

Report of: Executive Member for Finance and Governance; Strategic Director of Finance, Governance and Support

Submitted to: Executive, 19 November 2019

Subject: 2020/21 Revenue Budget Timeline

Summary

Proposed decision(s)

That the Executive approves proposed amendments to the timetable for setting the Mayor's budget for 2020/21.

Report for:	Key decision:	Confidential:	Is the report urgent?
Decision	No	No	No

Contribution to delivery of the 2019-22 Strategic Plan

Business Imperatives	Physical Regeneration	Social Regeneration
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Setting a lawful budget with statutory timescales is critical to the delivery of the Council's strategic objectives. Failure to do so would bring damaging legal, financial, operational and reputational consequences for the Council.

Ward(s) affected

None.

What is the purpose of this report?

1. This report proposes for the approval of the Executive changes to the planned timetable for agreeing the 2020/21 Revenue Budget, in view of the forthcoming General Election on 12 December 2019. The report outlines steps to be taken to minimise risks associated with the reduced timetable, and the further risk of delays in setting the budget due to the changed composition of the Council following the May 2019 local government elections.

Why does this report require a member decision?

2. Section 30(6) of the Local Government Finance Act 1992 (LGFA 1992) requires the Council to set a balanced budget before 11 March in the financial year preceding the one in respect of which the budget is set. As such, the budget for 2020/21 must be set before 11 March 2020.
3. The Mayor's draft budget must be proposed by the Executive, with regard to the advice of the Chief Finance (Section 151) Officer, and set by full Council. The Executive therefore has a particular interest in the budget setting timetable.

Report Background

4. Typically the Council's budget setting process commences in early November each year, with the Executive proposing savings that are then agreed by full Council for public consultation running between mid-December and mid-January. The Mayor and the Executive then consider the outcome of consultation undertaken, in developing a proposed budget for full Council approval in early March.
5. Invariably budget setting is politically sensitive, involving as it does questions of taxation, expenditure and savings. It would not therefore be prudent to proceed with the typical timetable during the Purdah period, which requires the Council to avoid political sensitive issues, including major consultations, in the run up to elections. The General Election will be held on 12 December 2019, with Purdah commencing on 8 November and ending when the polls close.
6. It is therefore proposed that full Council approves provisional budget proposals for consultation on 23 December this year, rather than the planned date of 4 December. Bearing in mind the deadline of 11 March, this reduces the time available to the Council for budget setting. The proposed new timetable is set out at Appendix 1 for approval.
7. The Council is legally required to consult with representatives of non-domestic rate payers (i.e. elected members) before setting a budget. It is also required to consult with the local Chamber of Commerce. There is no statutory requirement to directly consult with residents or other stakeholders, however the Council has long been proactive in this area, setting out in detail its proposals for public consultation, albeit with limited response in recent years.
8. The proposed timetable allows for around six weeks of consultation, the same as originally planned, though the delay will mean that the start of the consultation coincides with the Christmas holidays, which is likely to reduce responses in the first two weeks. This is still considered adequate time in which to consult with residents and those groups and individuals potentially affected by budget savings proposals and for those stakeholders to respond. However, to mitigate for potential disruption over Christmas

and New Year, the Council will hold a number of public meetings on budget proposals during January, alongside existing plans to improve engagement online and via social media. The report to Council on 23 December will set out in the consultation timetable in detail, including presentations to the Council's Overview and Scrutiny Board.

9. A further issue is the composition of the new Council following the May 2019 local government elections, which brings a much greater likelihood of political disagreement on proposals than in the past, and consequently a much greater risk of delays in setting the budget.
10. Elected members (individually and collectively) have a fiduciary duty to local taxpayers and so duty to facilitate, rather than frustrate, the setting of a lawful budget, and not to do so would bring damaging legal, financial, operational and reputational consequences for the Council, and precepting authorities such as the police, fire service and local parish councils. It may also give rise to personal liability for individual members for misfeasance in public office, negligence or breach of statutory duty, should they be found to be purposely failing to set a lawful budget.
11. In practical terms, the budget, which in the proposed timeline will be presented to full Council on 26 February, is either adopted or objected to by a simple majority of those members present. If members object to the proposed budget, it must go back to the Mayor and Executive for consideration. Following due consideration the Mayor and Executive may choose to resubmit the budget unchanged (with appropriate rationale) or amended. At a second vote, Council may either adopt the budget (by simple majority), or may reject it (by two thirds majority).
12. In the event of full Council either objecting to or rejecting the Mayor's budget, both the Monitoring Officer and the Section 151 Officer may need to consider the use of their formal legal powers to report.
13. Failure to set a budget may lead to intervention from the Secretary of State under section 15 of the Local Government Act 1999. This could involve, for example, instructing the Council set Council Tax at a particular level and agreeing the budget by a set date and within specified parameters. As such matters would be, to a greater or lesser degree, taken out of the hands of elected members. This matter would be dealt with by the Section 151 Officer.
14. Elected members have been made aware of likely budget proposals for 2020/21 and beyond through a series of briefings held during the summer, and the views expressed by members during these briefings will inform the provisional proposals to be brought forward for consultation on 23 December. Nevertheless, it is likely that some groups will wish to formulate their own alternative proposals for consideration by Council.
15. In order to mitigate the risk of any potential impasse over the budget, political groups will be invited to submit their alternative proposals to the Chief Finance Officer in time for them to be properly considered by Council on 23 December. Members will then have the opportunity at the meeting (if necessary) to agree those provisional proposals have cross party support for consultation, and various alternative options which could also be consulted upon. Consultation on the agreed menu of options would then commence on 24 December and run until 31 January 2020.

16. Following this, the Executive would meet on 11 February to consider the outcome of the consultation process and propose the Mayor's budget to full Council, which will meet on 26 February. Provision will be made thereafter for a further, extraordinary meeting of Council on 6 March, should the budget be rejected.

What decisions are being asked for?

17. That the Executive approves proposed amendments to the timetable for setting the Mayor's budget for 2020/21.

Why is this being recommended?

18. To enable the Council to comply with Purdah, while meeting its obligations to set a lawful budget for 2020/21 by 11 March 2020.

Other potential decisions and why these have not been recommended

19. The alternative option is to proceed with budget setting during the Purdah period. This is not recommended due to the political sensitivity of the budget setting process and the level of public consultation that will be involved.

Impact(s) of recommended decision(s)

Legal

20. The legal position in respect of setting the Council's budget is the main topic of this report.

Financial

21. The financial implications of the Council not setting a balanced budget within statutory timescales are broadly set out in the main body of the report. More specifically:

- A delay in setting the council tax means a delay in collecting the tax due not only to the Council, but also the precepting authorities such as the police, fire service and local councils on whose behalf the Council acts as a collection authority. The Council is obligated to pay precepting authorities regardless of whether it collects the tax.
- The Council has a legal duty to provide a range of statutory services and is not absolved from its duty because of the late setting of the tax.
- A delay in setting the budget may affect the Council's ability to enter into new agreements with significant financial commitments until and unless the budget is agreed, otherwise any such commitments may be potentially unlawful.

Policy framework

22. The Mayor's budget forms part of the Council's Policy Framework.

Equality and diversity

23. The proposed budget must be developed in line with section 149 of the Equality Act 2010, under which the Council must have due regard to the Public Sector Equality Duty.

Where relevant, the report to Council on 26 February will include robust impact assessments of proposed budget savings.

Risk

24. Clearly the reduced timetable resulting from Purdah and the current composition of the Council brings a greater risk profile than in previous years to the setting of a lawful budget within statutory timescales. However it is considered that the revised process and timetable set out in this report mitigates those risks as far as practicable.
25. Judicial review is the mechanism by which the lawfulness of the Council's budget setting is most likely to be challenged. While it is not possible to guarantee that any budget setting process is immune from challenge, the proposed approach is considered to be robust in law.

Actions to be taken to implement the decision(s)

26. The Section 151 Officer and Monitoring Officer will brief elected members in respect of their duty to facilitate the setting of a lawful budget and on the timetable set out in this report.
27. The Monitoring Officer will ensure that elected members are aware of their responsibilities under Section 106 of the Local Government Finance Act 1992, which makes it a criminal offence for any member with arrears of Council Tax which have been outstanding for two months or more to attend any meeting at which a decision affecting the budget is to be made.
28. The process and timetable for members wishing to propose an alternative budget will also be shared with all members by the Section 151 Officer following this meeting of the Executive.
29. The Section 151 Officer and the Monitoring Officer will agree with those proposing alternative budgets how these will be presented and voted upon at the meeting of 23 December.
30. The Section 151 Officer will agree with the Executive and if appropriate proposes of alternative budgets the format for surveys to be used during the consultation period running between 24 December and 31 January.
31. The advice of the Section 151 Officer will be included in the report to Council on 26 February on the proposed Mayor's budget for 2020/21 so that elected members are able to have regard to this throughout the budget setting process.

Appendices

- 1 Summary timeline for setting 2020/21 Revenue Budget

Background papers

None.

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Appendix 1: Summary timeline for setting 2020/21 Revenue Budget

