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## PROPOSED PART 5K BUDGET PROCEDURE RULES

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### 1.0 Summary

The Council has a duty under *section 30(6) Local Government Finance Act 1992* to set a lawful budget in a timely manner.

Members have a fiduciary duty to Council Tax payers. This means they have a duty to facilitate the setting of a lawful budget; a process that requires flexibility and compromise.

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*.

### 2.0 The Legal Duty

*Section 30(6) of the Local Government Finance Act 1992* provides that the Council has to set its budget before 11 March in the financial year preceding the one in respect of which the budget is set. This means the Council has a duty to set the budget before 11 March each year.

If the budget is set after that date, the Act says the failure to set a budget within the deadline does not, in itself, invalidate the budget. However, such delay may have significant financial, administrative and legal implications, including potential individual liability of any Member who contributed to the failure to set a budget.

*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.

### 3.0 Financial Implications of Delay

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 Oxfordshire County Council, the Police, and others including Town and Parish Councils on whose behalf the Council acts as a collection authority.

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.

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.

#### **4.0 Duty to Take Advice from the Chief Financial Officer**

*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.

Section 25 also requires the Council's Chief Financial Officer to make a report to Council when it is considering its budget and Council Tax. The report must deal with the robustness of the estimates and the adequacy of the reserves allowed for in the budget proposals, so Members will have authoritative advice available to them when they make their decisions on the Executive's budget proposals and any alternative proposals.

The section, and the Council's Constitution, requires Members to have regard to the report in making their decisions. Any decision that ignores this professional advice, including the implications of delay, is potentially challengeable.

#### **5.0 The Budget Framework**

The Council will be responsible for the adoption of its budget, as set out in the Constitution (Part 3B.2). Once a budget is in place, it will be the responsibility of the Executive to implement it.

#### **6.0 Annual Process for Setting the Budget**

The process by which the budget shall be set is as follows:

The forthcoming annual Budget and Medium Term Financial Strategy is considered and agreed by Council in February each year.

In November or December each year detailed financial proposals for the forthcoming financial year in line with the Council's Medium Term Financial Strategy are considered by the Executive. The Overview and Scrutiny Committee will also consider the proposals and will have the opportunity to make recommendations to the Executive.

These proposals (administered and coordinated by the Chief Financial Officer) are built into the draft budget proposals for the Council and the draft Medium Term Financial Strategy is updated accordingly.

The meeting of the Executive in February will recommend a draft budget to the Council, and the level of Council Tax. The Proper Officer will then refer them, at the earliest opportunity, to the Council for decision.

The Executive meeting held to determine the Executive's budget proposals to Council must be held a minimum of 5 clear working days prior to the Council meeting being held to consider the budget for the Council.

## 7.0 The Budget Setting Council Meeting

- 7.1 The Executive's proposals will be presented to the Council under cover of a report from the Director of Finance, together with a budget pack and professional financial advice upon the proposal.
- 7.2 The Council will be asked to agree to suspend Council Procedure Rules for the meeting, where they conflict with these Budget Procedure Rules, to allow these Budget Procedure Rules to prevail.
- 7.3 The Council Budget Setting Meeting will be held in February of each year to set the budget for the forthcoming year. At the Council Budget Setting Meeting the Executive submits to the Council for its consideration in relation to the following financial year:
- Estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of *sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992*;
  - Estimates of other amounts to be used for the purposes of such a calculation;
  - Estimates of such a calculation; or
  - Amounts required to be stated in a precept under *Chapter IV of Part 1 of the Local Government Finance Act 1992*.

The Executive will propose its recommendations relating to the above matters to the Council, which, if seconded, will be debated by the Council in accordance with the provisions below and voted upon.

The Council may:

- Adopt the Executive's proposals; or
- Amend them in accordance with the provisions set out below; or
- Refer them back to the Executive for further consideration.

Budget proposals can only be submitted to the Council by the Executive; others can propose amendments to the Executive's proposals. The decision on any amendment to the budget and on the budget (as amended, if applicable) will be made by way of a recorded vote in accordance with Council Procedure Rule 17.4 (Part 5A in the Constitution) and statutory requirements of the *Local Authorities (Standing Orders)(England)(Amendment) Regulations 2014*. The Leader must confirm that they accept the budget as agreed by Council or it has to be resubmitted to Council with the Executive's revised proposals, causing an inevitable delay.

- 7.4 If the Council accepts the recommendation of the Executive without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision, and the Leader's verbal confirmation will be sought at the meeting that the Leader accepts the budget as agreed by the Council.
- 7.5 Any elected Member may put forward any amendments to the Executive's budget proposal to the Council. However, Members should not put forward proposals that would mean setting an unlawful budget and they must take Officer advice to ensure their proposals are in order. To this end any proposed amendments must be evaluated by the

Chief Financial Officer, or an Officer appointed by them for the purpose, to determine the service, financial and legal implications of implementing the amended proposals. The amended proposals are required to be submitted to the Chief Financial Officer, by email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk) by no later than 12 noon 3 clear working days before the Council Budget Setting Meeting, excluding the date of the meeting itself (i.e. for a Council meeting on a Wednesday the deadline would be 12 noon on the previous Friday).

- 7.6 Any proposed amendment to any matter on the Council Meeting Agenda, other than the budget, which would have, or would likely to have, a significant effect on the Executive's proposed budget, must also be submitted to the Chief Finance Officer, by email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk), by no later than 12 noon 3 clear working days before the Council Budget Setting Meeting, excluding the date of the meeting itself (i.e. for a Council meeting on a Wednesday the deadline would be 12 noon on the previous Friday).
- 7.7 The amended proposals, once received by the Chief Financial Officer, will be held confidentially by the Finance Officers involved and not shared with other political parties, with the exception that any amendments received from 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 Officers by no later than 12 noon 1 clear working day before the day of the Council meeting, excluding the day of the meeting itself. Finance Officers will confirm the legality and impact of all proposed amendments. Any that in the Chief Financial Officer's opinion are unlawful shall be rejected. The Chief Financial Officer will then share all amended proposals, together with Finance sign off and comments, with the Chief Executive and Monitoring Officer by 5pm 1 clear working day before the day of the Council meeting, excluding the day of the meeting itself.
- 7.8 All proposed amendments will be shared with all Elected Members by 12 noon on the day of the Council meeting.
- 7.9 Following a period for negotiation, any minor amendments 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 Financial 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. At the Council meeting, the Chair will refuse to accept any proposals for amendment that have not been through the above process, and signed off as being lawful proposals by the Council's Finance Officers. Further, at the Council meeting, the Chair will refuse to accept any amendments to amendments that have correctly been through the above procedure.
- 7.10 At the Council Budget Setting Meeting the Executive will propose their budget, with the Leader of the Council having up to 20 minutes for his speech. The proposal will need to be seconded and the Member seconding has 10 minutes available for this purpose. The seconder may speak at the time of seconding or reserve their speech for later on in the debate.
- 7.11 The Leader of the largest Opposition Group on the Council will have the right to speak first on the Executive's proposal and may propose any amendment which has been

signed off by the Chief Financial Officer and has 15 minutes maximum for their speech. The proposal will need to be seconded and the Member seconding the amendment has 10 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 Opposition 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 Financial Officer, which shall need to be seconded with the seconder having a maximum of 10 minutes for this purpose and the right to reserve their speech until later in the debate.

This process continues until the Leader of each Opposition 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.

- 7.12 The matter, being both the Executive's proposed and seconded budget and all amendments, that have been proposed and seconded, is then open to one full debate from all Members of the Council. Each Member may speak only once on this item, other than the Executive Leader, and any Group Leader or Member not in a Group who has submitted an amendment, who has a right of reply. Each speaker, other than as set out above, has a maximum of 5 minutes to speak where it is only the Executive's proposed budget under consideration, or 10 minutes where amendments have also been proposed and seconded.

The debate is managed by the Chair who has control of the debate and may use their discretion to ensure the effective, efficient, fair and orderly conduct of the business. The Chair's interpretation of these procedure rules and their application will be final.

- 7.13 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 10 minutes, will be taken in the reverse order in which the motions were proposed and seconded.
- 7.14 When the debate has concluded the Leader of the Council, as the proposer of the substantive motion, 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 Executive. Any speaker with a right of reply has up to 10 minutes to respond.
- 7.15 When the debate has concluded, the Chair will if they think fit, sum up the debate before putting the amendments to the vote. In doing so they may request the Chief Financial Officer to draw the attention of the meeting to any relevant factors.
- 7.16 The Chair will then put the amendments to the vote in the order of the amendments proposed by the largest Opposition Group Leader first, followed by the next largest etc. Each amendment will be voted on in turn, with a recorded vote being taken, and administered by the Democratic Services Officer, on each amendment.

Some proposed amendments may impact on others and there may be inter dependencies. For example, if one amendment is 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 Financial Officer will advise accordingly and the Chair may adjourn the meeting to facilitate the provision of that advice.

- 7.17 Following the conclusion of the voting on the amendments, the Chief Financial 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 printed and circulated prior to the substantive vote.

- 7.18 Once the amendments have each been voted upon and determined, the Chief Financial Officer will clarify any amendments that have been agreed and how they affect the budget. The Chair will then put the substantive motions, as amended if they have been amended, to the Council for a vote. A recorded vote will be taken and recorded by the Democratic Services Officer present.

- 7.19 If the budget proposal is accepted without amendment by Council, the Council may make a decision which has immediate effect. If the budget proposal is amended, and is approved as amended by full Council, the Leader of the Council will be asked by the Chair if they accept the budget as agreed by Council.

If the Leader of the Council confirms that they do accept the budget proposals as amended by Council, the Council decision will have immediate effect.

If the Leader of the Council does not accept the budget proposal as amended and agreed by the Council, the matter will be referred back to the Executive for further consideration and revised Executive proposals will need to be submitted to the Council at a future meeting; this will cause an inevitable delay to the lawful setting of the budget and the Council Tax and the associated consequences of such a delay will need to be considered.