



The Law Society

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The Law Society's Diploma in Local Government Law and Practice

Prospectus 2017 - 2018



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1. About the Diploma

In 1983 the Council of the Law Society approved the creation of a Diploma in Local Government Law and Practice. Since the demise in 1979 of the optional paper in Local Government Law in the Final Examination, the Society and its Local Government Group had been working together to provide a specialist course for solicitors working in local government. The Diploma has recently been expanded to offer the same opportunity to certain solicitors and barristers doing local government work in law firms in the private sector.

The Society believes that local government practice will benefit from a comprehensive course specially designed to enhance the competence of solicitors and barristers in this field. The Diploma provides 16 hours of Continuing Professional Development for solicitors. It is also a course approved by the Bar Standards Board for the purpose of continuing education for Barristers. Holders of the Diploma are entitled to use the designation Dip.L.G.

The object of the Diploma is to encourage the mastery of those principles of law, particularly local government law, which are essential for local government lawyers. Moreover, the course will study the problems of practice and administration which confront lawyers in local government. Throughout the course candidates will be required to undertake practical projects which will combine legal, administrative and political issues, which will demand knowledge of organisational structure and procedures and raise problems of formulating, influencing and implementing policy. These projects will take account of the special responsibilities of officers in local government in their relationships with elected members and with the public. At the end of the course there will be a written examination on local government law and practice.

There will be more emphasis on local government finance, central-local government relations, councillor-officer relationships and practical problems in local government than would ordinarily be found in a conventional course on local government law.

The course is administered by the Law Society. This prospectus gives further details but if you have any specific queries relating to it that are not covered in the following pages, please contact the accreditation office at the Law Society.

1.1. Regulations

The Diploma assessment and award regulations can be found on the Law Society website.

1.2. Definitions

Term	Definition
Accreditation Office	The Diploma course administrator at the Law Society.
Assistant Examiner	The person appointed as such by the Diploma Board.
Assistant Project Assessor	The person appointed as such by the Diploma Board.
Barrister	A barrister called by one of the four Inns of Court who has completed 12 months pupillage and has not been suspended from practice by the Bar Council.
Board	The Law Society's Diploma in Local Government Law and Practice Board
Candidate	A candidate for the Diploma who has enrolled for the course under the Regulations.
Chairperson	The person elected as such of the Diploma Board.
Chartered legal executive	A Chartered Legal Executive is a lawyer who has followed one of the prescribed routes to qualification set out by the Chartered Institute of Legal Executives (CILEX)
Chief Examiner	The person appointed as such by the Diploma Board.
Chief Project Assessor	The person appointed as such by the Diploma Board.
Course	The Diploma in Local Government Law and Practice Course, administered by the Law Society, leading to an award of the Diploma by the Society.
Diploma	The Law Society's Diploma in Local Government Law and Practice Diploma awarded by the Law Society to those who are eligible and submit an application following successful completion of the Diploma course.
Diploma Board	The Law Society's Diploma in Local Government Law and Practice Board
Examination	The two part examination, each part being of 2 hours 15 minutes' duration, held normally in June.
Projects	The course projects required to be submitted by candidates. A written assessment of approximately 4,000 words.
Regulations	The Law Society's Diploma in Local Government Law and Practice Assessment and Award Regulations (approved by the Membership Board in 2017).
Society	The Law Society.
Solicitor	A solicitor of the Supreme Court not currently suspended from practice by the Higher Court, the Court of Appeal or the Solicitors' Disciplinary Tribunal.
Trainee solicitor	Any person receiving training under a training contract.
Training contract	A written contract between a training establishment and a trainee solicitor which complies with the 2011 Training Regulations or the Training Regulations 2014- Qualification and Provide Regulations as set out by the SRA.
Training Establishment	A body, firm, company or individual authorised by the Society to take or train a trainee solicitor.

1.3. Eligibility to enrol on the course

Applicants are eligible to apply for enrolment onto the Diploma course if you belong to one of the following categories. Your application will not be accepted if you do not fall within one of these categories.

	Description	Application Method
Category 1	Solicitors, trainee solicitors, chartered legal executives and barristers currently working in a local authority.	Complete the Diploma Application Form and pay the course fee. You should pay the course fee by 18 August 2017.
Category 2	Solicitors, trainee solicitors, chartered legal executives and barristers who, whilst not working for a local authority, nevertheless work for an analogous agency or authority.	Complete the Diploma Prerequisite Form. The Board will consider your application and confirm your acceptance onto the course. Once accepted, you should pay the course fee by 18 August 2017.
Category 3	Solicitors, trainee solicitors, chartered legal executives and barristers employed by a law firm whose experience enables them to meet the criteria set out in section 1.4 - Eligibility for the award of the Diploma".	Complete the Diploma Prerequisite Form. The Board will consider your application and confirm your acceptance onto the course. Once accepted, you should pay the course fee by 18 August 2017.

1.4. Eligibility for the award of the Diploma

Please note that the fact that you are eligible to enrol for the course does not mean that you are automatically eligible for the award of the Diploma. For this, you must be either a solicitor, a chartered legal executive or a barrister and:

1. Complete the course projects satisfactorily; and
2. Pass the Diploma examination; and
3. Have either
 - a) Two years' experience in local government with a local authority as defined in section 270(1) of the Local Government Act 1972 (or a public body or agency which the Diploma Board considers to be sufficiently similar); or
 - b) Two years' practical experience in local government work in a law firm that carries out local government work.

The practical experience must be obtained as a solicitor, trainee solicitor, chartered legal executive or barrister. Experience previous to these roles will not be considered.

Paragraph 3(b) provides a route whereby candidates working for law firms in private practice may enrol for, and be eligible for the award of, the Diploma. As indicated above, if this applies to you, you must first complete a prerequisite form. You may later be required to provide a diary or portfolio describing the work you have been doing for the relevant two year period. The accreditation office will advise you whether this is necessary after receiving your prerequisite application. In preparing such a portfolio, you would be expected to respect the rules of client confidentiality and professional privilege. However, you must nonetheless be able to provide sufficient details of what you have been doing to enable the Board to assess whether you are eligible.

1.5. Prerequisite application

If you are required to submit a prerequisite form and portfolio work in order for the Diploma Board to determine whether you are eligible to be enrolled and awarded the Diploma, the Diploma Board needs to be satisfied that you have “genuine local government law experience”. In other words: whether you are sufficiently engaged in work for, or on behalf of, Local or analogous Public Authorities. The Diploma Board will consider particularly:

- the nature of the work that you carry out for the public sector;
- its duration;
- its variety;
- the proportion of your overall working time that is devoted to this sector.

Whether you qualify under paragraph 3(a) or 3(b) you should appreciate that you will undoubtedly find the course hard if you have little or no practical experience of local government work.

It is your responsibility to ensure that, if you pass the Diploma examination, you will ultimately be eligible to be awarded the Diploma.

Enquiries concerning eligibility should be addressed in the first instance to the accreditation office at the Law Society; these will be referred to the Diploma Board if necessary.

1.6. Requests for deferrals

If you wish to defer one or more projects or the examination from the course of the year of entry to the programme, you should put this request in writing to the accreditation office at the Law Society, stating the reasons for your application. If this request is accepted, you will be permitted to defer the specified project(s) and/or examination to the following year of the programme. Please see fee schedule in section 3. The Law Society will not refund any course fee where an application to defer is refused and applicants may only defer once.

Please note, once enrolled onto the course, should you wish to transfer to the next year's Diploma this will be treated as a deferral regardless of whether or not the first project has been issued.

2. The course

The course has two components: the submission of three written projects and a written examination. It is not a tutored distance learning course but, instead, a self-study Diploma and those enrolling should expect to work in partnership with their employer to broaden their knowledge of the topics contained in the syllabus and current changes in local government law and practice.

2.1. Benefit and relevance of the course

The object of the Diploma is to encourage the mastery of those principles of law, particularly local government law, which are essential for local government lawyers. Recent graduates of the course have told us that the course:

- raises awareness of current issues in local government law
- fosters an understanding of corporate issues and specialised areas
- provides an impetus for reading which has proved useful
- gives an insight into areas of which you may not have experience
- boosts self-confidence
- stands as proof of ability, dedication and commitment to local government work
- makes you a better local government lawyer
- helps with applications for senior posts

2.2. Annual seminar

A seminar will be held in London on 5 December 2017. This occasion will be an opportunity for you to meet other students and the Board members. Guidance will be given on matters relating to preparation of the projects and examination and there will be sessions on topics of particular relevance to local government legal matters. Past students have found the day very helpful and informative and so, although attendance is optional, you should try to come along if possible. An invitation will be sent to you in November. In previous years, there has been no preliminary reading or coursework for this seminar and session handouts are provided on the day.

2.3. Contact with other candidates

You will have an opportunity to meet other students and some members of the Diploma Board at the seminar in December. It will also be possible for you to contact other students on an informal basis, and should you wish, a list of names and addresses of participants will be sent out early in the course. Inclusion on the list is optional.

2.4. Help during the course

You may contact the accreditation office at the Law Society if you require guidance with preparation of a project or with revision for the examination. If necessary, your query will be considered by the relevant member of the Diploma board and an answer will be supplied to you.

2.5. Time needed for studying

Unless one of your colleagues has already completed the Diploma, you may be wondering how much time you will need to spend studying. Former students seem to have spent on average about 7 hours a week on the course. Clearly this varies from person to person, and the time needed will increase in the weeks just before the examination.

2.6. Projects

You will need to complete three projects successfully during the 2017-2018 course. Each project will consist normally of one lengthy problem question. Specimen project questions can be found in section 5. You will be expected to undertake extensive research and reading over a period of about two months and to submit a paper of about 4,000 words (approximately ten typed pages depending on type face and margins) on each project. You will be sent guidance notes on project preparation with the acknowledgement of your enrolment.

The submission dates for projects are:

	Project Available	Submission Date	Expected Date for Return
Project 1	4 September 2017	16 October 2017	22 December 2017
Project 2	20 November 2017	8 January 2018	5 March 2018
Project 3	12 February 2018	2 April 2018	16 May 2018

The projects will be returned with feedback from the Chief Projects Assessor. If you do not complete the three projects satisfactorily or exceed the time allowed for submission you may not be permitted to proceed to the examination.

2.7. Examination

The examination will be held on Wednesday 6 June 2018 and is hand written.

There will be one paper divided into two parts, each part being of two and a quarter hours' duration; Part I to be completed in the morning and Part II in the afternoon. A specimen examination paper can be found at section 5.5. The examination will be "open book" i.e. you will be allowed to have books or other written material with you, you can also use a PC with internet access. All candidates will be required to complete a signed statement confirming non-use of e-mail and social networking programs during the examinations. The examination is not intended primarily as a memory test, although a good grasp of the subject matter of the course will be necessary. Materials particularly recommended to be taken into the examination are indicated on the Reading List and in the examination arrangements at section 5.7.

2.8. Examination arrangements

We hope that you will be able to make suitable arrangements to sit the examination on your own authority's premises or at the premises of an adjoining authority, and the Examination rules and Examination arrangements provide for this. The Examination documents will be sent to your invigilator shortly before the examination date asking for confirmation that the relevant conditions can be fulfilled; you will find the standard form letter which is sent to your invigilator and a specimen of the certificate which s/he is asked to provide in this prospectus. If you are not happy with the arrangements, please contact the accreditation office at the Law Society. You are not required to complete an entry form for the examination; you will be notified as to your eligibility after the third project has been assessed. If you have not received a letter to this effect by 30 May 2018 you should contact the accreditation office at the Law Society.

If, for personal reasons, you find you cannot take the examination please let the accreditation office know as soon as possible so that examination arrangements can be cancelled.

2.9. Marking scheme

As you have read previously, the Diploma consists of three projects and a final written exam. In order to be awarded the Diploma in Local Government Law, you must pass all the set projects and exam and be eligible for the award.

To pass each project you must achieve 45% or more. The exam's pass mark is 50% and above. Please also refer to the assessment and award regulations on the Law Society's website for more information. Having completed all three projects and the exam, the overall mark of the Diploma is the average of all your marks combined.

There are three ways to achieve a distinction:

- 70% pass mark in the exam + 65% project average (where all completed in the same year);
- 70% project average + 65% pass mark in the exam (where all completed in the same year);
- 70% overall average mark (where all projects and exam completed in the same year).

2.10. Special conditions

If you have any special conditions relating either to the examination or the projects, please enclose full details of your needs with your application form together with supporting medical or other evidence. In the light of the examination arrangements outlined above, these are most likely to relate to having papers prepared in extra large font or an allowance of extra time for the examination. The accreditation office will contact you on receipt of the application and discuss what arrangements can be made for you.

2.11. Relationship of the examination and the projects

As mentioned above, you will not be allowed to sit the examination if you have not completed the projects satisfactorily. However, good work on the projects may be taken into account in assessing your examination papers.

2.12. Prizes

A prize of £250 will be awarded by the Local Government Legal Society Trust to the best candidate from local government who reaches a standard approved by the Diploma board in all aspects of the course. A further prize of £100 will be awarded by the Law Society to a second candidate. In the event that the first candidate is from private practice both prizes will be awarded by the Law Society.

2.13. Publication of the results

It is expected that the results will be published on or after 17 September 2018. The results will be emailed to all candidates on the email address provided at enrolment.

2.14. Application for the Diploma

Each successful candidate will be sent an application form for the award of the Diploma on which the candidate will be asked to certify his/her eligibility for it (i.e. to certify that he/she is a solicitor or barrister and has the practical experience required by regulation 39 of the Diploma in Local Government Law and Practice assessment and award regulations.

3. Fees, bursaries and enrolment

3.1. Course and deferment fees

The relevant fees are set out below. No further fee is payable for the award of the Diploma although a candidate who is required to re-sit the examination will be charged a fee for their re-sit.

Fee Type	Fee	VAT	Total Cost
Course fee and examination	£1,600	£320	£1,920
Deferment fee (one year)	£258	£51.60	£309.60

3.2. Bursaries

If your local authority is unwilling to meet your fees, you may apply to the Local Government Legal Society Trust Fund for a bursary. Current contact details are available from the accreditation office. You should be aware that the Fund will not meet the full cost of the course and so you will need to be prepared to self fund to an extent.

3.3. Application and enrolment

There are a limited number of places on the Diploma course each year and the deadline for enrolment is 14 August 2017. Enrolments received after this date may be accepted on a first-come first-served basis until this maximum is reached. Payment for the Diploma should be made at the time of application and your enrolment will not be complete until payment has been received.

Please see section 1.2 for your eligibility to enrol on the course and guidance on which of the three application methods is most suitable for you:

Category one: Application form

Category two: Prerequisite form

Category three: Prerequisite form

Full instructions on how to apply are provided in the application form. If you need to submit a prerequisite form or need the board to confirm your eligibility for the Diploma you are advised to apply as early as possible.

The course starts on 1 September 2017 and you will be sent your first project shortly after this date. Enrolments received after the first project has been sent to candidates will not be allowed extra time to submit their first project.

4. Professional Development

The Diploma can form part of your career development, whether as part of a structured personal development plan supported by an employer, or to evidence expertise in the local government sector demonstrating your continued competence to your professional regulator. Past students have also used the Diploma to support applications for promotions or job applications.

5. Syllabus

The syllabus for the 2017 – 2018 year is set out below.

Topic	Summary
The structure of local government	Proposals for change and the procedures by which change is effected. The role of the Electoral Commission in respect of the areas and status of local authorities. Elections and the electoral system. The acquisition of powers with particular reference to local legislation. Community right to challenge.
The doctrine of ultra vires	Application of the doctrine to procedural requirements. Consequences which may flow from a breach of the ultra vires rules. General powers available under Part I of the Local Government Act 2000. The general power of competence under the Localism Act 2011.
The administrative machinery of local authorities	Constitution of councils, joint authorities, committees, sub-committees, working parties. Executive arrangements under Part II of the Local Government Act 2000, as modified by the Localism Act 2011. Partnerships with public, private, community and voluntary sector agencies. The role of political groups.
The calling and conduct of meetings	The decision-making process, including key decisions. Delegation. Ratification of decisions not the subject of delegation. Rights of the public in relation to meetings.
Duties as to the provision of information	Data Protection Act 1998 and the Freedom of Information Act 2000.
The role of the Local Government Ombudsman and the Public Services Ombudsman for Wales	
Rights and duties of members of local authorities	Including defamation, accountability, monetary payments, personal liability. The ethical framework under Part III of the Local Government Act 2000. New arrangements as to standards under the Localism Act 2011 The appointment, tenure, remuneration and accountability of officers. Pay accountability. Responsibilities of officers to the council and to the public. Political restrictions. The monitoring officer. Personal liability.
Local Enterprise Partnerships and co-operation between Authorities	
Entities connected with local authorities; corporate governance	
Land acquisitions	Powers, procedures, compensation. Assets of community value
By-law making power	Validity of by-laws.
Local authority finance	Expenses and receipts, capital expenditure (including PFI, PPP), central control and finance, reserves, pensions. Audit, including the responsibility and powers of auditors. Codes of practice. Public rights at audit. The fiduciary duty of authorities.
Local authorities and the courts	The nature and extent of judicial control. The exercise of discretion. Failure to exercise a discretion. The abuse of discretion. The application by the courts of the principles of natural justice to local authority decision-making. Remedies, with particular reference to the process of judicial review. The Human Rights Act 1998.
Legal proceedings by and against local authorities	Whether in contract, tort or otherwise.

5.1. Reading list and sources 2017 - 2018

As you will see, this is extensive. The recommended reading is not intended to be comprehensive, but to indicate the range of reading thought necessary for a proper understanding of the content of the course.

Cross on Local Government Law by Stephen Bailey is essential reading. The other works on the list are for reference when preparing your projects and revising for the examination. The list is not exhaustive; the object of your reading should be to give you a good all round knowledge of local government law and practice. It is not intended that candidates should refer to all books mentioned on the list.

All the books on the list should be available in your authority's library, or through a public library or possibly, if you are working for a District Council, from your County Council..

5.1.1 – The Law Society Library

The Law Society library has additional copies of Cross on Local Government Law available for students enrolled on the Diploma.

You may also find the enquiry service and document supply service offered through the library useful. For full details please visit their website.

5.1.1 - Recommended reading

Prices and contact details shown in this section are for purchase from the publisher. Candidates may also find these texts available through alternative sources.

You are most strongly advised to take the following into the examination room

Author	Publication Title	Purchase Details	Cost
Stephen Bailey	Cross on Local Government Law	9th Edn; (updated loose leaf ISBN 9780421429802 Sweet and Maxwell Latest Release December 2016)	£625

You are also advised to consult the *Encyclopaedia of Local Government Law* on matters relevant to your course. In preparing for the examination it is suggested that candidates should start by reading the chapters in Cross (loose leaf) relevant to the syllabus, and should ensure that they prepare sufficient topics to be able to answer at least six questions in the examination. You are likely to find it helpful to have Cross (loose leaf) and the Encyclopaedia by you in the examination.

5.1.2 - Other general works of reference

Specialist works on aspects of Local Government law

Author	Publication Title	Purchase Details	Cost
Phillip McCourt	Knowles on Local Authority Meetings 8 th edn 2016	ISBN 9781860724398 ICSA Publishing Tel: 020 7612 7020 Web: www.icsa.org.uk/shop/listing-a-z	£109.95

Works on judicial review

Author	Publication Title	Purchase Details	Cost
De Smith's	Judicial Review, 7 th ed., 2013 with supplement (2016)	Judicial Review ISBN 9780414036680 Sweet & Maxwell	£440

Extracts of the leading cases on judicial review can be found in the following case book

Author	Publication Title	Purchase Details	Cost
M Elliott	Beatson, Matthews and Elliott's Administrative Law: Text and Materials 4 th ed, 2011	ISBN 9780199238521 Oxford University Press Web: www.oup.com	£39.99

Extensive coverage of judicial review and some discussion of local government law may be found in the leading administrative law textbooks

Author	Publication Title	Purchase Details	Cost
Paul Craig	Administrative Law, 8 th ed, 2016	ISBN 9780414055681 Sweet & Maxwell	£38
Sir William Wade and C F Forsyth	Administrative Law, 11 th ed, 2014	ISBN 9780199683703 Oxford University Press	£40.99

Law reports

Reports of relevant cases may be found in the general series of law reports and in such specialist series as Butterworths Local Government Reports and the Administrative Court Digest.

Brief law reports of relevant cases are found in The Times and full texts of many cases are available free online (see section 5.1.3 - Current awareness).

5.1.3 - Current awareness

Journals

The nature of the examination questions may well be influenced by recent developments and you are strongly advised to keep up to date with recent cases, commission reports, practice guidance notes, articles in legal journals, and updates to loose-leaf services. Suggested titles are as follows:

Local Government Chronicle
Current Law

Solicitors Journal
Municipal Journal

New Law Journal

Online sources

Source	Comments
LexisNexis, Westlaw, Justis and Lawtel (now Sweet & Maxwell) for general law	Subscription only databases
Local Government online	www.localaw.co.uk Available to subscribers to the Sweet & Maxwell Local Government Library
Government information and services online	www.direct.gov.uk
Lyons Inquiry	www.lyonsinquiry.org.uk
Department of Communities and Local Government	www.communities.gov.uk
Welsh Assembly	www.wales.gov.uk
BAILII (British and Irish Legal Information Institute)	www.bailii.org Access to all freely available British and Irish public legal information
Casetrack	www.casetrack.com Subscription online source for full-text judgments
Statute Law	www.legislation.gov.uk Access to new primary law and statutory instruments
Court of Appeal	www.hmcourts-service.gov.uk/cms/judgments.htm
Supreme Court	https://www.supremecourt.uk
Adjudication Panel for Wales	www.adjudicationpanelwales.org.uk
Department for Education	www.education.gov.uk
Public Services Ombudsman for Wales	www.ombudsman-wales.org.uk
Information Commissioners Office re: Data Protection & Freedom of Information	www.ico.org.uk
Local Government Lawyer re: general legal information:	www.localgovernmentlawyer.co.uk
Local Government Ombudsman re: complaints:	www.lgo.org.uk
Equality and Human Rights Commission re: public sector equality duties:	www.equalityhumanrights.com/advice-and-guidance

5.2. Sample Project 1: 2015 - 2016 course

Brief

You are a solicitor working for Skint District Council in the two-tier county of Gloomshire. Skint is a large district council which operates Leader and Cabinet executive arrangements. The Council's Constitution includes an extensive scheme of delegation to its senior officers.

The Council has not been enthusiastic in its approach to transparency and following a number of complaints over the last eighteen months, a review has highlighted information governance as a significant issue for the Council, which has been included in its annual governance statement.

The new Chief Executive has established a team of officers to make recommendations for improvement, to ensure the Council has assurance that it is complying with its legal obligations by the end of the financial year.

The Council has in place some systems for dealing with requests made under the Data Protection Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, but the review exposed that across the Council, members and officers have not fully grasped the range of obligations to publish and disclose information within and beyond that legislation.

Project Task

As a member of the officer team, you have been asked to provide some initial advice on the following, to inform the work of the team:

- a) The Council's principal obligations to publish information, across the range of its corporate and service functions.
- b) The Council's obligations to disclose information when requested to do so.
- c) Any exemptions to, or restrictions on, the obligations to publish and disclose information that you identify.
- d) The potential consequences of failing to comply with legal obligations to publish and disclose information that you identify, with, briefly, your advice on the risks associated with non-compliance.

You have been asked to ensure that you fully reference the legal sources that you rely on in your advice, to assist with review of the advice in the future.

5.3. Sample project 2: 2015 - 2016 course

Brief

You work for Gloomshire County Council ("GCC") and have been contacted by the Head of Property for advice. In particular, he has explained that GCC own a sports pavilion and playing field in the village of Gloomsbury. The facilities are generally used by sports clubs and the local youth group although it is also a popular site for dog walkers and in the summer months local children play there.

Every Saturday the playing field and changing facilities in the pavilion are used by the village's junior football team and the tennis courts by the County Tennis Club ("CTC"). The CTC are great supporters of the facilities however one of the members, Mrs Moan, has complained about the use of the pavilion by the football team. Mrs Moan suffers from bladder problems and has therefore been given permission to use the toilets in the pavilion as and when required.

The toilets are accessible via the front entrance of the pavilion along the same corridor that leads to the changing and community rooms. Mrs Moan has informed the Head of Property that for the last 6 weeks when attempting to access the toilet the football team have been using the corridor as an extension of the changing room. This has not only held her up but has also caused considerable embarrassment. She has asked that the pavilion is altered so that the toilets are directly accessible from the outside.

Project Task

The Head of Property has confirmed to you that whilst this is structurally possible it will cost in excess of £15,000 and the facilities are already expensive to maintain. He has asked for your advice as to whether he is required to make this adjustment.

Additionally and in view of this problem and general budget pressures he has confirmed that serious consideration needs to be given to the future of the pavilion and playing field. He has therefore asked you to provide a detailed overview of the key legal considerations in relation to the sale or lease of the facilities as well as identifying any restrictions that may exist.

5.4. Sample project 3: 2015 - 2016 course

Brief and project task

You are a solicitor working for Gloom Council, a unitary authority in the County of Gloomshire. Gloom has no overall political control and following the last local elections the party with the highest number of seats formed a Cabinet in alliance with another party. In 2015 pressure on the leading party increased as budget reductions made over the last few years have resulted in unpopular changes to Council services.

Part One

Your manager, who is the Council's monitoring officer, has asked you to prepare a briefing, for legal colleagues, on local government finance.

She asks you to include in your briefing an explanation of the principal sources of finance available to a council like Gloom, the required arrangements for financial control of the council's finances, and the responsibility for decision making and audit in relation to the council's budget and accounts.

Part Two

In addition, owing to your expertise in this area, the monitoring officer asks for your help in preparing advice on the following, during the council's budget setting period:

- 1) A proposal to sell a small art gallery in Gloom Town, left to the Council in the will of a wealthy local resident some years ago. The gallery is an architecturally important 19th century house and contains an important collection of nineteenth century paintings which were left with the house. The proposal is to sell the building and contents to increase the Council's budgetary provision for services for children and adults.
- 2) A proposal to charge adults earning more than £25,000 per year for all services provided to them by the Council's libraries and museums service.
- 3) The possibility that the leading party's budget will not be accepted in February 2016, owing to significant disagreement between the leading party and a growing "anti-austerity" group of members on the extent to which current services should be reduced. The possible outcomes are no clear resolution, or, the approval of a Council Tax aimed to permit services to be restored back to their 2010 levels.

In each case, you are asked to explain, with your reasons, the legal consequences of the scenarios set out in 1) to 3) above, giving advice where appropriate on alternative courses of action and on the powers available to the monitoring officer and other officers in the event that you consider any of the above proposals would be unlawful.

Note to Candidates:

The Project may be answered with reference to the law applying in either England or Wales. Candidates must make clear whether their project relates to local government in England or Wales.

Part One of this Project carries a maximum of 30% of the marks available.

5.5. Sample examination paper 1: 2015 - 2016 course

LOCAL GOVERNMENT LAW AND PRACTICE

Examination Paper – 8 June 2016
Part I – 10.00 am to 12.15pm

Answer THREE questions

Candidates are required to give reasoned answers and are reminded that, wherever possible, the relevant statutory provision and the relevant case law should be cited. Candidates should also note that the examination time of 2 hours 15 minutes takes account of 15 minutes to read and absorb the contents of the questions.

Where the law differs, you may choose to answer by reference to the position in England or in Wales as you prefer.

1. Your good friend, Emma Goodun, has decided that after a career break to raise her family she wishes to return to practising law. She was previously in private practice but is intent in working for her local authority because of its enlightened approach to flexible and part-time working. Given your extensive knowledge of local government law, you agreed to help her prepare for the interview process.

As part of that process, she has now been asked to make a short presentation on the topic of “to what extent is ultra vires the most important principle and constraint for local government?”

She has asked you to write a document for her containing the relevant material, explanation and conclusions she should include in her presentation.

Write the document.

2. You work for Gloomshire County Council, a unitary council. The council has recently been informed of a number of claims in tort that are to be brought against it. You have been asked to write a memorandum advising the council as to the likely extent, if any, of its legal liability.
 - (a) Oliver, now aged 26, claims that he is suffering from a psychiatric disorder as the result of systematic sexual and physical abuse by his foster parents, Mr and Mrs Bumble. Clare, from the council's social services department had placed Oliver, who was in the council's care, with the Bumbles between 2000 and 2006. Oliver has recently discovered papers that suggest that Clare had been warned in 1999 by other children placed with the Bumbles of behaviour of this kind, but that she had ignored these warnings.
 - (b) Jack, also aged 26, claims that he is suffering from a psychiatric disorder. He says that this has been caused by his lack of education from the age of 10, when he was orphaned, and his later imprisonment for stealing following a period of time with a gang of child thieves. He has evidence that Clare was aware that he had been orphaned, but carelessly failed to follow up on his case and arrange for him to be taken into care. He says that had he been taken into care, he would have been properly educated and have avoided a life of crime.
 - (c) It is claimed that Charley, aged 8, was injured by broken glass in a paddling pool at the council's recreation ground in Gloomton. As a result of expenditure cuts, there

was only one council attendant who worked at the recreation ground. His practice was to check the pool daily. However, he was on holiday for the week when the accident happened and no cover had been arranged by the council. Charley was with his 14-year old sister, Nancy. They had been allowed by their mother, Agnes, to play in the recreation ground.

Write your memorandum.

3. In view of the current debate about whether the Human Rights Act 1998 should be amended or replaced, you have been asked to write a briefing paper for councillors explaining and commenting on the operation of the Act and its implications in practice for local authorities. Write your paper.
4. You work for a unitary council. The council is minded to make a byelaw to control intimidating behaviour by persons seeking to raise money in the streets for charity. You have been asked to write a memorandum advising the council as to the matters it should take into account and the steps it will need to take. Write your memorandum.
5. Your council is in dispute with the Local Government Ombudsman. The council in 2015 decided to reduce the fees it was prepared to pay to care homes for residents being supported by the council. The complainant, Mr X, did not wish to move, and was obliged, in order to stay in the home, to pay a top-up fee. He has now complained that the council's decision was based on a misinterpretation of statutory guidance. Your council has received counsel's opinion that supports its interpretation. However, the council anticipates that the Ombudsman may take a different view and find that Mr X has suffered injustice as the result of maladministration. You have been asked to write a memorandum advising the council as to:
 - (a) the steps it must take in response to an adverse report by the Ombudsman;
 - (b) whether it may refuse to accept the Ombudsman's findings and recommendations; and
 - (c) what consequences would or might then follow from such a refusal.

Write the memorandum.

6. You are a legal advisor to a unitary authority where, following the recent election, the largest group of councillors belong to the Break Local Taxation (BLT) alliance. The BLT is a single issue movement aiming to recover the cost of services from users of that service rather than the general taxpayer and, for any services where it is impractical to recover such costs directly, to fund the cost of these services by a percentage uplift on the recoverable costs, so that it is not necessary to levy council tax at all.

You have been asked to provide the next meeting of the Council with a briefing note explaining the law relevant to recovering the costs of services directly, and to the ability of the authority to impose such a percentage uplift.

Write the briefing note.

5.6. Sample examination paper 2: 2015 - 2016 course

LOCAL GOVERNMENT LAW AND PRACTICE

Examination Paper – 8 June 2016

Part II – 2.15pm to 4.30pm

Candidates are required to give reasoned answers and are reminded that, wherever possible, the relevant statutory provision and the relevant case law should be cited. Candidates should also note that the examination time of 2 hours 15 minutes takes account of 15 minutes to read and absorb the contents of the questions.

Where the law differs, you may choose to answer by reference to the position in England or in Wales as you prefer.

7. You work for Sheepshire Council. The council is under the control of the Ratepayer' Party, whose leader, Ken, is also the council's executive leader. As part of a series of expenditure cuts it has recently made the following decisions.
- i. It has decided to cease funding six of the eight libraries in Sheepshire and close the mobile library service. The two that will remain open are in the county town, Sheepton. Most of the Ratepayers' Party councillors sit for wards in Sheepton. The council commissioned an equality impact assessment into its proposals. The Save Sheepsire Libraries Campaign, led by Germaine, a local resident, claims that the assessment included very little detail on the effects of the proposed on elderly people in rural areas.
 - ii. It has decided to close the Sheepton Law Centre, which is run by Helena. The Sheepshire Gazette has published a recording of a comment about the decision by Ken to another Ratepayers' Party councillor outside the council meeting where he said: "At last we're closing them down. They spend most of their time challenging the cuts we have to make. Why should we fund them? All the better as I can't stand that Helena."
 - iii. It has decided to sell part of Sheepton Park for redevelopment. This land is owned by the council and is currently managed as an open space. It includes on it an historic building, "The Fold," which is now used as a community centre and is on the council's list of assets of community value.

You have been asked to advise the council:

- (a) as to the extent to which any of these decisions may be open to challenge by way of judicial review proceedings; and
- (b) as to the steps it will need to take to put decision (iii) into effect.

Advise the council.

8. Either

- (a) You work for a principal council in England. You have been asked to prepare a briefing paper for councillors explaining and commenting on the current opportunities for local councils to acquire greater devolved powers through deals with central government. This is to include an explanation of whether it will be necessary for there to be a combined authority for your area and, if so, how that authority would relate to your own council. Write your paper.

Or

- (b) You work for a principal council in Wales. You have been asked to prepare a briefing paper for councillors explaining and commenting on the advantages and disadvantages of the major reform programme for local government in Wales that has been under consideration by the Welsh Government. Write your paper.
9. You work for a unitary council. You have been asked to prepare a report for councillors summarising the steps that need to be taken if a new parish or community council is to be established within the area, or two or more such councils are to be merged. Write the report.
10. You have been asked to write a briefing paper for local councillors on the principal respective responsibilities of (i) the registration officer and (ii) the returning officer at a local election, and how their decisions may be challenged. Write your paper.

11. Either

- (a) Explain and assess how the duty of Best Value applies to English local authorities.

Or

- (b) Explain and assess how the duty “to make arrangements to secure continuous improvement in the exercise of its functions” applies to Welsh local authorities
12. Explain, and assess the effectiveness of, the tools available to the external auditor of a local authority where the auditor concludes that the authority has, or is about to make, a decision which:
- i. is unlawful; or
 - ii. should otherwise be brought to the attention of the public.

5.7. Examination arrangements

Date and times of examination

6 June 2018

There are two sessions that each candidate will sit:

Session 1: 10.00am - 12.15pm

Session 2: 2.15pm - 4.30pm

Entry for the examination

A candidate will not be allowed to sit the Diploma examination unless:

- a. the candidate has completed the Diploma projects to the satisfaction of the Diploma in Local Government Law and Practice Board and
- b. The Law Society is satisfied that proper arrangements will be made for the conduct of the examination in accordance with these instructions.

If these conditions have been met, it will be assumed that the candidate will be taking the examination unless the Course Registrar at the Law Society has been notified to the contrary.

Accordingly, it is not necessary for candidates to complete an examination application form.

All candidates will be informed at least 3 weeks before the date of the examination whether or not they are eligible to sit.

Venue

Candidates must sit the examination in a room set aside for the purpose at the offices of their employing authority. With the exception of the invigilator and any other candidates, no other person is to be present in the room at any time during the period of the examination.

The room should be quiet and a working surface must be provided which gives space for candidates to use the books, papers and electronic facilities which they are allowed to take into the room.

Materials in the examination room

Candidates may take books and other materials (including their own notes) into the examination room. Candidates are strongly advised to have with them the following books:

- Stephen Bailey - Cross on Local Government Law
- The Encyclopaedia of Local Government Law

During the examination candidates may have access online to materials and may use CD-ROMs and similar on-line electronic sources, but may not have access to or use any telephone, e-mail or texting facility.

Invigilators

A responsible local authority official must be designated who will be responsible for the supervision of the examination following the guidelines laid down below.

The duties of the invigilator are as follows:

- a. to ensure the safe receipt of the question papers beforehand and to keep them secure and unopened until the examination is due to begin;
- b. to ensure that the examination room is suitably prepared for the examination;
- c. to start the examination and if there is more than one candidate, to supervise the candidates throughout the period of the examination;
- d. to ensure that the candidate does not have access to or use a telephone;
- e. to take reasonable steps to ensure that the candidate does not use e-mail facilities in the examination room;
- f. to ensure that no other person enters the examination room during the period of the examination;
- g. if a candidate wishes to leave the room, to ensure that he or she does not communicate with any other person while out of the examination room;

- h. to warn the candidate 30 minutes and 5 minutes before the end of each paper and to stop the candidate at the end of the papers;
- i. to collect the scripts, seal them in the packets provided and post them to the required address immediately after the examination;
- j. to complete the report form and return it to the Course Registrar at the Law Society as soon after the examination as possible.

Answer books

Candidates may only answer the papers in the printed answer books provided. Answer books must be issued at the commencement of each paper and collected at the end of each paper by the invigilator.

Candidates affected by illness etc

A candidate who as a result of illness or exceptional circumstances considers that his or her performance in the examination has been adversely affected may apply to the Board for consideration.

The application must be in writing and be accompanied by appropriate medical or other supporting evidence and must be received by the Course Registrar not later than 10 days after the sitting of the examination.

The Board may take such decision(s) in relation to the candidate in question as the Board thinks reasonable in all the circumstances (see regulation 31 of the Diploma assessment and award regulations which can be found on the Law Society's website).

5.8. Template letter to request examination facilities

Below is a template letter that you can use to request the use of facilities, within your own local authority, to sit the examination.

Date

Dear [name],

The Law Society's Diploma in Local Government Law and Practice

As you may be aware, I am currently taking a course leading towards the award of the Law Society's Diploma in Local Government and Practice.

The course consists of:

- Guided reading
- Three practical projects
- Two examinations (2.25 hours each) on 6 June 2018 at 10.00am - 12.15pm and 2.15pm - 4.30pm

The examination is 'open book', which means that candidates are permitted to refer to books and papers (hard copy or in electronic format) and access materials online. However, they may not have access to or use any telephone, e-mail or texting facility.

Otherwise, the examination should be held under usual conditions with strict adherence to the time allowed. Conferring with others is not allowed.

In view of the relatively small number of candidates over the whole country and the need to keep down the cost of the course to Local Authorities (central or regional), examination centres have not been set up. Instead, Local Authorities have been approached in the hope that they can make suitable arrangements.

I am therefore writing to ask if you can provide proper arrangements for the conduct of the examination in accordance with the enclosed Examination instructions.

If you can I would be grateful if you would return the enclosed certificate to me as soon as possible. If there are difficulties please get in touch with me.

Yours sincerely

[Name]

[BLANK]