

Consideration of the possible need to issue a Section 114 Report (often mistakenly referred to as a council declaring bankruptcy)

1. A report issued under s114 (3) of the Local Government Finance Act 1988 is one made by a councils Chief Finance Officer (CFO) if in their opinion they believe that the expenditure to be incurred during a financial year is likely to exceed the available resources. It is considered good practice to consult the Chief Executive and Monitoring Officer before such a report is issued. A copy of the report must be sent to all councillors and the external auditor.
2. The report triggers a short-term statutory prohibition on entering into any new agreement which may involve the incurring of expenditure without the permission of the CFO. Statutorily the CFO can only consent to new agreements or to terminate existing agreements during this period if they will prevent the situation getting worse, improve the situation, or prevent a recurrence.
3. The report must be considered at a meeting of the Council within 21 days of the report being issued. At the meeting the authority must decide if it agrees or disagrees with the views in the report and the actions it proposes to take. If Council cannot still agree a balanced budget position, then the authority is required to call in the external auditor who must then try to set a balanced budget.
4. In addition, the Government can intervene on how services are run by a council following the issuing of a s114 Report. Most councils in this situation have been the subject of such intervention via Commissioners or members of an intervention board who are usually experts with lengthy experience in local government. Ultimately, they have the power to direct a council over budgetary and other decisions.
5. This process has often been, mistakenly, likened a council declaring bankruptcy. In practice it is more like the process of a company entering administration in that core statutory services are maintained but the government will place commissioners in the Council to make the decisions that are needed to balance the budget, generally by cutting all non-statutory expenditure.