Information

PROVIDING SUPPORT FOR COUNTY COUNCILLORS

Sheet Number:

2022-27/41

for County Councillors

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| From: | Jason Vaughan, Director of Finance & Governance and S151 Officer Scott Wooldridge, Monitoring Officer, Head of Governance & Democratic Services |

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| Date: | 6 February 2023 |

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| To: | All County Councillors |

**Guidance for members when setting the annual budget 2023/24 and legal duties for decision makers**

**Setting the Annual Budget, Council Tax levels, Housing Revenue Account rent levels and Members Allowances Scheme 2023/24**

The Standards Committee has granted a dispensation to all Members to enable you to participate in the debate and vote upon proposals for setting the Annual Budget, Council tax precepts, Housing Revenue Account rent levels and the Members Allowances Scheme 2023/24.

In terms of legal duties, Members are reminded that :

* the Council has a legal duty to set a balanced budget and agree the council tax precept;
* within the Annual Budget report is the Section 151 officer’s statement on the robustness of the estimates and the adequacy of financial reserves;
* failure to set a legal budget by 11 March may lead to intervention from the Secretary of State;
* **Any member who has an amount of Council Tax due to be paid which has been unpaid for at least two months needs to declare that at the meeting as they cannot take part in the vote relating to the Revenue Budget**. **This is a personal responsibility for each elected member to comply with.**

**Any amendments to the Budget being recommended by the Executive to Full Council**

The proposed Medium Term Financial Plan (MTFP), which includes the annual budget 2023/24, council tax precepts, Housing Revenue Account budget proposals, capital investment programme, was considered by the Joint Scrutiny Committee meeting on 1 February 2023 ahead of its consideration by the Executive on 13 February 2023.

*Proposed amendments / alternative budget proposals before the Executive meet on 13 February* – Members are strongly encouraged to ensure that any proposed amendments or alternative budget proposals are presented to the Executive meeting on 13 February so that the Executive can consider these when finalising the proposed MTFP to be recommended to the Council meeting on 22 February. Members are reminded that the Section 151 Officer MUST be consulted regarding any proposed amendments by elected members to the MTFP proposals being considered by the Executive. To enable advice to be provided on an alternative budget proposals or amendments, members are asked to ensure that they consult with the Section 151 Officer at least 3 clear working days before the Executive meeting takes place. This will allow the Executive to consider any proposed amendments or alternative budget proposals with the required advice from the Section 151 Officer.

*Proposed amendments / alternative budget proposals for the Council meeting on 22 February after the Executive has met on 13 February* – There may be exceptional circumstances where Members (including the Leader and/or the Executive) may need to recommend to the Council for its meeting on 22 February some proposed amendments or alternative budget proposals after the Executive meeting on 13 February. Members are reminded that the Section 151 Officer MUST be consulted regarding any proposed amendments by elected members to the MTFP proposals being considered by the Council. To enable advice to be provided on an alternative budget proposals or amendments, members are asked to ensure that they consult with the Section 151 Officer at least 3 clear working days before Monday 20 February. ***Members are reminded that significant amendments must be submitted to the Monitoring Officer by noon on Monday 20 February. Amendments received after the Monday deadline will only be allowed at the discretion of the Chair of the Council.***

**Decision makers - Equality Act duties**

* People from the protected characteristics identified under the Equality Act
* How safe people feel within their community and around Somerset
* How safe the data is that we hold on people
* How safe are staff our in their working environment
* What effect it will have on the environment
* How we can support communities within Somerset to get along better

To aid Members, the Council uses equalities impact assessments to assist decision makers meet their statutory duties and make robust decisions in a practical and proportionate way.

When you are taking a decision you should be made aware of any impact assessment that has been completed and you **must** use it to inform your decision. Where impact assessments have been completed they will also include information on mitigating measures for any impacts that have been identified.

It is essential that decision makers ensure that consideration is given to their legal obligations, in particular the need to exercise the equality duty under the Equality Act 2010, to have due regard to the impacts based on sufficient evidence appropriately analysed. Having “due regard” is a legal term that requires Members to consider what is proportionate and relevant in terms of the decisions they take. Setting the annual budget is a decision for all Members of the County Council.

This however does not prevent the council from making difficult financial decisions, such as service reductions or decisions which may affect one group more than another. What the duty requires is consideration of all the information, including the potential impacts and mitigations, to ensure a fully informed decision is made.

Attached to this information sheet is a guidance document for Members that will help with questions to ask when paying due regard. Please contact Tom Rutland, Corporate Equalities Manager on 01823 359221 if you have any questions regarding the attached guidance. Further information about Equalities Impact Assessments can also be found on the Council’s website at:

<http://www.somerset.gov.uk/information-and-statistics/financial-information/impact-assessments/>

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| **Member Checklist for Equality Act 2010** |
| **Things to consider when Demonstrating Due Regard** |
| **Questions to ask yourself** |
| * Do you feel you have had sufficient training to take this decision? |
| * Do you understand what you are being asked to make a decision on - is the description clear? |
| * Is the evidence and data sufficient and giving you confidence that the impact assessment is robust? |
| * Are the impacts what you would expect to see? |
| * Where the officer considers there to be no impact has justification for this being given? |
| * Does the decision affect more than one of the Protected Characteristics? |
| * Is there evidence that all three of the General Equality Duty have been considered? (see below)? |
| * Does the impact assessment evidence that equality impacts have been considered from the start of the process? |
| * Where appropriate, are we working with Partners to identify impacts and achieve mitigation? |
| * Is the mitigation for the impacts achievable and realistic? |
| * How do the impacts identified fit with the other elements of the decision (financial, legal etc). Do you have enough information to make the decision? |
| **For large decisions such as budget planning please consider the following:** |
| * If a set of smaller decisions are taken together will they have a greater impact on the Protected Characteristics or geographical groups? |
| **Potential Remedies for concerns** |
| * Check with the officer on areas you are unclear. |
| * Delay the decision to improve the information you have and the quality of the assessment |
| * Do not take the decision |
| * Ask for an alternative way forward to be identified and worked through |

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| **General Equality Duties** |
| * Eliminate unlawful discrimination, harassment, victimisation * Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it * Foster good relations between persons who share a relevant protected characteristic and persons who do not share it |

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| **Protected Characteristics identified through the Equality Act 2010** | |
| Age | This refers to a person belonging to   * a particular age (e.g. 42 year olds) * or range of ages (e.g. 18 - 30 year olds) |
| Disability | A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.  Different disabilities will have different effects on peoples lives; a person with a mobility impairment may require ramps, a lift or hand rails to help the get into and around buildings; a person with a visual impairment will require written documentation in either a larger font or a different format all together. The Equality Act 2010 places duties on providers of service to make reasonable adjustments to the way service is provided. This can mean that people with a disability receive favourable treatment to make sure they receive the same services as the wider community. |
| Gender Reassignment | Gender Reassignment covers the whole process of transitioning from one gender to another. This begins at the individuals decision to start the process and continues for their life time. |
| Marriage and Civil Partnership | The Equality Act defines marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters. |
| Pregnancy and Maternity | Maternity refers to the period of 26 weeks after the birth, which reflects the period of a woman's ordinary maternity leave entitlement in the employment context. |
| Race | It refers to a group of people defined by their race, colour, nationality (including citizenship) ethnic or national origins and includes Gypsies and Travellers. |
| Religion or Belief | The Equality Act, advise that religion or belief ‘must have a clear structure and belief system'. Denominations or sects in a religion are also religions.  Belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition. Political beliefs are specifically excluded. |
| Sex | Women, men, girls, boys, |
| Sexual orientation | A person's attraction towards their own sex, the opposite sex or both sexes and includes: Lesbian, Gay, Bi-sexual and Heterosexual |
| Carers through association with disability and age | Carers provide care for anyone (e.g. a parent, child, other relative, an elderly person, friend or neighbour) who has any form of disability (sensory loss, physical, learning disability, mental health problem) long or terminal illness? |
| **Protected Characteristics adopted locally** | |
| Rurality | This term relates to a person whose home is not in a large town or city. Because of this they may become isolated and/or find it harder to access services |
| Low income | Families or individuals who are existing on a low income. This could be due to a disability, where they live or their employment status. |
| Military status | Military status aims to look at the effect on currently serving armed forces personnel (including reservists), their families and veteran forces personnel and their families |