

Enc iv) THE ROLE OF THE PROPER OFFICER AND RESPONSIBLE FINANCIAL OFFICER

Purpose of this Note

At its Annual Meeting, the Council is required to formally appoint the Executive Officer as the Responsible Financial Officer (RFO). This note explains what that appointment means in practice — what the RFO is required by law to do, what it means for how the Council makes decisions, and what happens when the Council chooses not to follow professional advice.

This note is provided to ensure that all councillors have the same clear understanding of these roles and responsibilities. It is not directed at any individual councillor. It is a straightforward statement of the legal and governance framework within which the Council operates, and which applies to every member equally.

Part 1 — The Proper Officer

The Proper Officer is a legal title. It refers to the officer of the council who is responsible for carrying out specific statutory functions on the council's behalf. At Ashington Town Council, the Executive Officer holds this role.

The Proper Officer's responsibilities come from the Local Government Act 1972 and include:

- Signing and issuing agendas and notices of meetings
- Receiving and recording formal notices on behalf of the Council
- Maintaining the Council's statutory registers and records
- Issuing summonses to councillors to attend meetings
- Receiving declarations of acceptance of office from newly elected or co-opted councillors
- Producing the minutes of meetings as an accurate and impartial legal record of decisions taken

These are not discretionary tasks. They are legal duties that must be performed by the designated officer. The Proper Officer is also the Council's principal adviser on legal, procedural and governance matters. It is their responsibility to tell the Council when a proposed course of action is unlawful or contrary to proper practice — even when that is not what members want to hear.

What this means in practice

The Proper Officer serves the whole Council, not any individual councillor or group. Their legal advice must be impartial. The Council is entitled to make its own decisions — but it must do so having heard the Proper Officer's advice, and where it decides to act contrary to that advice, the advice and the decision to depart from it must be recorded in the minutes.

Part 2 — The Responsible Financial Officer (RFO)

The Responsible Financial Officer is a statutory role created by section 151 of the Local Government Act 1972. Every council must appoint an officer to be responsible for the proper administration of its financial affairs. At Ashington Town Council, the Executive Officer holds this role and is formally appointed by the Council at its Annual Meeting each year.

The legal framework for the RFO's duties is set out in:

- Section 151 of the Local Government Act 1972 — requires every council to appoint an officer responsible for the proper administration of its financial affairs
- The Accounts and Audit Regulations 2015 — require the RFO to establish and maintain a sound system of internal financial control and arrangements for the management of financial risk
- The Smaller Authorities' Proper Practices Panel (SAPPP) Practitioners' Guide 2026/27 (formerly the JPAG Practitioners' Guide) — sets out the 'proper practices' that the RFO must follow; these are mandatory and are the standard against which the Council's financial governance is assessed by auditors each year

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- The Local Government Finance Act 1992 — governs the budget requirement and precept

These are not optional frameworks. They are the legal and professional standard against which the Council's financial governance is assessed by its internal and external auditors every year, and which would be examined by a court if the Council's financial management were ever challenged.

What the RFO is required to do

The RFO's core legal duties include:

- Maintaining accurate and up-to-date accounting records throughout the year
- Ensuring that all financial transactions are properly recorded and supported by appropriate documentation
- Preparing the annual budget and precept calculation and presenting them to the Council for approval
- Advising the Council on the appropriate level of general reserves (contingency) and earmarked reserves
- Establishing and maintaining a system of internal financial controls, including arrangements for the management of financial risk
- Preparing and signing the accounting statements in the Annual Governance and Accountability Return (AGAR)
- Carrying out an annual review of the system of internal control
- Ensuring that the Council's financial management complies with proper practices as set out in the SAPP Practitioners' Guide

The RFO is also required to advise the Council on any proposed course of action that the RFO considers to be financially imprudent, unlawful, or contrary to proper practices. That advice must be given clearly and, where necessary, in writing.

The RFO's duty to advise — and the limits of that duty

The RFO advises — the Council decides. The RFO does not have a power of veto over the Council's decisions. The Council is the democratically elected body and retains the right to make its own decisions, including decisions that the RFO considers unwise or contrary to professional guidance.

However, both the RFO and the Council carry clear responsibilities:

The RFO's responsibility:

To give clear, honest and impartial financial advice. To tell the Council when a proposed decision is financially imprudent, contrary to proper practices, or exposes the Council to unacceptable risk. To ensure that advice is recorded.

The Council's responsibility:

To consider the RFO's advice before making any financial decision. If the Council chooses to proceed contrary to the RFO's advice, it may do so — but the minutes must record that the RFO advised against the decision and that the Council decided to proceed regardless. This is not a formality. It is the governance record that makes clear to auditors, to the public, and to any future scrutiny exactly what happened and who carries responsibility for the outcome.

This applies equally to all financial decisions — on budgets, on reserves, on spending, on contracts, and on any other matter where the RFO has a professional view. It is not unusual for a council to make a decision that its officers have advised against. What matters is that the process is transparent and properly recorded.

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Part 3 — What Happens When the Council Does Not Follow Professional Advice

The Council is not obliged to follow the RFO's or Proper Officer's advice. But choosing to proceed contrary to professional advice has consequences that all councillors should understand before they do so.

The minutes will record what happened

Where the Council makes a decision contrary to advice from the Proper Officer or RFO, the minutes will record:

- What advice was given and by whom
- What decision the Council made
- That the Council was aware of the professional advice at the time of making its decision

This is not a sanction. It is the correct governance standard. Minutes are the legal record of what a council decided and on what basis. An incomplete record — one that omits professional advice given before a decision — would not be accurate, and the Proper Officer is under both a professional and a legal duty to ensure the minutes are an accurate record.

Auditors will see the record

Ashington Town Council's accounts are subject to internal and external audit every year. Auditors review the Council's financial decisions and governance processes and ask questions where decisions appear contrary to proper practices or good governance. Where the minutes show that the Council was advised against a decision and chose to proceed anyway, auditors may:

- Raise a formal query or observation in their report to the Council
- Issue a recommendation requiring the Council to reconsider or explain its position
- In more serious cases, issue a qualified opinion on the Council's governance or accounts

A qualified audit opinion is a matter of public record. It is published as part of the AGAR on the Council's website and is available to any member of the public or the press.

Individual councillors carry public accountability

Councillors who vote for a decision that the RFO or Proper Officer has advised against are not personally liable in most circumstances — but they are publicly accountable. The Council spends public money raised through the precept from every household in Ashington. Councillors are accountable to those residents for the decisions they make, and the minutes — which are public documents — and may show how each councillor voted.

In cases of serious financial mismanagement, the Accounts and Audit Regulations give auditors and the courts specific powers to investigate and, where appropriate, to seek recovery of money lost through decisions that were imprudent or unlawful. This is rare and is not a typical outcome of a single disagreement about advice. But it is the legal framework within which the Council operates, and every councillor should be aware of it.

Part 4 — Summary

The following table summarises the key points of this note for reference:

Key Points	
The Proper Officer is a legal role	The Executive Officer is the Council's Proper Officer. This role carries statutory responsibilities under the Local Government Act 1972 that cannot be set aside.
The RFO is a legal role	The Executive Officer is also the RFO, appointed annually at the Annual Meeting. The role carries statutory responsibilities under the LGA 1972 and the Accounts and Audit Regulations 2015.

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Both roles require impartial advice	The Proper Officer and RFO serve the whole Council. Their advice is based on law, proper practices and professional judgement — not personal preference.
The Council can disagree	The Council has the democratic right to make its own decisions, including decisions that the officers have advised against.
But the record must reflect what happened	If the Council proceeds contrary to professional advice, the minutes must record that the advice was given and that the Council chose to depart from it. This is a legal and governance requirement, not a discretion.
Auditors will see it	The Council's decisions are scrutinised by internal and external auditors each year. Decisions made contrary to proper practices will be noted in audit reports, which are public documents.
Good governance protects everyone	Clear minutes, transparent decisions, and proper recording of professional advice protect the Council, the officers, and each individual councillor.

Legal references: Local Government Act 1972 (ss.112, 151); Accounts and Audit Regulations 2015; SAPP Practitioners' Guide 2026/27 (formerly JPAG); Local Government Finance Act 1992 (ss.32, 43).