

2024/25 REVENUE ESTIMATES AND COUNCIL TAX

THE LEGAL FRAMEWORK GOVERNING BUDGET DECISIONS

1. The Council is required to set a Council Tax for 2024/25 before 11 March 2024. It may not be set before all precepts have been issued and the decision cannot be delegated to a committee or to Officers. Before setting the level of the tax the Council must have agreed a balanced budget, differentiated by services, which is sufficient to meet estimated revenue expenditure, levies, contingencies, any deficit estimated to be brought forward from previous years, and any amounts required to be transferred between funds. The tax itself must be sufficient to cover the difference between the agreed budget, less government grants, retained Business Rates and other grants credited to the consolidated revenue account, and any other expenditure which must be met from the Collection Fund, less any surplus (or plus any deficit) brought forward from previous years.
2. In reaching decisions on these matters, Members are bound by the general principles of administrative law and must not fetter their discretion, for example by training as decisive a proposal or proposals contained in an election manifesto. All relevant considerations must be taken into account and all irrelevant considerations must be disregarded. Any decision made must be one that only a reasonable authority, properly directing itself, could have reached; i.e. it cannot make a decision which is so irrational or perverse that no reasonable authority could have reached it. These factors are known collectively as "Wednesbury " reasonableness, following the principles set down in the case of *Associated Provincial Picturehouses Limited v Wednesbury Corporation*. Members must also balance the interests of service users against those who contribute to the Council's finances. The full resources available to the Council must be deployed to their best advantage and Members must act prudently.
3. Among the relevant considerations, which Members must take into account in reaching their decisions, are the views of business ratepayers and the advice of officers. The duty to consult representatives of non-domestic ratepayers on the Council's expenditure plans which existed under previous legislation is repeated in Section 65 of the Local Government Finance Act 1992.
4. In considering the advice of officers, and the weight to be attached to that advice, Members must have regard to the personal duties placed upon the Interim Group Director of Finance, the Council's Section 151 Officer. The Council may take decisions which are at variance with his advice, providing there are reasonable grounds to do so. However, Members must take into consideration their exposure to a personal risk if they disregard clearly expressed advice, for example, as to the level of provision required for

contingencies, bad debts and future liabilities.

5. The Section 151 Officer is required by the Local Government Act 1972 and by the Accounts and Audit Regulations 2003 to ensure that the Council's budgeting, financial management, and accounting practices meet relevant statutory and professional requirements. Furthermore Section 25 of the Local Government Act 2003 requires the Interim Group Director of Finance to report on the robustness of the budget estimates and the adequacy of reserves to which Members must have regard.
6. Members must also have regard to, and be aware of the wider duties placed upon the Council by various statutes governing the conduct of its financial affairs. These include the distinction between revenue and capital expenditure, specified within the Local Government and Housing Act 1989. The Local Government Act 2003 requires that the prudential borrowing limits are set by the Council having regard to the Chartered Institute of Public Finance and Accountancy (CIPFA) Prudential Code ("the code"). This sets out a framework for self-regulation of capital spending, in effect allowing Councils to invest in capital projects without any limit, so long as they are affordable, prudent and sustainable. To facilitate this arrangement the code requires the Council to agree and monitor a number of prudential indicators.
7. Finally, Members must have in mind their fiduciary duties as a trustee of the Council's assets and the need to apply those assets in the public interest. In *Roberts v Hopwood* (1925), it was said that a local authority charged with the administration for definite purposes of funds contributed in whole or in part by ratepayers owes a duty "to conduct that administration in a fairly business-like manner with reasonable care, skill and caution, and with a due and alert regard to the interest of those (ratepayers)" towards whom the authority "stands somewhat in the position of trustees or managers of the property of others". The same principle applies in relation to Council Tax payers. The fiduciary duty owed will include the following considerations:
 - (a) Prudent use of the Authority's resources, including the raising of income (such as rents and other charges) and the control of expenditure;
 - (b) Awareness of the financial consequences of any proposal of Council Tax payers and ratepayers;
 - (c) Financial prudence both in the short and long term;
 - (d) Striking a fair balance between the interests of Council Tax payers and ratepayers on the one hand, and the community's interest in adequate and efficient services on the other hand;
 - (e) Acting in good faith with a view to complying with statutory duties and exercising its statutory powers for the benefit of the community.

8. Having set a budget at the beginning of the year, the Council is also under a duty to monitor that budget during the course of the year and to take remedial action if at any time it appears likely that expenditure will exceed available resources. Members will be aware of the statutory duty placed on the Section 151 Officer under Section 114(3) of the Local Government Finance 1988 Act to report to the Council if it appears that this will happen, and of the impact of Section 115(6) which prohibits any new agreement which would incur expenditure from being entered into following the issuing of such a report and pending its consideration by the Council. The Members of the Council, having received a Section 114 report, are obliged to take all reasonable practicable measures to bring the budget back into balance.
9. A Section 114 report is a serious matter which can destabilise an authority and can only be avoided by prudent budgeting and effective budgetary control. This adds emphasis to the need for an adequate contingency provision and a strong corporate commitment to holding chief officers accountable for containing expenditure within cash limits approved during the budget process.
10. It is the duty of the Interim Group Director of Finance as the Section 151 Officer to provide the relevant financial information, which is or ought to be available and advise on the financial prudence of options before Members, and Members must take account of such information and advice in reaching their decisions. The Council is however free to take decisions which are at variance with the advice of those officers, providing there are reasonable grounds to do so.
11. The Interim Group Director of Finance must consider whether in their view the Council has agreed a balanced budget which is capable of delivery taking all known factors into account. In the event that he considers this not to be the case, then they have a personal duty to indicate this by issuing the Council with a notice under Section 114 Local Government Finance Act 1988.

Restrictions on voting for members with Council Tax Arrears

12. Members should be aware of the provisions of Section 106 of the Local Government Finance Act 1992, which applies to all elected members where:
 - (a) They are present at a meeting of the Council, Cabinet or any Committee and at the time of the meeting an amount of council tax is payable by them and has remained unpaid for at least two months; and
 - (b) Any budget or council tax calculation, or recommendation or decision which might affect the making of any such calculation, is the subject of consideration at the meeting.

In these circumstances, any such members shall at the meeting, and as

soon as practicable after its commencement, disclose the fact that section 106 applies to them and they may not vote on any question concerning the matters outlined in paragraph 12(b) above, although they may speak on those matters.

13. Failure to comply with the requirements under section 106 is a criminal offence unless the member can prove that they did not know (a) that the section applied to them at the time of the meeting or (b) that the matter in question was the subject of consideration at the meeting. Thus unwitting Members who for example can prove that they did not know and had no reason to suppose at the time of the meeting that their bank has failed to honour a standing order will be protected should any prosecution arise.
14. With regard to applications for benefits, it would not be enough to state that an application has been submitted which has not yet been determined, as the liability to pay remains pending any determination.
15. The application of Section 106 is very wide and there have been successful prosecutions under this legislation. It can include meetings held at any time during the year, not just the annual budget meeting, and it may include meetings of committees or sub-committees as well as Council meetings. Members should be aware that the responsibility for ensuring that they act within the law at all times rest solely with the individual Member concerned.

Voting on Budget / Council Tax Recommendations

16. Attention is also drawn to the effect of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 which came into effect on 25 February 2014. The Regulations, which are reflected in the Council's Constitution, provide that where any vote is taken at a Council meeting on setting the budget for the authority, the Minutes of the meeting will record the names of all Councillors present at the vote and how each Councillor voted (for or against) or the fact that they abstained from voting.