

**As a direct result of the coronavirus outbreak, local authorities across England are issuing dire warnings. They are facing financial challenges which are unprecedented, and that their financial stability is, in places, in question.<sup>i</sup>**

**In this article:**

- **What factors are creating this risk?**
- **What happens if a local authority runs out of money?**
- **What does this mean for local infrastructure organisations (and the story from Voluntary Impact Northamptonshire)**
- **What to do now – planning and risk**

Local infrastructure organisations and others across the VCSE are assessing and re-assessing the risk, and the potential effects on their own funding and income streams.

If there are concerns about the stability or financial resilience of the local authority, that spells risk to the communities and people the LA works for – especially those people in the community who are facing the greatest disadvantage, exclusion or inequality. A weakened or unstable LA is also a risk for organisations across the local VCSE, as well as local infrastructure organisations.

In relation to local infrastructure or VCSE organisations, a local authority could be:

- A partner in service delivery
- A commissioner of service delivery
- A grant making body providing funds for particular projects and/or core costs
- A provider of 'in kind' support such as premises, support services or back office functions

Whatever technical role the local authority plays in relation to the local VCSE, they are one of the most important players in the ecosystem for local communities.

### **Are many LAs at risk right now?**

Some councils are being vocal about their potential for financial instability.

**Hackney** LBC's mayor has warned of an uncertain future without additional funding from central government.<sup>ii</sup> The Royal Borough of **Windsor and Maidenhead** has issued a similar warning directly to the Chancellor.<sup>iii</sup> Recent news headlines include

“Warnings some local authorities could go bust the longer coronavirus crisis continues.”<sup>iv</sup> Luton Borough Council is the sole owner of Luton Airport and relies heavily on income generated here. It has said that the impact of coronavirus on the airport’s operation, as well as the pressures felt by all councils, mean it is facing a severe financial hit.<sup>v</sup> A recent report in the Birmingham Mail says: “**Birmingham, Manchester, Liverpool and Newcastle** are among the local authorities warning they face catastrophe because of the covid-19 crisis.”<sup>vi</sup>

During February and March councils usually set their budgets (before the end of the previous financial year). Most, if not all, will have passed their budgets for the current year before the impact of the coronavirus outbreak was fully understood.

The Government has announced that £1.6 billion is being made available to local authorities, as well as making other concessions to help councils deal with cash flow, in response to the coronavirus outbreak. However, councils will still be making hard choices about spending and also checking their calculations on every area of their business to see whether they will be able to balance their budgets for the year ahead.

The Local Government Chronicle, however, reports that there is a multi-billion pound shortfall in local government, and that government reassurances about the financial impact of the crisis have been watered down. In a recent article the LGC says: “In the early weeks of the crisis, communities secretary Robert Jenrick repeatedly told councils to spend what they need and they would be reimbursed. However, senior figures have told LGC the ‘mood music’ has changed with Mr Jenrick reportedly telling council leaders councils needed to “share the burden”, suggesting the government is expecting them to cover the costs from their own reserves.”<sup>7</sup>

Local authorities are now publicly talking about the risk of financial collapse.

### **What are the challenges for your local authority?**

Along with other public sector organisations, local authorities are working hard to maintain public services during a time of unprecedented social and economic upheaval. Although the Government has provided £1.6 billion to local authorities to help them meet the cost of the coronavirus outbreak, many council leaders have warned that this will not go far towards covering the additional costs and loss of revenue they are facing.<sup>vii</sup> Council leaders and senior executives are openly talking

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about issuing S.114 notices (see below), financial failure and local authorities collapsing.

In terms of services, safeguarding and supporting vulnerable adults and children will be top of the council's list. However, they are also still providing numerous services including waste collection, housing, social care, education for the children of key workers and vulnerable children, and much more. They are also facing increased demand, as more people are identified as 'vulnerable', against a backdrop of staff absence due to sickness and self-isolation, a shift to many people being required to work from home, reduced income from services they provide, uncertainty over yield from the New Homes Bonus, and a reduced return on investments.

It's a classic four-way financial assault: revenue down, additional expenditure, fewer people on hand to do the work, core costs continuing.

The Local Government Association (LGA) says that "between 2010 and 2020, councils will have lost 60p out of every £1 the Government had provided for services. Combined with huge increases in demand for services, such as adult and children's social care and homelessness support, councils in England face an almost £4 billion black hole in 2019/20."<sup>viii</sup>

This was written **before** the coronavirus outbreak which has had further severe economic and financial consequences for local authorities.

Local authorities are not permitted to borrow in order to finance day-to-day activities; the council reserves are there to meet emergency spending. The cushion of reserves can make it seem that councils are financially secure, when on a day-by-day basis they may be struggling to meet commitments.

The Institute for Government says: "When a local authority runs into financial difficulties, alarming headlines quickly follow. 'Tipping points', 'one-off measures' and 'unsustainable' are just some of the warnings that have been issued by councils from Torbay to Lancashire, while the budgetary crisis in Northamptonshire saw the county council prohibit any spending except on what was deemed a legal requirement."<sup>ix</sup>

In the case of Northamptonshire, the Council's Chief Financial officer has had to implement what CIPFA describe as "the greatest financial sanction – the Section 114 notice"<sup>x</sup> twice in the last few years, after at least two decades with no English council needing to do so.

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## What is a S.114 notice?

Issuing a S.114 notice is, bluntly, a big deal. It will have an impact on every aspect of local authority work. A S.114 notice is an emergency order which imposes a ban on all spending, other than to continue the most basic statutory services.

What does it mean in practice? In a blog post on Room 151,<sup>xi</sup> it is the last resort, for a time when:

"To begin with, your reserves must be pretty much exhausted, to the point at which you have sacrificed all of your medium and long-term financial commitments in order to finance current expenditure.

"You must also have no confidence that future expenditure is going to be reined in to affordable levels; which either means that you believe the forecasts in your budget paper are a work of fiction, or that your budget paper presents the ugly truth that there are no plans.

"Next, you will almost certainly be currently spending more than you have budgeted for anyway, and have no confidence that you will be able to bring spending under control; and finally, you must be convinced that there is absolutely no way of brokering a solution without issuing the notice."<sup>xii</sup>

Issuing a S.114 notice means that there will be no further spending, and a full Council meeting must be held within 21 days to consider an emergency budget.

In technical terms, the S.114 notice comes from the Local Government Finance Act 1988.<sup>xiii</sup> S.114 requires the person having responsibility for the administration of the financial affairs of a relevant authority (usually the local authority's Chief Financial Officer or CFO) to make a report under this section **if it appears to him that the authority**, a committee of the authority, a person holding any office or employment under the authority, or a joint committee on which the authority is represented—

(a) has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful,

(b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority, or

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(c) is about to enter an item of account the entry of which is unlawful.

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.**

Delivery of statutory services is still required of councils, even if a S.114 notice has been issued. However, several councils have already used the provisions of the Coronavirus Act 2020 to halt required assessments and reviews under the Care Act 2014, and to prioritise availability of care and support, to manage staff shortages and increased workload. This will already mean residents at risk of vulnerability will be experiencing reduced or delayed services.<sup>xiv</sup>

If your local authority is already in difficulties, or is talking about this issue, then plans will already be on the drawing board. If you are able to use your relationships to contribute to those plans at an early stage, you'll be able to identify any key areas where the local VCSE could be a solution. Again, think about issues such as safeguarding and vulnerability, equality impact and, if appropriate, rural-proofing.

### **What can local infrastructure organisations do?**

Voluntary Impact Northamptonshire (VIN) have shared their experiences of working with a local authority which has issued S.114 notices. VIN delivers local VCS infrastructure support across the county. You can read their case study at Appendix 1.

*"In Northamptonshire's case the speed of decision making and the move towards special measures happened very quickly and of course the VCSE sector was largely unaware of the discussions taking place... Whilst the VCSE sector knew of the impending S.114, the speed and rapidity of its progress still took many people by surprise."<sup>xv</sup>*

Your local authority could be:

- A partner in service delivery
- A commissioner of service delivery

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- A grant making body providing you with funds for particular projects and/or core costs
- A provider of 'in kind' support such as premises, support services or back office functions
- Any combination, or all, of the above

The key lessons from VIN's experience can be summarised as:

1. Relationships matter - what is your plan for engaging with your stakeholders, at the local authority and elsewhere?
2. Be aware of the potential risk - where are your danger areas?
3. Know your impact – what do you do, what would happen if you didn't do it, and who would have to pick up the work? Think about safeguarding and vulnerability risks here.
4. Gather your allies - who else is likely to be affected if it all goes wrong at your council?
5. Offer solutions -- how can you solve the problems?

*“S.114 notices are not the end of the process, even though it might feel like it. There is still money in the system. The key is to find that money and have an offer to unlock it.”*

## Planning and risk assessment<sup>xvi</sup>

Check around now – what is your local authority saying about its finances? Has your local news media been running stories about the issue? Are your contacts talking about this?

Local authority stability should be on your organisation's risk register, because of the relationship(s) you will have with your LA. The Charity Commission has produced guidance on risk management and also<sup>xvii</sup>

In summary, though, here are **the top five things to do NOW** to make sure your organisation and your trustees are aware of the current situation:

1. Use your local knowledge and contacts, and be aware of what's happening at your LA – explore rumours for validity. “Hope for the best but plan for the worst” is often a useful maxim.

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2. Keep your lines of communication across the local authority open and effective - with service managers, directors, portfolio holders and councillors.
3. Have the data (statistics and case studies) ready to demonstrate the value of your work, who benefits (immediate and wider community), cost-effectiveness and what the community would look like if that work were not being done. Alongside the financial implications gather data about safeguarding and vulnerability. Be clear on who benefits from services you deliver, what the impact will be if those services are reduced or lost, and what the knock-on effect for the local authority (or other public services, such as health or criminal justice) would be. Local and national governments depend on charities for services where the state has withdrawn as a supplier. If not you, who will do this work?
4. Communicate – this is a time to share the positive news about the work you are doing, with your LA and the public. Update your website with impact stories, send press releases to your local media, and shout about your value on social media.
5. Collaborate – share intelligence and your plans with colleagues in other VCSE organisations. Think about developing a local sector-wide approach, if the worst comes to the worst, and make sure you have the contact details for those you perceive to be key players.

## Appendix 1

www.voluntaryimpact.org.uk  
info@voluntaryimpact.org.uk

# HOW TO PREPARE FOR A LOCAL AUTHORITY S114 NOTICE

## BACKGROUND

Voluntary Impact Northamptonshire delivers Infrastructure Support across the County and worked through the County Councils decision to serve not one but two S114 Notices in 2019. As a County, we are now working towards two Unitary Authorities which should be in place by 2021, even given the current pandemic.

Whilst the VCSE sector knew of the impending S114, the speed and rapidity of its process still took many people by surprise.

## HOW TO PREPARE

I think the simple answer is that it's very difficult. In Northamptonshire's case the speed of decision making and the move towards special measures happened very quickly, and of course the VCSE sector was largely unaware of the discussions taking place.

Some contracts were terminated and rescinded, which had grave consequences for organisations and individuals.

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S114 notices are not the end of a process, even though it might feel like it. There is still money in the system. The key is to find that money and have an offer to unlock it.

Statutory delivery is still a requirement even when a S114 notice has been issued. The VCSE sector is often intrinsically involved with that Statutory delivery construct so ensure you know who's involved and why.

S114 notices and the political disinvesting of the sector go hand in hand. Ensure your elected members are aware of the implications of disinvestment.



### THE LESSONS: KEY TIPS

Make consistent representations.

Be controlled in your argument.

Mobilise your public support.

Plan for the aftermath and start building new continuity plans.

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## THE LESSONS

Try to ensure that as best as possible you exploit your existing Local Authority contacts and be aware of any different or unusual messages which could be symptomatic of changing or unusual times. Trust your instincts.

If you hear rumours do not ignore them. Explore the rumour for validity and plan for the rumour being true.

Mobilise the sector as best you can. Ensure that larger and smaller organisations are mobilised and ensure you speak as one voice not a range of differing voices.

Make sure you have clear lines of communication into the Authority. Authorities are generally large with many different Directors and Operational Managers. Seek out your allies within the Authority and ask them to assist you with these lines of communication. You will need a one truth approach to the situation, whatever that is.

Make sure you get an affirmation that existing contracts will be honoured as this buys the sector valuable time.

Undertake some Impact Assessments. Be clear on who is going to be affected and by how much. Local Authorities often make blanket decisions. Facts and Implications can change their view or perception. It did in Northamptonshire. Safeguarding and Vulnerability arguments are important so concentrate on these.

Always remain solution focussed. Even within the S114 process activities still need to be delivered but make sure the sector has an Offer.

Be prepared for casualties. There will be some. Only worry about what you can affect not what you can't.

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<sup>i</sup> Written by Clare Mills, Head of Communications and External Affairs. Thanks for additional input from Paul Dixon, Rural Evidence Manager, ACRE, Chloe Darlington, Policy and Communications Manager, Children England, and Max Rutherford, Trustee, Voluntary Impact Northamptonshire.

<sup>ii</sup> <https://www.lgcplus.com/finance/hackney-mayor-couldnt-rule-out-s114-without-extra-funding-23-04-2020/>

<sup>iii</sup> <https://www.maidenhead-advertiser.co.uk/news/maidenhead/158124/spending-ban-warning-as-coronavirus-costs-council-millions.html>

<sup>iv</sup> <https://www.itv.com/news/calendar/2020-04-02/warnings-some-local-authorities-could-go-bust-the-longer-the-coronavirus-crisis-continues/>

<sup>v</sup> <https://www.lgcplus.com/finance/luton-chief-were-absolutely-exposed-to-violent-halt-in-commercial-revenue-30-04-2020/>

<sup>vi</sup> <https://www.birminghammail.co.uk/news/midlands-news/boris-johnson-save-local-councils-18186414>

<sup>vii</sup> <https://www.bbc.co.uk/news/uk-england-52395398>

<sup>viii</sup> <https://www.local.gov.uk/opinion-its-time-put-funding-crisis-facing-our-local-services-centre-stage>

<sup>ix</sup> <https://www.instituteforgovernment.org.uk/publication/performance-tracker-2019/local-authority-financial-sustainability>

<sup>x</sup> IPFA Briefing, March 2016, “Balancing Local Authority Budgets – and Section 114 Notices”

<https://www.cipfa.org/policy-and-guidance/reports/balancing-local-authority-budgets-briefing>

<sup>xi</sup> Room151 is an online news, opinion and resource service for local authority Section 151 and other senior officers covering treasury, strategic finance, funding, resources and risk. [www.room151.co.uk](http://www.room151.co.uk)

<sup>xii</sup> <https://www.room151.co.uk/blogs/agent151-anyone-for-a-section-114/>

<sup>xiii</sup> <http://www.legislation.gov.uk/ukpga/1988/41/section/114>

<sup>xiv</sup> <https://www.communitycare.co.uk/2020/04/30/eight-councils-triggered-care-act-duty-moratorium-month-since-emergency-law-came-force/> For more detail on how the Care Act easements operate, see <https://www.gov.uk/government/publications/coronavirus-covid-19-changes-to-the-care-act-2014/care-act-easements-guidance-for-local-authorities>

<sup>xv</sup> Voluntary Impact Northamptonshire: How to prepare for a local authority S114 notice – at Appendix 1.

<sup>xvi</sup> <https://www.gov.uk/government/publications/charities-and-risk-management-cc26/charities-and-risk-management-cc26>

<sup>xvii</sup> <https://www.gov.uk/government/publications/charity-trustee-meetings-15-questions-you-should-ask/charity-trustee-meetings-15-questions-you-should-ask>

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