

**Council procedure rules / Executive procedure rules – Budget setting protocol**

The following procedures shall apply to setting the Council's budget. The basis of these rules are schedule 2, part 1 of the Local Authorities (Standing Orders) (England) Regulations 2001.

All members are under a fiduciary duty to ensure that the Council sets a budget before the 11<sup>th</sup> March. Full member cooperation is required and collaboration expected to ensure that a budget for Council is set in a timely and professional manner.

<b>Stage</b>	<b>Action</b>
1	The Mayor with his Executive, in consultation with the s. 151 officer, prepare a draft budget for submission to firstly an Executive meeting, followed by a recommendation from that meeting for approval by Full Council. The Mayor/Executive may wish to consult with other members on the draft budget prior to submission to Council.
2	All members will receive the Executive proposed draft budget, in paper form, at least 5 working days prior to the Council Budget meeting. [n.b. This 5 working day period may be unavoidably shortened in the event of the late issue of central government financial settlements for the forthcoming municipal year. All Members will be required to work within the imposed shortened timescale]
3.	Prior to the Council Budget meeting, all Members should consider the budget in detail. Group Leaders are expected to discuss the matter in their group meeting. During this 5 day period, all Members are able to seek understanding and explanation from the s.151 officer for clarity of purpose, interpretation and implication.
4.	If a member or a group is not satisfied with any aspect of the proposed mayoral Executive budget, the s.151 officer will be able to explain the budget to the member(s) and discuss the consequences of the member's concern should it become a formal objection to the budget, together with ways in which the concern could be addressed. This consultation with the s.151 officer should take place at least 2 clear working days before the Council budget meeting.
5.	Following any discussions held with the section 151 officer, it is expected that the member/group leader will discuss the matter with the Mayor, in order to advise him of the concern and seek ways in which the matter of concern could be resolved by agreement.
6.	At the Council Budget meeting, which will be a single agenda item meeting for the budget only (To include the Independent Remuneration Panel report and Pay Policy Statement), the Mayor shall present the agreed Executive budget. He will be allowed upto 30 minutes to present his budget. He will

advise Council of any changes to the proposed Executive budget resulting from any discussions under stages 4 and 5 above.

7. Following the Mayor's budget presentation, he will move the budget recommendations (including any amendments per 6 above) which shall then be seconded.
8. Once seconded, any member, starting with group leaders (the majority group first, then other parties), and then other members may ask questions of the Mayor about the budget proposals. The group leaders and members may only speak once and for a maximum of five minutes each.
9. If a member or group has raised a concern, discussed it previously with the section 151 officer, and it remains unresolved for want of agreement with the mayor, a member (after all members who wish to speak on the budget have been given the opportunity to do so) may propose an amendment to the budget.
10. An additional 5 minutes shall be provided for the member to propose an amendment through the council Chair, and, in proposing an amendment the member shall:
  - (i) Clearly articulate the amendment ;
  - (ii) Set out in financial terms the additional cost or cost saving, or, additional revenue or loss of revenue, of the proposed amendment;
  - (iii) Set out any impact to the community/its residents from the proposed amendment; and
  - (iv) Confirm that s/he has consulted with the s. 151 officer. and what that officer's view is on the matter.

Once the member has outlined the amendment and articulated to include (i) to (iv) above, the Chair will ask the s.151 officer to confirm that s/he has been consulted on this specific proposed amendment . If s.151 officer has been consulted the Chair will allow the matter to proceed.

If the s.151 officer has not been consulted the Chair will call a 15 minute adjournment to decide whether the amendment should proceed. The Chair will consult with the s.151 officer, the Chief Executive and the Monitoring Officer.

The Chair will be advised on the complexity, merit and financial impact of the amendment and will take into consideration the reason for not consulting with the s. 151 officer in a timely manner.

The s.151 officer will advise the Chair whether, in his/her opinion, the amendment is financially viable and provide his/her recommendation on whether the amendment should be further considered by Council on the

basis it is not compliant. Similarly, the M.O. and/or solicitor will advise the Chair on aspects of legal compliance surrounding the proposed amendment.

The Chair's decision on whether an amendment, not consulted on with the section 151 officer, should proceed will be final.

11. If an amendment is permitted to proceed to the next stage, the Chair will ask for a seconder
12. If an amendment is seconded, the seconder may either speak immediately after seconding, or, reserve right of reply to later on in the debate on the amendment .
13. If an amendment is seconded, the first person to speak shall be the Mayor followed by other members. Members may speak again, once, only on the amendment to a maximum of three minutes each.
14. An amendment will then be voted on. The vote will be recorded and to be carried it will require a simple majority vote.
15. The Chairman will then ask if there are any further amendments. If there are, they shall follow the same procedure as set out above in steps 9 to 14.
16. Any amendments to the budget must be presented at this first Council Budget meeting. No further amendments will be allowed in the event that a second/resumed Council Budget meeting is required .
16. If no amendments are carried at the first meeting then the budget may pass by a majority vote. The presumption must be that a budget will be passed if there are no amendments.

If there have been no objections raised or amendments brought forward, and a budget is not passed, those voting against the budget will be requested to clarify why they have so voted.

17. If amendments are carried then the Council Budget meeting will be adjourned. This is to enable the Executive to reconsider the budget proposals in the light of the amendments . If the approved Council meeting calendar does not contain a provisional date for this second Council Budget meeting and also a date for the Budget Resolution Working Group, then the Chair will ask Council to set the date for a second Council Budget meeting being at least 5 working days commencing the next working day after the first Council Budget meeting, for Council to resume its deliberations for setting a financial budget. The Budget Resolution Working Group must meet in between the dates of the first and second Council Budget meetings i.e. the window of 5 working days..
18. Within those 5 working days, the Chair of Council shall convene a Budget Resolution Working Group (BRWG) of 11 members in total and comprise of:

- (i) the Chair of Council,
- (ii) the independent Chair of the Audit Committee,
- (iii) the Mayor,
- (iv) the two Group Leaders and one independent member (nominated by the chair if the independent members do not nominate a representative)
- (v) a further two Labour members, two Conservative members and one independent member (nominated as before).

The member(s) who raised an amendment which has been passed by a majority vote at the first Council Budget meeting will be invited and expected to attend the Group meeting.

The BWRG will be advised by the s.151 officer who will also be present at this meeting.

The purpose of the BWRG is to consider and discuss any amendment(s) together with its impact on the proposed budget and work collaboratively on behalf of the whole Council to agree a mediated solution with the purpose of bringing forward recommendation(s) for the Executive to consider at their Special meeting.

19. The Overview and Scrutiny Committee may within these same 5 working days, if it wishes, also meet to consider the amendment(s), and make recommendation(s) to the Executive for further consideration or inclusion to the draft budget to be presented at the second Council meeting. The Chair of OSC shall convene this meeting with its members.
20. The Executive shall, at a convened Special Executive Budget meeting, consider the amendment(s), recommendation(s) from the Budget Resolution Working Group (ref. 18 above), together with any further recommendations from the OSC (ref. 19 above)
21. At the resumed/second Council Budget meeting each amendment shall be dealt with separately in the order that they were carried at the first Council Budget meeting. The following procedure shall apply:
  - (a) The Mayor shall advise Council whether the amendment can be accommodated and if it cannot, the reasons why.

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If it can be accommodated, the Mayor will move an amendment to the proposed budget which shall be seconded. The amendment will then be deemed to be agreed and form part of the proposed (now amended) Council budget.

If the amendment cannot be accommodated then the member who originally moved the amendment will have a right of reply. Council will then vote on the amendment again. If it is passed by a 2/3<sup>rd</sup> majority then it will be deemed to be a modification to the Mayor's budget. If it is not passed by such majority then the amendment fails.

- (b) Any other amendments, which were raised and carried at the first Council Budget meeting, will then be dealt with in the same manner.
- (c) Once (all) amendments have been dealt with then the proposed budget (as modified by any successful amendments) will be put to a recorded vote. A simple majority vote is required in order for the budget to pass.

However, if a simple majority is not achieved, a 2/3<sup>rd</sup> majority vote will be required for it to be rejected; if it is not rejected by the required majority, then the default position will be that the budget has passed.

- 22. Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.
- 23. The Mayor and all Members have a fiduciary duty to work together to set a Council financially balanced budget. The Council as a corporate body, and the members, both individually and collectively, have a fiduciary duty to council taxpayers and residents/businesses to avoid a situation that would result in loss of revenue or failure to deliver statutory services and they have a democratic obligation to set the Council's budget on behalf of the electorate. (R v Hackney LBC v Fleming [1986] RVR 182)

A delay or a failure to set a budget is likely to have significant financial, administrative and/or legal implications. The Council during the budget setting process, will be mindful that it has a legal duty to provide a range of statutory services and these duties are not absolved if the budget is set late or cannot be agreed at Council. A delay or failure to set a budget is likely to not only have an adverse impact on the Council's local and national reputation, but present a challenge around potentially unlawful and unfunded financial commitments.

- 24. If a budget is not set by members, then the Secretary of State must be informed by the s.151 officer. In such an unprecedented situation the Secretary of State is likely to intervene and direct the Council to take any action that s/he considers necessary, or expedient, to secure compliance with the requirements of setting a Council balanced budget by a specified date.