



POLICY AND RESOURCES COMMITTEE
Wednesday 15th February 2023

REPORT TITLE:	PROCEDURE FOR BUDGET DECISION MEETING OF COUNCIL
REPORT OF:	DIRECTOR OF LAW AND GOVERNANCE

REPORT SUMMARY

To report on the assurance process in formulating the draft Council Budget and to recommend to Council a process for adoption at the Budget decision making meeting.

This report does not constitute a key decision.

RECOMMENDATION/S

That the Policy & Resources Committee recommend to Council that:

1. For the duration of the extraordinary meeting of 27th February 2023 (Budget Council):
 - (a) the procedure attached as Appendix A be followed in respect of the meeting; and
 - (b) Council Standing Order 15.4 (timing of speeches) be suspended together with such other standing orders as may conflict with the Budget Council procedure or the Mayor's administration of the meeting, in such a manner as the Mayor in his or her absolute discretion dictates, to ensure the objective of Council setting a lawful budget and council tax requirement prevails.

SUPPORTING INFORMATION

1.0 REASON FOR RECOMMENDATION/S

- 1.1 The Council has a duty under Local Government Finance Act 1992 to set a lawful budget in a timely manner. Members have a fiduciary duty to council tax payers, to facilitate the setting of a lawful budget.
- 1.2 Where the Authority is making calculations in accordance with that duty, the Section 151 officer must report to it on:
- (a) the robustness of the estimates made for the purposes of the calculations; and
 - (b) the adequacy of the proposed financial reserves,
- in respect of which this report sets out the processes by which this is considered to be best achieved.
- 1.3 Failure to set a lawful budget in time may lead to a loss of revenue, significant additional administrative costs, as well as reputational damage. Failure to set a budget may lead to intervention from the Secretary of State under section 15 Local Government Act 1999.
- 1.4 Budget Council is an extraordinary meeting of full Council and, in order to meet the legal duties at that meeting to set a balanced and lawful budget within the time set by legislation, the meeting requires within it a process for additional flexibility and compromise, for which an alternate procedure to ordinary Council Standing Orders is set out as Appendix A.

2.0 OTHER OPTIONS CONSIDERED

A Budget Council debate can be run in accordance with ordinary standing orders. This will not provide the same level of flexibility and efficient administration of the meeting in this particular instance.

3.0 BACKGROUND INFORMATION

3.1 The Council Budget

- 3.1.1 Each year the Council must hold a budget decision meeting to agree its estimates of expenditure against which it can offset estimated income to then calculate the authority's council tax requirement. These estimates of expenditure, revenue and capital, are the Council's Budget, which can be summarised as a calculation of the aggregate of four factors in relation to the Council's expenditure for the year, namely:
- (i) the expenditure the authority estimates they will incur in the year in performing their functions and will charge to a revenue account for the year in accordance with proper practices,
 - (ii) such allowance as the authority estimate will be appropriate for contingencies in relation to amounts to be charged or credited to a

revenue account for a year in accordance with proper practices, being aligned to various identified Council funds and budget heads,

- (iii) the financial reserves which the authority estimate it will be appropriate to raise in the year for meeting their estimated future expenditure, and
- (iv) such financial reserves as are sufficient to meet so much of the amount estimated by the authority to be a revenue account deficit for any earlier financial year as has not already been provided for.

3.2 Responsibilities for budget decision making

3.2.1 The Policy and Resources Committee is responsible for development of the Council's budget, including consultation on proposals for estimates of revenue and capital expenditure for the following financial year. It is the responsibility of the Committee and its members to then formulate a draft budget and to recommend that budget to a meeting of the Council to approve.

3.2.2 It is the responsibility of all Members of the Council as part of that Budget Council meeting to be held before 11th March to adopt a lawful and balanced budget.

3.2.3 This report sets out the recommended process for the final steps before and at the Council's budget decision meeting, for both Policy and Resources Committee and full Council to agree.

3.3 External Assurance Review

3.3.1 The Independent Panel noted in their January 2023 letter, that both officers and Members have worked conscientiously with all parties to propose a legal and balanced budget for 2023/24. The Panel also noted that the draft budget required substantial use of earmarked reserves and recognised that with any budget that proposes reductions of such a very large scale, it presents risks.

3.3.2 The nature of the risks noted by the Panel were as follows:

- **Use of reserves** - The forecast level of unallocated general reserve at 31 March 2022 is £13.1m. This is a low level of general unallocated reserve and below the level of the council's own target of £17m and the level recommended by the council's external auditor in their 2021/22 Audit report. The use of reserves is identified as supporting further budget phases in future years. If fully utilised, this will reduce the amount of available unallocated reserves to £3m. This means that MTFs will also have to provide resources to continue to build the level of General Reserves to an acceptable level adding further pressure to the need to identify savings.
- **Closure of Non statutory leisure provision** - The second risk is that £4.4m of the tranche 2 and 3 savings are entirely dependent upon the council choosing to close all non-statutory leisure provision. Clearly this will not be politically acceptable and therefore any savings arising from

these proposals will reduce according to the level of closures that members agree. The actual figure will need to be determined with haste in order that the budget can be balanced, and the necessary service changes put in place.

- **Application of a vacancy factor and other adjustments to the pay budget** - Whilst this is a reasonable approach to adopt in the recent past, the vacancy factor has been utilised to balance off in year over spends. This means that Directorates need to ensure that staff spending from 1 April 2023 including on agency staffing is both rigorously monitored and enforced.
- **Council tax levels be raised to the legal maximum** - The panel was mindful that this is an acutely political decision but also notes that by raising the council tax this will in itself improve the budget position for 2024/25 and subsequent years.

The Panel concluded as follows:

“In short, the Independent Assurance Panel accepts that officers have now presented to members options that will enable a balanced and legal budget to be set although we are very concerned that it adds to the pressures that will need to be addressed in the MTFs. As such we are reassured that the budget setting process has been undertaken diligently. As stated earlier we do recognise the greater complexity and the longer time taken to get to the position given a council in no overall control and operation of the committee system. However, some of the tranche 3 savings introduce additional risks to the actual delivery of a balanced budget during the year and results in a level of useable reserves which falls below the council’s own target. The new council, once elected, will need therefore to prioritise MTFs and resolving outstanding budgetary issues.”

3.4 Budget Formulation and Assurance

- 3.4.1 As part of the response to the recommendations of the External Assurance Review that all Group Leaders engage constructively with the financial recovery plan, the Policy and Resources Committee established the Group Leaders Budget Working Group, with responsibility for development of the Council’s budget and operating as a working group and to provide a coordinating role across all other committees. This has taken a leading role in drawing together proposals from Committees, officers and Members and the public in drawing together the budget proposals.
- 3.4.2 The response to the commentary on the rigour of advice to Members in respect of budget proposals has been to add to the support given to challenge and assurance as to the adequacy of proposals in terms of whether the individual proposals are realistic, deliverable or affordable.

- 3.4.3 Proposals forming part of the draft budget have gone through a process of assessment to enable the s151 officer to be able to advise on their individual robustness and also their potential impact upon reserves. This is completed via an assessment process on a standard form or template. This is applied in this year equally to proposals submitted by officers or later by Members, either through the committee process or individually through political groups. This will go on to inform the overall statutory report on the robustness of the budget estimates and the adequacy of the financial reserves, to which Members are required to have regard.
- 3.4.4 This process does not mean that advice on potential further proposals or amendments to the draft budget put forward to the s151 officer by a Member will not be held confidentially. To provide for exploration of all possible options, where requested, officer advice to a Member will not be shared with other Members (with the exception that any amendments received for an elected Member who is part of a Group will be shared with the relevant Group Leader).
- 3.5 Amendments and new ideas received outside of the proposed Budget Council timeline
- 3.5.1 There may not be enough time to provide assurance on the robustness of further proposals that come forward out of budget discussions. However, such proposals can be considered an important step in the development of the MTFP and the formulation and exploration of the following year's budget proposals.
- 3.6 Budget Council Meeting
- 3.6.1 Once the draft budget has been agreed for recommendation to Council, the Council must meet and set a lawful budget by 11th March. This may, by exception, require more than one meeting in the following manner, as set out in the Budget and Policy Framework Procedure Rules at Part 4(3) of the Council's Constitution.

Initial Full Council Meeting

Full Council will consider the Policy and Resources Committee's proposals for the Annual Budget and proposed level of Council Tax and may approve them on the basis of a simple majority of Elected Members present and voting.

The proposed Annual Budget (and Council Tax level) becomes the Council's decision and is effective immediately.

If the Annual Budget (and Council Tax level) proposed is not approved by Full Council it is referred back to the Policy and Resources Committee.

Full Council must identify the issue(s) that it wishes the Policy and Resources Committee to reconsider and the reasons for seeking such reconsideration.

Further Working Group Meeting of the Policy and Resources Committee

A further working group meeting of Policy and Resources Committee to consider the referral from Full Council will take place. The Committee will consider and respond to the referral from Full Council.

Final Meeting of the Council

The final meeting of Full Council will take place no later than 11 March in any year to enable the Authority's Council Tax Requirement to be determined by the requisite statutory deadlines.

- 3.6.2 Budget Council is also an extraordinary meeting of full Council and, in order to meet the legal duties at that meeting to set a balanced and lawful budget within the time set by legislation, the meeting requires within it a process for additional flexibility and compromise. To this end full Council will be requested to suspend ordinary Council Standing Orders and to follow an alternate procedure set out as **Appendix A** to this report.

4.0 FINANCIAL IMPLICATIONS

- 4.1 Delay in setting the Council Tax means a delay in collecting the Tax due not only to the Council, but also the precepting authorities.
- 4.2 The Council has a legal duty to provide a range of statutory services (such as refuse collection, homelessness prevention etc.) and is not absolved from its duty because of the late setting of the Tax. It also has to pay the monies due to the precepting authorities whether or not it collects any Council Tax.
- 4.3 Even if the Council sets the budget before the deadline but much later than the planned Budget Council Meeting, there is still likely to be some disruption to the administrative arrangements relating to the collection of Council Tax (such as printing, posting, delivery of demands) that have cost implications.

5.0 LEGAL IMPLICATIONS

- 5.1 Section 31A (11) of the Local Government Finance Act 1992 requires that the Council sets its budget before 11th March in the financial year preceding the one in respect of which the budget is set.
- 5.2 If the budget is set after that date, the Act's provisions state that the failure to set a budget within the deadline does not, in itself, invalidate the budget. Such delay, however, is likely to have significant financial, administrative and legal implications, including potential individual liability of any Member who contributed to the failure to set a budget.

- 5.3 Section 66 of the 1992 Act provides that failure to set a Council tax (or delay in setting a Council tax) shall not be challenged except by an application for judicial review. The Secretary of State and any other person with an interest or “standing” may apply for judicial review.
- 5.4 S.25 of the Local Government Act 2003 requires the Council, through its extraordinary budget setting Council meeting to have regard to the s.151 officer’s report on the robustness of the proposed Budget and the adequacy of the proposed financial reserves when making decisions about the calculations in connection with which it is made.
- 5.5 The obligation to make a lawful budget each year is shared equally by each individual Member and in doing so Members owe a fiduciary duty to the Council Taxpayer.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 There are no additional resource requirements arising directly from this report, however, specific savings initiatives may impact staffing.

7.0 RELEVANT RISKS

- 7.1 Sections 25 to 29 of the Local Government Act 2003 impose duties on the Council in relation to how it sets and monitors its budget. These provisions require the Council to make prudent allowance for the risk and uncertainties in its budget and regularly monitor its finances during the year. The legislation leaves discretion to the Council about the allowances to be made and action to be taken.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 The process set out in Appendix A accords with the steps taken in previous years.

9.0 EQUALITY IMPLICATIONS

- 9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.
- 9.2 As this is a report about the budget process and not the budget content, there are no direct equality implications arising from this report.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 There are no direct climate implications arising from this report.

11.0 COMMUNITY WEALTH IMPLICATIONS

There are no community wealth implications arising directly out of this report.

REPORT AUTHOR: Jill Travers
Director of Law and Governance

APPENDICES

Appendix A

BACKGROUND PAPERS

BUDGET DECISION COUNCIL 28 FEBRUARY 2022 PROCEDURE AND RULES

BUDGET DECISION COUNCIL 1 MARCH, 2021 PROCEDURE AND RULES

TERMS OF REFERENCE

This report is being considered by the Policy & Resources Committee in accordance with Section A of its Terms of Reference, to “formulate, co-ordinate and implement corporate policies and strategies and the medium-term financial plan (budget).”

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Budget Policy & Resources Committee	15 February 2022
Budget Policy & Resources Committee	17 February 2021

THE BUDGET DECISION MEETING OF COUNCIL

The recommendations of the Policy & Resources Committee will be proposed in respect of the agreement of the annual Budget, setting of the council tax requirement and related matters to the Council, which if seconded, will be debated by Full Council, in accordance with the provisions below and voted upon by a simple majority.

Any elected Member may put forward to the Council any amendments to the Policy & Resources Committee's budget proposal. Members should not put forward any proposal, however, that would mean setting an unlawful budget and they must take advice from officers to ensure their proposals are in order. To this end any amendments put forward must be evaluated by the Chief Finance Officer (s.151) and Monitoring Officer, or officers appointed by them for the purpose, to determine the service, financial and legal implications of implementing those proposals. The Chief Finance Officer will seek to give to the elected Member putting forward the amendment, and discuss with them where appropriate, the affect that those proposals will have on the robustness of the estimates made for the purposes of the Budget calculations and the adequacy of the proposed financial reserves (The Chief Finance Officer's duty to report to Council under s25 of the Local Government Act 2003).

The intended amendments to the Policy & Resources Committee's budget proposals are required to be submitted to the Chief Finance Officer by no later than **9 am five (5) calendar days before the Council Budget Setting Meeting**.

The amended proposals, once received by the Chief Finance Officer, will be held confidentially by officers and not shared with other political parties, with the exception that any amendments received for an elected Member who is part of a Group will be shared with the relevant Group Leader. All amended proposals will be considered by finance services officers by no later than **12 noon three (3) calendar days before the day of the Council meeting**, excluding the day of the meeting itself. The Chief Finance Officer and Monitoring Officer will confirm the legality and impact of all proposed amendments. Any that in the Monitoring Officer's opinion are unlawful shall be rejected.

All proposed amendments validated by the Chief Finance Officer will be shared with all elected Members, by email, by the Chief Finance Officer by **5pm three (3) calendar days before the Council meeting**, excluding the day of the meeting itself. Any amendments not validated by the Chief Finance Officer to be reported back to the political groups by the Chief Finance Officer.

Following a period for negotiation by political groups, any alterations to proposed amendments, will be allowed up to **9am on the day of the meeting**, provided they do not have substantial impact and are agreed with the Chief Finance Officer. By noon on the day of the Council meeting Democratic Services Officers will circulate copies of all remaining proposed amendments to all Members of the Council, by email, in case any have been withdrawn. At the Council meeting, the Mayor will

refuse to accept any proposals for amendment that have not been through the above process and signed off as being a lawful proposal. Further, at the Council meeting, the Mayor will refuse to accept any additional amendments or alterations unless it is with the consent of the Council and it can be ascertained from the relevant officers that they can be made subject to above procedure within a sufficiently short time.

Council Meeting

Budget Council is an extraordinary meeting of Council and, under Standing Order 3.2, the business to be conducted shall be restricted to the Budget matters contained in the summons.

The Mayor or Council is asked to agree that the Budget related motions or amendments are dealt with in one debate (under SO15.15 Joint Debates) to facilitate the setting of a lawful budget; a process that requires flexibility and compromise.

To that end, the Council will be asked to agree suspension of Council Standing Order 15.4 (timing of speeches) and such other standing orders as may conflict with this budget process or the Mayor's administration of the meeting, in such a manner as the Mayor in his or her absolute discretion dictates, to ensure the objective of Council setting a lawful budget and council tax requirement prevails.

Debate at Council

At the Council Budget Setting Meeting the Leader as Chair of Policy & Resources Committee (or in their absence the Vice-Chair), will speak to the minute and preceding report and will move the motion to propose the Council's annual Budget. The Leader will have 15 minutes maximum for their speech.

The Chair of Children, Young People & Education Committee will speak to the Schools' Budget element of the Policy & Resources Committee Budget Recommendations/Minute(s) will have 7 minutes maximum for their speech.

The proposals will need to be seconded and the Member seconding has 7 minutes available for this purpose, or where proposed alterations have been circulated, 10 minutes. The seconder may speak at the time of seconding or reserve their speech for later on in the debate.

The Leader of the next largest Group on the Council will have the right to speak first on the proposal, who may propose any amendment, which has been signed off by the Chief Finance Officer, and will have 15 minutes maximum for their speech. Any amendment will need to be seconded and the Member seconding the amendment has 7 minutes for this purpose and may make their speech at the time of seconding or reserve it for later in the debate on this amendment.

The Leader of the next largest Group will have the right to speak next on the earlier proposals put before Council, and may have 15 minutes to propose their own amendment provided it has been signed off by the Chief Finance Officer, which shall

need to be seconded with the seconder having a maximum of 7 minutes for this purpose and the right to reserve their speech until later in the debate.

This process continues until the Leader of each Group and all Members who are not in a Group have had the opportunity to speak, and the budget and all proposed amendments have been proposed and seconded.

The matter is then open to one full debate from all Members of the Council. Each Member may speak only once on this item, other than those who have submitted the original proposal or an amendment who will later have a right of reply. Each speaker, other than as set out above, has a maximum of 3 minutes to speak.

The debate is managed by the Mayor who has control of the debate and may use their discretion to ensure the effective, efficient, fair and orderly conduct of the business. The Mayor's interpretation and their application of the standing orders and this process will be final.

At the end of the debate if any Member seconding a proposal (the substantive proposal or a proposed amendment) has reserved their seconder's speech to later in the debate, their speeches, of a maximum of 7 minutes will be taken in the reverse order in which the motions were proposed and seconded.

When the debate has concluded the Leader of the Council, and any Group Leader or Member not in a Group who has proposed an amendment, will have a right of reply. Each speaker will be taken in the reverse order in which the motions were proposed and seconded, with the Leader of the Council having the last right of reply on behalf of the Policy & Resources Committee. Any speaker with a right of reply has up to 5 minutes to respond.

When the debate has concluded, the Mayor will if he/she thinks fit, sum up the debate before putting the amendments to the vote. In doing so he/she may request the Chief Finance Officer to draw the attention of the meeting to any relevant factors.

The Mayor will then put the amendments to the vote in the order of the amendments proposed by the smallest Group Leader first, followed by the next largest etc. Each amendment will be voted on in turn, with a recorded vote being required to be taken on each amendment.

Some proposed amendments may impact on others and there may be inter-dependencies between them. For example, if one amendment is passed or lost it may result in others automatically being lost, whilst some amendments may have no impact on others and may stand alone regardless of the outcome of voting on other amendments. The Chief Finance Officer will advise accordingly and the Mayor may adjourn the meeting to facilitate the provision of that advice. Following the conclusion of the voting on the amendments, the Chief Finance Officer will confirm how the individual amendments that have been carried affect the Council Tax proposal as necessary.

There may be a need for a short adjournment to allow for the preparation of the Council Tax resolutions to reflect the budget proposals as amended/if amended to be circulated prior to the substantive vote.

Once the amendments have each been voted upon and determined, the Chief Finance Officer will clarify any amendments that have been agreed and how they affect the budget proposal. The Mayor will then put the substantive proposal (motion), as amended if they have been amended, to the Council for a vote. A recorded vote is required and will be included in the minutes.

If the budget proposal is accepted without amendment by Council, the Council may make a decision which has immediate effect.

If the budget is lost, the Council will be asked by the Mayor to adjourn and allow members of the Policy and Resources Committee to meet as a working group and return to the adjourned meeting with further proposals.

An adjourned meeting must make a lawful resolution before 11th March.

Exclusion of notices of motion and formal questions

Formal questions from Councillors and Notices of Motion shall not be received and considered and the respective Council Standing Orders 12 and 13 shall accordingly not apply.

For the avoidance of doubt, neither public questions may be asked nor statements or petitions be submitted (Council Standing Orders 10 and 11) and other reports will not be considered. Motions without notice may be moved (Council Standing Order 14 applies).

Speakers

With exception of right of reply, each speaker may speak only once. Speakers will be allocated the following time

The Leader of the Council speaking to the P&R's Budget Recommendation(s)/Minute(s)	15 minutes
The Chair of Children, Young People & Education Committee speaking to the Schools' Budget element of the P&R's Budget Recommendation(s)/Minute(s)	7 minutes
Seconder - May reserve right to speak later ^a	7 minutes
The Group Leader of the largest other political group speech in response and (if applicable) in proposing their respective Amendment (Alternative Budget Proposals)	15 minutes
Seconder (if applicable) speaking to their respective Alternative Budget Proposal(s) / Amendment - May reserve right to speak later ^b	7 minutes
Next largest Group – as above	15 minutes
Repeated for each Group in descending order of size	7 minutes

Other speakers – general debate	3 minutes
^b Secunder of amendments (if reserved right to speak) independent member/smallest group first - then next largest - repeated	7 minutes
^a The Secunder of the P&R Budget Recommendation(s) / Minutes(s)	7 minutes
The Group Leaders of the political groups right of reply independent member/smallest group first - then next largest Repeated for each Group in ascending order of size	5 minutes
<i>Move to the vote. Amendments in ascending order of size of Group, followed by substantive motion on proposals</i>	-

(For the avoidance of any doubt the times mentioned in the table above shall not affect the Mayor's discretion to permit a speaker to speak beyond the allotted time).