

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 council's 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. Such a report is only issued in the gravest of circumstances and is most likely to be required in a situation in which reserves have become depleted, and it is forecast that the council will not have the resources to meet its expenditure in a particular financial year.
3. 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.
4. 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.
5. 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.
6. This process has often been, mistakenly, likened to 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.
7. A budget may become unbalanced due to any significant alteration to either expenditure or income including for example from a sudden policy change, demographic pressures, unexpected funding pressures, a failure to realise planned savings, or from a natural disaster.
8. The council should find an alternative way to balance the budget, such as an emergency savings programme or applying for Exceptional Financial Support (EFS) from the government. Where EFS is approved this normally takes the form of a capitalisation direction, whereby government allow revenue expenditure to be capitalised and funded from debt. Conditions attached to EFS applications vary but usually involve the sale of capital assets and using the receipts to reduce the debt increased via the EFS borrowing. If a budget cannot be balanced a s114 notice must be considered by the s151 officer.
9. Nineteen s114 notices have been issued since the legislation came into force in 1988. Since 2018 there have been fourteen s114 notices issued by nine councils as

set out below. This clearly demonstrates they can occur in different types of councils, in different geographical regions and in councils under different political control.

Council	Date of S114 Notice	Geography	Type	Political control at time of S114
Northamptonshire	Feb 2018 and July 2018	East Midlands	County council	Conservative
Croydon	Nov 2020 and Dec 2020	London	London borough	Labour
Slough	Jul 2021	South East	Unitary council	Labour
Nottingham	Dec 2021	East Midlands	Unitary council	Labour
Northumberland	May 2022	North East	Unitary county	Conservative
Croydon	Nov 2022	London	London borough	NOC
Thurrock	Dec 2022	East of England	Unitary council	Conservative
Woking	May 2023	South East	District council	Lib Dem
Birmingham	Sep 2023 (twice)	West Midlands	Metropolitan District	Labour
Nottingham	Nov 2023	East Midlands	Unitary council	Labour
Barnet	Jan 2025	London	London borough	Labour

10. S114 notices remain rare, but they are not as rare as they used to be.