



POLICY AND RESOURCES COMMITTEE
Tuesday 13th February 2024

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

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 26th February 2024 (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 taxpayers, 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.

3.4 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 Finance Sub-Committee, 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 Informal Meeting of the Policy and Resources Committee

A further informal 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 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 extra ordinary 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 There are no community wealth implications arising directly out of this report.

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APPENDICES

Appendix A

BACKGROUND PAPERS

BUDGET DECISION COUNCIL 27 FEBRUARY 2023 PROCEDURE AND RULES

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 2023
Budget Policy & Resources Committee	15 February 2022
Budget Policy & Resources Committee	17 February 2021

