

COUNCIL EXCELLENCE OVERVIEW AND SCRUTINY COMMITTEE

Tuesday, 28 February 2012

Present: Councillor P Gilchrist (Chair)

Councillors A Brighthouse D Dodd
RL Abbey P Doughty
J Keeley C Jones
A Cox S Williams

Deputies: Councillor D McCubbin (In place of J Hale)

In attendance: Councillors P Davies T Harney
S Foulkes A Jones
J Green Mrs L Rennie

89 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST/PARTY WHIP

Members were asked to consider whether they had personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they were.

Members were reminded that they should also declare, pursuant to paragraph 18 of the Overview and Scrutiny Procedure Rules, whether they were subject to a party whip in connection with any item(s) to be considered and, if so, to declare it and state the nature of the whipping arrangement.

By virtue of them being members of trades unions and in the light of the attack on trade union activities within the Cabinet Budget Proposal, Councillors Paul Doughty, Ron Abbey, Darren Dodd and Chris Jones declared their personal interest in agenda item 2 Budget Proposals (see minute 90 post).

90 BUDGET PROPOSALS

The Director of Law, HR and Asset Management reported that at the meeting of the Council held on 13 February 2012 (minute 110 refers), Councillor Jeff Green, having been elected Leader of the Council gave an acceptance speech in which, inter alia, he announced that the Budget Cabinet meeting would move from Monday 20 to Tuesday 21 February and that it was the responsibility of every Group to look at potential options and put forward a budget to Council. The budget proposals would be referred to a special meeting of the Council Excellence Overview and Scrutiny Committee at a meeting to be arranged before Budget Council on 1 March, 2012.

Although the Committee had been requested to consider the budget proposed by the Cabinet at its special meeting held on 13 February 2012 (minute 310 refers), he

advised that at its Budget Meeting held on 21 February 2012, the Cabinet resolved (minute 315 refers), that the 2012/2013 Council Budget agreed by the Cabinet on 13 February 2012 (minute 310) should be rescinded. It would not therefore go forward to Budget Council for consideration.

The budget proposed by the Cabinet, at the Budget Meeting on 21 February 2012 (minute 317 refers) would be recommended to Budget Council.

The Director reported also that in accordance with the budget procedure, he had received the following budget amendments by the deadline of 12.00noon Monday 27 February 2012, which would be referred to Budget Council for consideration –

- Labour Budget Amendment
The budget agreed by the Cabinet on 13 February 2012, amended only to include the precepts and to fulfil the pledge in the original budget to meet the cost of the precepts and to set an overall zero Council Tax increase.
- Labour Budget Procedure Amendment
To amend the Budget Council procedure to ensure a vote is taken on each budget, with the budget remaining after fallen amendments also being subject to the confirmation of a majority vote.
- Four Liberal Democrat Budget Amendments
 - (i). People's Dividend
 - (ii). Area Forums
 - (iii). Trade Unions
 - (iv). Community Justice and Local Shopping Areas

In the light of the Budget Proposals/Amendments, the Chair circulated for Members' consideration a Budget Proposal Comparison, together with an analysis of the budget proposed by Budget Cabinet on 21 February 2012 (minute 317), which he had sought from the Director of Finance.

The Director of Law, HR and Asset Management reported also that a call-in notice had been received in relation to Cabinet minute 315 (21 February 2012) – The 2012/13 Budget Agreed by Cabinet on 13 February 2012. The call-in had been submitted by Councillors Phil Davies, Ann McLachlan, George Davies, Adrian Jones and Harry Smith. The lead call-in signatory, Councillor Phil Davies provided an explanation of the call-in notice, viz:

"On 21 February 2012, the Cabinet took the following decision:

'That the 2012/13 Budget proposals agreed by the Cabinet, under urgent business, at its Special meeting held on 13 February 2012 be rescinded (Minute No. 310 refers) and therefore, they will not go forward to the Budget Council meeting, scheduled for 1 March 2012, for consideration.'

This decision, to revoke the budget proposal constitutionally referred by Cabinet on 13 February to Budget Council on 1 March 2012 was an Executive decision.

The minutes of that Cabinet were published and notified on 23 February.

The five day period subsequent to that when a call-in can be lodged expires on Thursday 1 March.

A further period of up to fifteen days is required for the call-in to be heard.

No decision can be activated until the call-in period has expired and it is clear the decision has not been called in, or until the call-in has been heard.

In order to have their budget heard, the Labour Group were required to resubmit it as an amendment to the Conservative Proposal tabled at Cabinet on 21 February and referred by just four votes to Budget Council.

This amendment had to be submitted by noon on 27 February, less than two working days after the publication of the Cabinet minutes of 21 February.

It is clear that the Executive Decision was unconstitutionally implemented before the expiry of a call-in period.

The consequence of this unconstitutional act was the change of status of the Labour Budget proposal from a Cabinet proposal agreed unanimously by all ten Cabinet members and lawfully submitted to Budget Council, to an amendment to an alternative Budget Proposal.

This relegation to the status of an amendment then allows the budget procedure agreed by Cabinet on 21 February to treat the Conservative proposal put forward at Cabinet on 21 February as the standing minute which will not require a vote if the amendments fall.

This is despite the fact that the Conservatives are not the largest party, and could be outvoted by Labour as the largest party if the Liberal Democrats continue their policy of abstention, which their communications with the press indicate they will.

In these circumstances, where two legal budgets have been formally and constitutionally proposed to Council, and where one of those budgets has been unconstitutionally revoked, the Budget Procedure should be withdrawn, allowing both proposals to stand with equal status as originally referred to Council.

A vote should then be taken on each budget, with the order of voting the same as for a usual Council, with the budget remaining after others have fallen also subject to the confirmation of a majority vote.”

The Chair commented that he had been consulted with regard to the call-in being considered as a matter of urgency. In view of the meeting having been convened to consider budget matters, he had been prepared to allow consideration of the issues contained within the call-in notice and requested an explanation in relation to constitutional and procedural matters.

The Director of Law, HR and Asset Management commented that it was appropriate for the issues within the call-in notice to be considered. However, his view was that the decisions taken by the Cabinet to propose a budget to the Council and to rescind an earlier budget proposal were procedural and, as they related to a Council function (the setting of the Budget), neither were technically subject to call-in. He explained

the rationale for the Budget Council procedure, which had been introduced some years ago to ensure that, in circumstances where all amendments fell, the Council would set a lawful budget. If a budget amendment received a majority of votes then, subject to a possible vote at a second budget meeting, it would become the Council's budget. Therefore, the essence of the call-in would be addressed by the Labour Procedural Amendment to Budget Council and the Director suggested that the Budget Council procedure contained sufficient checks and balances to ensure that all views were heard before a budget was set.

It was moved by Councillor Gilchrist and seconded by Councillor Keeley –

“That, at this stage, it appears that a lawful recommendation from Cabinet was made and that it was lawful to rescind a previous budget proposal. Having regard to the procedure and to the need for due process at Council and given that this is a Council function and that amendments have been submitted to the Council and supplied to this Overview and Scrutiny Committee, this matter be not dealt with as a call-in”.

It was moved as an amendment by Councillor Abbey and seconded by Councillor Doughty –

“That the Budget Council Procedure be amended to ensure that all budget proposals will be voted upon”

The Amendment was put and lost (4:6)

The Motion was put and carried (6:4)

Resolved (6:4) (Councillors Ron Abbey, Darren Dodd, Paul Doughty and Chris Jones voting against) – That, at this stage, it appears that a lawful recommendation from Cabinet was made and that it was lawful to rescind a previous budget proposal. Having regard to the procedure and to the need for due process at Council and given that this is a Council function and that amendments have been submitted to the Council and supplied to this Overview and Scrutiny Committee, this matter be not dealt with as a call-in.

The Chair referred to the budget proposals/amendments that were to be considered at Budget Cabinet and sought comment from officers on various elements.

The Director of Finance indicated that the budget was set within the context of the Spending Review and against a background of significantly reduced government grant funding. The budget would be set in difficult financial circumstances with a likelihood of financial resources being reduced in 2013/2014, with a greater reduction in 2014/2015. Whilst key elements were in relation to the Localisation of Business Rates, the Localisation of Council Tax Benefits and general data changes, the most significant factor in relation to funding was population. Future funding could be based upon the Census 2011 figures and the Director commented that, since the last census, Wirral had suffered the biggest population fall of any metropolitan authority.

In response to questions from Members in relation to the permanent reduction of 2% in Employee Budgets contained within the Cabinet Budget Proposals, the Head of Human Resources and Organisational Development indicated that the required savings could be achieved in a number of ways. The figures had been informed by staff turnover in recent years and vacancy control would continue to be closely

monitored to ensure that savings could be made where appropriate, whilst ensuring that vacancies would be filled where Chief Officers had identified either a significant risk or loss of opportunity. Members suggested that a further loss of jobs would place an increased strain on the workforce, particularly in the light of a loss of 1200 posts last year as a result of Early Voluntary Retirement/Voluntary Severance. In response to a question from a Member as to whether there would be redundancies if the assumption of staff turnover proved to be inaccurate, the Head of HR and OD indicated that she believed the 2% reduction to be achievable, given that there were also a number of vacancies held in the system.

At the invitation of the Chair, the Leader of the Council addressed the Committee and referred to the one year reduction in Council Tax of 3%, which had been based, in part, upon the results of the consultation exercise held earlier in the year and which he hoped to be able to make permanent. He commented also that the Cabinet Budget going forward to Budget Council left a bigger general balance than the Labour Budget Amendment and he highlighted his decision that precepts of £740k would not be funded from the Council Tax element.

At the request of the Chair, the Director of Adult Social Services was requested to comment upon issues around managing budgets. The Director accepted that his Department's Budget had been an area for concern in past years and he proposed to provide more detailed information for Members in relation to future demand for services to allow more accurate budget setting. Members questioned whether DASS expenditure would be within budget in the current year and whether, in the light of increased demand for services, the Department could afford a permanent reduction in its employee budget of £400k. In response, the Director indicated that the Department would not be within budget in the current year. He proposed to provide an improved evidence base to ensure that money was spent where it would have the greatest affect and, in relation to vacancies, he proposed to work closely with HR to achieve savings whilst ensuring that critical posts were filled.

In response to further questions from Members in relation to the proposed permanent reduction in the Efficiency Investment Budget, the Director of Finance commented that ideally, he would welcome both a bigger Efficiency Budget and increased balances, as the years ahead would see the Council having to respond to significant financial challenges. There was no guidance as to the size of the Efficiency Fund, only that the Council should have one and it was essential for Chief Officers to come forward with proposals for efficiencies in the coming year.

Members commented also upon the attacks on trade union activities, set out in the Cabinet Budget and questioned whether the proposal would improve staff relations. The Director of Law, HR and Asset Management indicated that the proposal would present a challenge for all concerned. However, he confirmed that for the next 12 months the activity would be funded from the Council's efficiency budget and a review would be undertaken to ensure that Wirral's Trades Unions could effectively represent their members if the payment for full time officers was withdrawn.

On a Motion by Councillor Phil Gilchrist and seconded by Councillor Steve Williams, it was –

Resolved –

- (1) That having received the Cabinet resolution and alternative budgets tabled as part of the budget process, the Committee has considered the financial pressures and threats and recognises that a number of significant changes to local government finance are in hand.**
 - (2) That Committee considers it essential that monitoring of the budget is rigorous, that potential overspends are identified and that Cabinet pays due regard to the implementation of policy options, and that any Efficiency Investment Budget allocation is used to maximum effect.**
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