessary to provide daily updates on their activities. The serious downside is that the only practical way to deal with it is delete, delete, delete, which of course risks missing something that was vitally important. At Northants CALC we try to make sure that whatever we send out is directly relevant and is only sent to those councils to which it relates. For example, detailed information

about the Transparency Code, which applies only to councils with a turnover of less than £25,000, was only sent to those councils. Other councils can read about it generally in *Update* but don't need the detailed information clogging up their inboxes. Sadly, based on my recent clerking experience, our effort to reduce unwanted e-mails is like putting a finger in the proverbial dam.

The onus is on the clerk to determine what correspondence is important and should be circulated; what is for information only and what is rubbish. The council could of course have a policy but ultimately it comes down to the judgement of the clerk as recipient. Some clerks act as gatekeepers and pass nothing on, which is too draconian, but letting everything flow through would be unhelpful too. It's a matter of balance.

My third observation is just how much busier council life is compared to ten years ago. Helmdon is a village of just 1,000 souls but there is no shortage of work for the parish council. It took me at least an hour most evenings just to hold the fort. Any council still paying a clerk for 2 – 3 hours per week is either missing an awful lot of things or has a clerk that is working way in excess of their contracted hours! A recent SLCC survey into clerk's working hours suggested that the absolute minimum number of hours for the tiniest, quietest council was 4 hours per week, and even that would require a clerk who was working very efficiently and effectively. Realistically, if a council hasn't reviewed its clerk's hours upwards in the last year or two it's time to do it now. Ultimately it will be to the benefit of the council and the community.

My tenure as Acting Clerk was quite short this time, just six weeks or so, and in the end I was quite pleased to hand over the reins to the new clerk. It wasn't that I hadn't enjoyed it but it had become a bit complicated. For example there was one day when I sent an e-mail from work to all councils, drove home, received it as Acting Clerk, forwarded it on to the council, thus receiving it again as a councillor! At least I didn't have to read that one!

We have noted a significant turnover of clerks in the past twelve months. There is no single factor; instead it seems to be a range of conspiring factors causing the attrition. But undoubtedly one of the factors is work-related stress and in the next couple of weeks we will be issuing an anonymous survey to all clerks asking them to rate their stress levels. Please do respond – that's if you can find it in your inbox of course!!

## EMPLOYMENT STATUS

All parish and town clerks must be treated as employees, never self-employed. The council must operate a PAYE scheme and must never pay the clerk gross. Tax and NI should be deducted as appropriate at source. Some other council workers however may be treated as self-employed but their status depends on how the work is carried out.

The use of 'self-employed' contractors has become increasingly attractive to councils wanting to avoid the tidal wave of employment legislation that has impacted upon employers in recent years.

**Our Council values its membership of Northants CALC because...**

*"They are extremely supportive, very helpful and knowledgeable, and if they can't help at the time, will endeavour to find the answers."*

(Linda Marshall, Ringstead Parish Council).

The benefits to the council of using such workers are fairly straight forward, and include the ability to avoid paying holiday pay, sick pay, maternity / paternity pay, employers NI, and also avoid the risk of litigation if the council wants to terminate the 'contractors' services. For the contractor there is the attraction of paying lower 'self-employed' tax rates.

However, according to recent figures released by Citizens Advice, almost half a million people who claim to be self-employed contractors may in fact not fulfil the definition of being self-employed, and may be employees.

Why should this concern councils?

Once the working relationship hits difficulties, it may come under legal scrutiny resulting in unexpected costs for the council. For example, terminating the contract can lead to the 'contractor' deciding that they were in fact an employee, and taking a claim for unfair dismissal to an Employment Tribunal.

HMRC believe that £314m of tax revenues are lost annually through underpayment of tax and NI by people wrongly claiming to be self-employed. Councils may believe that if the Tax Man investigates their working relationship with their contractor, and finds that tax has been underpaid, they will ask the contractor to address the underpayment. Wrong. It is the council's obligation to correctly determine the nature of a working relationship with their workers, and

apply the appropriate tax regime. Failure to do so could result in the council having to pay the underpaid tax and NI to HMRC, plus interest and penalties.

Case law is full of examples of contractors suffering an injury whilst delivering their services, resulting in them losing money or being unable to work. In such circumstances, the litigation usually involves a contractor deciding that they were in fact an employee, and submitting personal injury claims against the council.

So what are the tests to determine self-employed status?

## **1. Control**

If you have an electrician or builder to carry out work for the council, they only need telling what needs doing and they decide how to do it. They will probably also decide when they can fit you in. The clerk or full council doesn't stand over them telling them which wires to connect or how to mix their mortar.

However, if a Council uses a gardener or book keeper, the Clerk may issue specific instructions as to how the work should be done, and exercises close control over how they work. Such managerial control can lead to the working relationship being defined as employment.

## **2. Financial Investment**

Going back to the example of the electrician or builder, they would be expected to provide their own tools and equipment. They may also buy the raw materials to do the job and add the cost onto their invoice. This is quite different to the situation where the contractor uses the council's tools and equipment to deliver their work, and have no financial investment in the delivery of their services. This again would lead to the working relationship being described as employment.

## **3. Mutuality of Obligation**

The Council probably doesn't care which electrician or builder turns up to do the job, just as long as they are capable of doing it. By contrast, if councils expect a named individual contractor to turn up and do the job, and one named worker will work for them, they are probably employing that individual.

## 4. Integration

You wouldn't expect the builder or electrician to attend a council meeting and take minutes, but it is not uncommon to see a landscape 'contractor' helping the council out in other areas, such as carrying out maintenance work. Again, this would imply that the worker is an employee.

If your council has any workers other than the clerk and there is any question whatsoever about their employment status please contact Northants CALC for further information and advice.

### LEGAL TOPIC NOTES

The National Association of Local Councils (NALC) produces a whole series of Legal Topic Notes (LTNs) covering many aspects of parish and town council work. The LTNs are updated as and when there are legislative changes, and occasionally a new one is brought out when there is new legislation (e.g. LTN No.86 - The Disclosure and Barring Service).

LTNs are available on request free of charge to member councils. They are all Word or PDF files and will be delivered to you as e-mail attachments. We do not currently publish the LTNs on our web site for self-service because so often when an enquiry comes in and we ask questions it ends up as an entirely different enquiry needing an entirely different LTN.

LTN No	Subject	Subject heading on legal page
1	Councils' Powers to Discharge their Functions	Council business, law and procedure
2	The Chairman of Local Councils	Council business, law and procedure
3	The powers of a parish meeting in a parish without a separate Parish Council	Council business, law and procedure
4	The powers of a community meeting in a community without a separate Community Council	Council business, law and procedure
5	Parish Town and Community Council Meetings	Council business, law and procedure
6	Meetings of Parish Meetings	Council business, law and procedure
7	Non-Councillor Members of Committees	Council business, law and procedure
8	Elections	Council business, law and procedure
9	Handling Complaints	Council business, law and procedure
10	Royal Visits	Council business, law and procedure

11	Celebrations and Similar Events	Council business, law and procedure
12	Titles of Dignity	Council business, law and procedure
13	Policing your area	Crime and Disorder
14	Byelaws (England)	Council business, law and procedure
15	Legal Proceedings	Legal Proceedings
16	Control of Litter	Planning, environment and licencing
17	Control of Dogs	Planning, environment and licencing
18	Local Councils' Power to Provide Parking Spaces	Highways and Parking
19	Unauthorised Parking on Private Land	Highways and Parking
20	Markets and other Events	Miscellaneous
21	Local Council help for Village Halls	Council business, Law and procedure
22	Disciplinary & Grievance Procedures	Employment
23	Health and Safety	
24	The Human Rights Act 1998	Legal Proceedings
25	<i>Replaced by LTN 78 - The Equality Act</i>	Discrimination
26	<i>Replaced by LTN 78 - The Equality Act</i>	Discrimination
27	<i>Replaced by LTN 78 - The Equality Act</i>	Discrimination
28	Basic Charity Law	Charities
29	Straying Animals	Land and Property
30	Defamation	Council business, law and procedure
31	Section 137 of the Local Government Act 1972	Council business, law and procedure
32	Local Councils and VAT	Council business, law and procedure
33	Councillors' Allowances	Council business, law and procedure
34	Retirement Gratuities	Employment
35	Contracts	Contract
36	Unfair Contract Terms Act 1977	Contract
37	Freedom of Information	Information Law
38	Data Protection	Information Law
39	Copyright	Information Law
40	Local Councils' Documents and Records	Council business, law and procedure
41	The Responsibilities of Councils as Landowners	Land and Property
42	Occupiers Liability	Land and Property
43	Private Access to Council Land	Land and Property
44	Trespass to Land	Land and Property
45	Disposal and Appropriation of Land by Local Councils	Land and Property
46	Registered Land	Land and Property
47	Easements	Land and Property
48	The Difference between Leases and Licenses	Land and Property
49	Business Tenancies	Land and Property

50	The Agricultural Tenancies Act 1995	Land and Property
51	Agricultural Holdings Act 1986	Land and Property
52	Temporary Use of Allotment Land	Allotments
53	Protection of Common Land	Common Land
54	Protection of Ownerless Common Land	Common Land
55	Claiming Ownerless Land	Land and Property
56	The Provision of Play and Sports Equipment on Village Greens	Village Greens
57	Easements over Common Land and Village Greens	Village Greens
58	Planning	Planning, environment and licencing
59	The Rights of Local Councils to be notified of Planning Applications and Decisions	Planning, environment and licencing
60	Copies of Planning Documents	Planning, environment and licencing
61	The Status of Parish Town and Community Councils at Public Enquiries	Planning, environment and licencing
62	Planning Control over Agricultural Land and Buildings	Planning, environment and licencing
63	Planning and Building Control Enforcement	Planning, environment and licencing
64	Tombstones and Memorials	Burial Grounds
65	Closed Churchyards and Disused Burial Grounds	Burial Grounds
66	Nuisance (Public and Statutory)	Land and Property
67	Nuisance (Private)	Land and Property
68	Negligence	Land and Property
69	ASBOs and Harassment	Legal Proceedings
70	Clean Neighbourhoods and Environment Act 2005	Planning, environment and licencing
71	Naming and Numbering of Streets	Highways and parking
72	Highways	Highways and parking
73	Community Governance Reviews	Council business, law and procedure
74	Alternative names and styles for parish councils	Council business, law and procedure
75	Lease Negotiations	Land and Property
76	Energy performance requirements	Land and Property
77	Public Rights of Way	Highways and Parking
78	The Equality Act 2010	Employment and Discrimination
79	Staff Pensions	Employment
80	Members' conduct and the registration and disclosure interests (England)	Code of Conduct
81	Pre-Determination	Council business law and procedure
82	Compulsory Purchase orders	Land and Property
83	Neighbourhood Planning	Planning, environment and licencing
84	The Community Right to Challenge (England)	Contract
85	The Community Right to Nominate and Bid for Assets of Community Value (England)	Land and Property
86	The Disclosure and Barring Service	Employment

## COMMUNITY SHARES

Do you have a community asset, service or facility that is at risk? Do you have grand plans for a project that promotes environmental or social wellbeing? Do you have the vision and the ambition but are unsure how to secure funding? Then why not consider Community Shares!?



*FC United of Manchester was created with community shares*

The term community shares was coined by the Development Trust Association (DTA) (now known as Locality) in its 2008 publication *Community Share and Bond Issues*, which examined how a growing number of community enterprises were raising investment capital from their local supporters. In the same year, Cooperatives UK published a document called *Community Investment: using industrial and provident society legislation*, addressing the same phenomenon, but focusing exclusively on societies. (The Co-operatives and Community Benefit Societies Act 2014 saw the removal of the term industrial and provident society from legislation). Towards the end of 2008 the DTA and Cooperatives UK came together to establish the Community Shares programme, an action research partnership funded by the Cabinet Office and the Department of Communities and Local Government (DCLG). The programme ran from 2009 to 2011. Over 70 new societies registered during this period have now successfully completed a community share offer. The Community Shares Unit was launched in October 2012. It continues as a joint initiative between Locality and Cooperatives UK, with funding from DCLG. Since 2009 over 400 new societies have been registered, and more than 180 community share offers have been successfully completed. In total, more than £20m of share capital has been raised from over 20,000 investors.

Projects as diverse as community solar energy schemes, food businesses, community pubs and football league clubs have all been funded through sales of community shares.

If your appetite is whetted and your interest is piqued then visit <http://communityshares.org.uk> for more information, case studies and guides. You never know, it could be just what your community needs!

## **A CAUTIONARY TALE**

99.99% of parish council officers are completely honest and trustworthy. Identifying the 0.01% is important, particularly if you are a council looking to recruit a new clerk. Beal Parish Council in North Yorkshire may be wishing that it had looked into the employment history of Mr Richard Fogden before appointing him as clerk. His “shameful and wicked behaviour”, as the judge described it, led to a £20,000+ fraud. The articles [here](#) and [here](#) outline the sordid details. The lessons are simple, check an applicant’s employment history and obtain at least two workplace references where possible. Councils may find that their Fidelity Guarantee insurance will not pay out if there are no employment references on file. Act today, before it’s too late!

## **TRAINING AND DEVELOPMENT FOR LOCAL COUNCILS**

Look below for a course or event that may be of interest and make a booking through the Clerk to the Council. All councils must have a training budget from which councillors can book courses under the authority of the Clerk.

### **Training Opportunities October – December 2015**

#### **Planning Nuts and Bolts**

Wed, 07 Oct 2015 10:00am

An introductory training session for Parish/Town Councillors and Clerks covering the basic principles of planning including policy, applications, appeals and enforcement.

#### **Agendas and Minutes**

Thu, 22 Oct 2015 10:00am

The ideal course for Clerks, Deputy Clerks and administrative staff wishing to learn about or brush up their knowledge of Parish/Town Council agendas and minutes.

#### **New Clerks (Winter 2015) Day 1**

Sat, 21 Nov 2015 10:00am

This course provides a broad understanding of the role and responsibilities of a town or parish clerk. This course is a must for newly-appointed clerks, or clerks who feel they could benefit from some formal training.

## **New Clerks (Winter 2015) Day 2**

Sat, 05 Dec 2015 10:00am

See above

## **Off to a Flying Start**

Mon, 14 Dec 2015 2:00pm

This course is designed to help all Clerks and Councillors make an early, effective and confident start to their careers, by providing quality, constructive and participative training on the roles and responsibilities of Clerks and Councillors.

For information on any of these courses please see [www.northantscalc.com/events.html](http://www.northantscalc.com/events.html) or for further information contact Anne Kirkland, Training Manager, on 01327 831482 or [akirkland@northantscalc.com](mailto:akirkland@northantscalc.com). All courses must be accompanied by a course booking form, which can be downloaded from [www.northantscalc.com](http://www.northantscalc.com).

You can also book online at <http://www.northantscalc.com/training-reservations.html>.

If you would be interested in a training session specifically designed and delivered for your Council, please contact Anne Kirkland to discuss your requirements.

## **SITUATIONS VACANT**

Full details and contact details for the vacancies below are available at <http://www.northantscalc.com/job-vacancies.html>.

### **Wilby Parish Council**

Owing to the retirement of the clerk Wilby Parish Council will have a vacancy for a Clerk/RFO. Wilby is a small village to the south west of Wellingborough. There are just over 500 electors and for 2015/16 the council set a precept of £9,900. The council has seven seats. The position is permanent part-time at 20 hours per month. The closing date for applications is **21 November 2015**.

To find out about the role of the Clerk download an introductory booklet entitled "*The Essential Clerk*" at: [www.northantscalc.com/uploads/essentialclerk.pdf](http://www.northantscalc.com/uploads/essentialclerk.pdf)

## THE “AVERAGE” PRECEPT

The publication of “*Council tax statistics for town and parish councils: 2015-16 England*” comes against a background of a number of years of heightened central interest in local council expenditure. Among the most significant statistics provided for 2015-16 are:

- The majority of local councils raise a precept - **8,795 raised a precept** (out of 10,181 local councils).
- Precepts tend to be proportionate to size – The report concludes that parishes with a small tax base tend to charge a small local precept. The smallest parish raising a precept has a tax base of less than two whilst the largest has a tax base of just over 30,000. Precepts vary from just £17 to over £2 million.
- Precept levels have increased overall - **The average Band D parish precept in 2015-16 is £54.12**, an increase of £1.75, or 3.3% on 2014-15. The total precept to be collected on behalf of parishes in 2015-16 is £409 million, which represents 1.7% of the total council tax requirement for England.
- Over a third of parishes froze their council tax - 3232 parishes (36.7%) had a freeze or decrease in their parish Band D council tax (the biggest reduction being £69.74). 1,888 parishes (21.4%) had an increase between 0% to 2%. Just over a quarter of parishes (2,309) had an increase of less than £1.58. 1% of parishes had an increase of 2% or less. 2,489 parishes (28.2%) had an increase above the average of £1.75; the largest increase being £229.38. 62 parishes (0.001%) more than doubled their Band D council tax. Newly councils and those precepting for the first time are classed as having a 100% increase.

	2012-13	2013-14	2014-15	2015-16
Total number	9,065	8,805 <sup>(a)</sup>	8,813	8,810
Tax base (thousands) <sup>(b)</sup>	8,046.2	7,307.4 <sup>(b)</sup>	7,424.2	7,560.4
Aggregate of local precepts (£000)	384,104	367,048 <sup>(b)</sup>	388,808	409,146
Average parish precept per Band D (£)	47.74	50.23	52.37	54.12
Change (£)		2.49	2.14	1.75
Percentage change		5.2%	4.3%	3.3%

Council tax statistics for town and parish councils: 2015-16 can be found at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/444971/Council tax statistics for town and parish councils 2015-16 England.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/444971/Council_tax_statistics_for_town_and_parish_councils_2015-16_England.pdf)

## NORTHANTS CALC CONTACTS

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### Address:

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Northampton Road  
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NN12 8JB

**Telephone:** 01327 831482



[www.northantscalc.com](http://www.northantscalc.com)

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# ADVERTISEMENT

## Syzygy Clerking Services

### Vacancies for Clerks



Syzygy Clerking Services is seeking to recruit new clerks to support school governing bodies in its rapidly increasing portfolio across the Midlands. The work is primarily based in Northamptonshire but with an increasing number of schools being taken on board in Leicestershire.

Governing Body and committee meetings are held primarily in the evenings throughout the academic year.

Our clerks are normally allocated to specific school(s) and you will be involved in:

- helping schools to form their agendas for meetings
- acting as the school's link with governors, distributing reports and other information
- clerking meetings, preparing and distributing the minutes
- acting as a point of information and advising governors and the school on all matters relating to school governance.

You will be paid a fixed rate for meetings together with mileage. Opportunities for covering other schools may also arise from time to time.

Full training will be provided with the opportunity to study for a nationally recognised qualification.

For further information and an informal chat, contact Mike Behnke on 07765 255787.